



# CITIZENS' RIGHTS FOR A BETTER QUALITY OF LIFE

INFORMATION LEAFLET



**OMBUDSMAN**

COMMISSIONER FOR ENVIRONMENT  
AND PLANNING

# COMMISSIONERS FOR ADMINISTRATIVE INVESTIGATIONS

In 2010, the amendments to the Ombudsman Act provided for the appointment of Commissioners for Administrative Investigations in specialised areas of public administration, specifically in Environment and Planning, Health, and Education.

The Commissioners became integrated within the current structure of the Office of the Parliamentary Ombudsman. Like the Ombudsman, they are Officers of Parliament and enjoy the same independence and security of tenure. Their powers are set out in law, and their services are free of charge.

The three Commissioners and the Ombudsman regularly consult each other on the methods of investigation, the conduct of procedures, the interpretation of legal provisions, as well as the rules of due process.

## THE ROLE

**Investigations are fair and impartial.**

The Commissioner for Environment and Planning is empowered to conduct investigations on matters related to environment and planning. The Commissioner can also investigate allegations of maladministration and complaints presented against MEPA and external agencies servicing it in the exercise of its functions and allegations of erroneous interpretation or application of policies, lack of enforcement or follow up of enforcement action.

The role of the Commissioner includes being an assessor in ensuring the correct application of policies in the processing of applications for development; steering decision-making towards greater sustainable development; and ensuring fairness and non-discrimination in MEPA's operations.

## AUTONOMY

**The Commissioner for Environment and Planning is autonomous and does not form part of the government.**

The Commissioner for Environment and Planning is an Officer of Parliament and carries out his duties in full independence. He operates within the legal framework of the Office of the Ombudsman thus benefitting from its administrative and research resources. He works in close collaboration with the Ombudsman and the other Commissioners to provide an integrated and comprehensive system that scrutinises all the types of environment and planning services provided by the State. The Commissioner can, with the approval of the Ombudsman, conduct investigation on his own initiative.

## OUR VISION

**Towards a better environment and sustainable environment for all.**

We believe that legitimate complaints and their investigation serve to improve the quality of service offered to all members of the community. Consequently, we strive to ensure that people who wish to submit complaints can do so in an easy and straightforward manner. We also treat all legitimate complaints with all due diligence and fairness.

# SUBMITTING A COMPLAINT

The Office of the Ombudsman is one of last resort.

The Ombudsman Act requires that as a first step, you should present your complaint to the institution concerned. Give the officials of the institution the opportunity and the time to solve your problem. Keep copies of all correspondence (letters and emails) related to your complaint in case you need to refer to them later.

## Submitting a complaint in writing

If the authorities concerned do not answer your complaint within a reasonable time, or if you consider their reply unsatisfactory, you can submit your complaint by means of a letter or an email, or by completing the online complaint form available on [www.ombudsman.org.mt](http://www.ombudsman.org.mt). Complaints submitted either by email or online have to be followed by a signed copy of the complaint.

When submitting a complaint, ensure that you include all the relevant information and supporting documents. These should include:

- a. the name of the institution/ department/entity/section involved;
- b. the actions that you believe the institution has taken to harm your interests;
- c. the harm that you have suffered as a result of the alleged act of maladministration; and
- d. the remedial action you expect the institution to take to redress your complaint.

Address your complaint to the Ombudsman, who will then assign the case to the Commissioner for Environment and Planning.

## Submitting a complaint in person

You may visit our Office if you prefer to discuss your grievance personally with one of our officials before putting it down in writing, or if you wish to ascertain whether your complaint is eligible for consideration. Alternatively you can phone our Public Relations Officer on **2248 3210** and request an appointment.



# THE INVESTIGATIVE PROCESS

Every complaint is unique and therefore the methods used in our enquiries vary.

## STEP 1

*If the complaint is not eligible for investigation:*

Upon completion of the preliminary investigation, the Commissioner for Environment and Planning will decide whether the complaint falls within his remit and is eligible for enquiry. If it does not, he will advise you as soon as possible giving you reasons for his decision.

