

Report on Case No CEDUC-26-7590

The complaint

1. The complaint in this case was lodged with the Office of the Ombudsman on 30th April 2026. The complainant is a manager in Scale 5, Laboratory Manager within the Department of Pathology of the Faculty of Medicine and Surgery. Her complaint is, in substance, that she was unfairly treated in the ‘grading’ of her performance appraisal for the year 2024 (submitted in July 2025 by her then Head of Department). The appraisal was negative throughout notwithstanding that she had never received any indication from said HOD – or, indeed from anyone else in the Department or Faculty – of any failings or shortcomings in her work, much less any written or verbal warning about any shortfalls in performance. The HOD did not discuss this appraisal in any way with her – whether prior to or after filling in the electronic form – and, moreover, some of the questions in the assessment form did not directly apply to her situation.

2. Although the complainant entered into email correspondence with the Deputy Director of HR of the University and also replied in detail to her HOD’s (the assessor’s) comments in an email to him (that is, to the HOD) of the 10th October 2025, the University did not indicate to her what corrective action was to be taken to remedy what she perceived as an injustice.

The investigation

3. It should be stated at the outset that this is not the first case where the performance appraisal for technical staff at the UOM has been the subject of a complaint lodged with the Office of the Ombudsman. In a case – CH-25-5983, handled by the Commissioner for Health – the complainant was a scientific officer employed by the University of Malta. In reply to the Final Opinion (of the 16th March 2026) in that case, the University, by letter dated 29th April 2026 under the hand of the then Rector, acknowledged the shortcomings of the current system of performance appraisal for technical/support staff (chief among which being the lack of discussions between the appraiser (or assessor) and the person being assessed), and promised to remedy the situation in co-operation with the UHM – Voice of the Workers.

4. The whole purpose of the exercise conducted under Articles 18 and 22 of the Ombudsman Act is to provide a practical and effective remedy to an injustice resulting from an act of maladministration and not merely a theoretical or illusory remedy – a pie in the sky.

5. After a thorough examination of all the documents and evidence, the undersigned submitted the following Interim Opinion (in terms of Art. 18(4) of the Ombudsman Act) to the University of Malta – the Opinion is, as in customary, in the form of an email (dated 26th June 2026) addressed, in this case, to the then Rector:

“1. I refer to my email of the 5th May 2026 in connection with the case in caption, and to your reply of the 15th May 2026. I have also received the evidence of a number of persons and am now in a position to prefer this Interim Opinion in the hope that the case is closed once and for all.

2. To cut to the chase, the issue is simply limited to the complainant’s performance appraisal covering the months January 2024 to the end of September 2024. Everything else submitted by the University is, with all due respect, chaff. In your letter of the 15th May aforementioned – which is, of course, based on information provided to you by others – reference is made, for instance to the fact that the University has “fully supported [the complainant’s] personal and professional development”, and that moreover “the University has been exceptionally accommodating regarding her requests for leave without pay”. In light of all the evidence I have heard and gathered, this is precisely the patronising attitude displayed by some senior members of the Faculty of Medicine and Surgery towards the complainant.

3. The issue, I repeat, has nothing to do with her professional development, her attendance at meetings (whether in Malta or overseas, but always with the appropriate line permission) or with her resumption of duties in February 2025. The issue is the utterly perfunctory way in which her performance appraisal for the period in question was conducted by her then HOD.

4. May I again recall the Final Opinion of this Office of the 16th March 2026 in CH-25-5983 and the University’s reply thereto of the 29th April 2026. In the instant case not only was the appraisal not discussed beforehand by the HOD with the complainant, but when she dared – in October 2025 – to write (ex post facto) to the HOD to contest the rating and especially to show that some of the questions in the electronic form were inapplicable to her (see her email to [the appraiser, Prof C.D.] of the 11th October 2025), the curt reply of the 3rd November 2025 to her very detailed email was the one-liner: “My report was strictly based on the limited time you spent within the Department of Pathology”. No engagement whatsoever with the various points she raised. This one-liner displays a supercilious attitude which is difficult, if not

impossible, to reconcile with an academic's respect for his collaborators, whatever their grade. Moreover, several senior members of the Faculty in question appear – from the evidence in hand – to have ganged up to try and assuage the former HOD's attitude towards the complainant.