*If the complaint is eligible for investigation:*

The Commissioner will initiate a formal enquiry and look into the case in detail if he considers the complaint admissible for investigation.

In this process, the Commissioner:

- will look at all the facts that are available;
- can gather additional evidence and information by speaking to you and officials of the institution concerned; and
- can seek expert advice on specific aspects of the case.

Our experience shows that through dialogue with the organisations concerned, a complaint can be addressed without the need to initiate a formal investigation.

## STEP 2

### **The investigation process**

The Commissioner for Environment and Planning will ask the institution involved to submit, by a stipulated date, its comments and reactions related to the submitted complaint. The Ombudsman Act obliges the institution or the authorities concerned to provide this Office with all the necessary details, including files and other documents, which the Commissioner may require in order to carry out his investigation. Failure to provide the requested information or documentation renders the officials concerned liable to the penalties laid down in the Ombudsman Act.

When the Commissioner gathers the necessary information, if he deems necessary, he can formulate the information into an **initial report** which he may submit to the parties concerned for their reactions. This initial or draft report will only contain the facts and findings and not observations or opinions.

## STEP 3

### **The Final Opinion**

When the Commissioner for Environment and Planning has evaluated the comments and reactions to his initial report (where applicable), from the parties concerned, he will proceed to formulate his **Final Opinion** on the complaint. This will contain a full description of the complaint, the facts and findings emerging from the investigation, the Commissioner's observations and comments, and his conclusions with the reasons leading to his decisions.

The Final Opinion can take several forms. The Commissioner may conclude that the complaint is fully or partially justified in which case he offers remedies towards an equitable solution. Alternatively, he may find that the institution or authorities concerned had acted correctly and therefore the complaint is not justified. He can also note that the institution had already taken the appropriate steps to remedy its shortcomings.

Where appropriate, the Final Opinion will include recommendations for a reasonable conclusion to the case. The Commissioner will forward a copy of his Final Opinion to all the parties involved.

### **Review of the Final Opinion**

The 2010 amendments to the Ombudsman Act, allow the Ombudsman to review the Commissioner's Final Opinion especially where it contains points of law or principles of equity or natural justice. The Ombudsman can endorse the Commissioner's conclusions and recommendations or may offer alternative and/or additional solutions.

## STEP 4

### **Helping in redressing the situation**

When the Commissioner's Final Opinion includes recommendations, he will work with the institution concerned to implement them. He will ask the institution to indicate, within a reasonable time, how it intends to put them into effect.

### **What happens if the institution takes no action?**

The Ombudsman and the Commissioners, do not have the executive power or the authority to impose their views, or to enforce changes, or to take binding decisions. However, it is a fact that in the majority of cases, the institutions and authorities concerned accept and implement the recommendations contained in the Final Opinion.

However, if an institution fails to comply fully with the Commissioner's suggested remedy, he could notify the Ombudsman, the Minister responsible for the entity concerned, as well as the complainant for them to take any further action they deem fit.

Furthermore, if the Ombudsman also fails to secure the implementation of the Commissioner's recommendations, he can bring the matter to the attention of the Prime Minister and Parliament for their appropriate action.



Perit David Pace

## COMMISSIONER FOR ENVIRONMENT AND PLANNING

Perit David Pace was appointed Commissioner for Environment and Planning at the Office of the Ombudsman in August 2012. Perit Pace served on the Council of the Kamra tal-Periti (KTP) and was elected president for three terms. He has also served as a member on various local and international juries appointed to adjudicate architectural competitions. During the process of Malta's accession to the EU he was KTP delegate on the Committee advising on the accession process and subsequently on the transposition of EU Directives in relation to the profession.



## OMBUDSMAN

COMMISSIONER FOR ENVIRONMENT AND PLANNING

### WE ARE HERE TO HELP

To find out more about how we can be of help, please get in touch.

The Office of the Ombudsman is open:

**October to May**  
Monday to Friday  
8:30 – 12:00 hrs  
13:30 – 15:00 hrs

**June to September**  
Monday to Friday  
08:30 – 12:30 hrs

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