5. In light of all the evidence before me, I have no hesitation whatsoever in categorising the performance appraisal in question as procedurally flawed and therefore falling squarely within the ambit of Article 22(1)(b) [unreasonable decision] and (c) [decision which is wrong in principle] of Cap. 385. It is recommended, therefore, that said performance appraisal be set aside.

6. It is further recommended that a new performance appraisal be conducted by someone who was directly privy to the complainant's work for the period in question, taking into account that some of the questions were not strictly applicable to the complainant's position and work, and that the electronic form to be filled does not cater – or at least did not cater at the time – for a “N/A” answer. Surely a person being evaluated should not be penalised simply because one or more questions are inapplicable to him/her.

7. From the evidence heard, the only person I could identify as an appraiser is Prof [A.B.], in whose laboratory on campus the complainant was based for the period in question and who knows more about the complainant's work than Prof [C.D.] could possibly have known at the time.” (names removed for anonymisation purposes)

6. Regrettably the UOM, this time under the hand of the current Rector, replied as follows on 3 July 2026:

“The University of Malta acknowledges receipt of the email dated 26 June 2026. We have carefully reviewed the report and agree that the system requires revision. We will review our internal policies and the current Collective Agreement to make it mandatory that line managers discuss performance with their staff. Performance appraisals provide

a valuable opportunity for staff members and their line managers to meet, discuss performance, recognise achievements, and identify areas for improvement.

We acknowledge that [the complainant's] case is unique. [The complainant] joined the Department of Pathology in October 2024 following arrangements with Prof. [C.D.] to accept her into his department, as it was [complainant's] wish not to return to the Centre for Molecular Medicine & Biobanking following a period of unpaid leave. A few months later, [the complainant] was granted further unpaid leave following her successful application for a Reach High post-doc opportunity. Consequently, taking her leave into account, her 2025 performance appraisal only covered a period of approximately six months.

University of Malta procedure dictates that performance appraisals must be conducted by the line manager who in the case of [the complainant] is Prof. [C.D.]. In [the complainant's] case, the Head of Department was the one consulted to accept her into the department, and his operational plans included her input. Therefore, assigning the appraisal to anyone else would violate established procedures, as Prof. [C.D.], in his capacity as Head of Department, was the one who planned the workload for the year.”
(names removed for anonymisation purposes)

7. From the above, it is pellucidly clear that, apart from the complainant's case being ‘unique’ (whatever that means and implies for the University – it seems to refer to facts and circumstances which have nothing to do with the appraisal procedure for the year or months in question), the University has already acknowledged that the current appraisal system is procedurally flawed (see para. 3, *supra*). This is the very procedure to which reference is made in the last paragraph of the letter of the 3rd instant (para. 6, *supra*). The fact that one may here be referring to ‘established procedures’ is immaterial for the purposes of maladministration, as can be clearly deduced from paragraph (b) of subarticle (1) of Article 22 of the Ombudsman Act: “... or

was in accordance with a law or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory". Likewise if "*irrelevant grounds*" or "*irrelevant considerations*" (subarticle (2) of Article 22) are taken into account in the exercise of a discretionary power. When a procedure is, in this case *ex admissis*, flawed, justice demands that the outcome be set aside. On the contrary, the third paragraph of the letter of the 3rd instant implies that the University is prepared to allow procedural impropriety to prevail over substantive justice.

Decision and recommendation

8. This Office, therefore, formally finds the complaint fully justified and substantiated in terms of Article 22 of the Ombudsman Act. The undersigned formally recommends, pursuant to Article 22(3) of the said Act, that the complainant's performance appraisal for 2024, carried out by her then HOD, be set aside, and a new one carried out, taking into account the University's commitments already made to this Office in CH-25-5983. Needless to say, since justice must not only be done but must also be seen to be done, this new performance appraisal should not be carried out by the same person who conducted it in 2025.

Vincent A De Gaetano
Commissioner for Education

8 July 2026