

PERMANENT COMMISSION AGAINST CORRUPTION

Standard Operating Procedures

Contents

Abbreviations	2
1. Purpose	3
2. Scope	3
3. Introduction	3
4. Functions executed by the Permanent Commission Against Corruption	3
5. Corrupt practices that the Permanent Commission Against Corruption investigates	4
6. Investigations	5
7. Definitions related to Corruption	6
8. Whistle-blower Protection	6
8.4 Internal Reporting	7
8.5 External Reporting	7
8.6 Public Disclosure	7
9. Organisational Set Up	7
10. Documentation	8
11. Oath of Office	8
12. Secrecy of Information	8
13. Roles and responsibilities of the Administrative Staff	8
14. Handling of Correspondence containing sensitive information	9
15. Record-keeping and Register	10
16. Digital Registry	10
17. Cooperation with International Anti-Corruption Bodies	10
18. Training and Communication	11
19. Monitoring and Compliance	11

Abbreviations

CfR	Commissioner of Revenue
CVO	Commissioner for Voluntary Organisation
FIAU	Financial Intelligence Analysis Unit
MFSA	Malta Financial Services Authority
PCAC	Permanent Commission against Corruption
SOP	Standard Operating Procedures
WRO	Whistleblowing Reporting Officer

PERMANENT COMMISSION AGAINST CORRUPTION

STANDARD OPERATING PROCEDURE

1. Purpose

- 1.1 The purpose of these Standard Operating Procedures (SOP) is to provide a general overview of the functions of the Permanent Commission against Corruption (PCAC), to outline the remit of the Members of the Commission and to delineate the roles and responsibilities of the administrative staff assisting the Commission. The SOP also provides a set of step-by-step instructions to assist the administrative staff in carrying out routine operations.

2. Scope

- 2.1 The Scope of this SOP is to assist the administrative staff to become familiar with the operations and proceedings of the PCAC. It also serves as a guide to the administrative staff to carry out their day -to – day duties and to provide the necessary administrative support to members of the Commission, as well as to assist any person or entity who requires the services of the PCAC.

3. Introduction

- 3.1 The Permanent Commission Against Corruption was set up in 1988 under Act No XXII (Chapter 326 of the Laws of Malta). The Commission is a government agency whose sole purpose is to investigate any alleged or suspected practices of corruption in the public sector. This is done by investigating the conduct of public officials and institutions suspected of carrying out corrupt practices. Hence, the Permanent Commission Against Corruption does not investigate suspected cases of corruption within the private sector.
- 3.2. The Permanent Commission Against Corruption Act clearly defines the structure of the Commission, how members of the Commission are elected, its functions and how it should conduct its work. To this end, the Permanent Commission Against Corruption is granted autonomy under the Act and may initiate investigations either of its own accord or when a complaint against a public officer or institution has been lodged.

4. Functions executed by the Permanent Commission Against Corruption

- 4.1 The main functions of the Commission include:
- (i) considering alleged or suspected corrupt practices committed by or with the participation of any public officer, including any Minister or Parliamentary Secretary, or any person who has or has had functions relating to the administration of a partnership or other body in which the Government of Malta has a controlling interest or over which it has effective control;

- (ii) investigating the conduct of any public officer, including any Minister or Parliamentary Secretary, which in the opinion of the Commission may be connected or conducive to corrupt practices;
 - (iii) investigating the conduct of any person who has or has had functions relating to the administration of a partnership or other body in which the Government of Malta has a controlling interest or over which it has effective control, which in the opinion of the Commission may be connected or conducive to corrupt practices;
 - (iv) examining practices and procedures of government departments, local government authorities or statutory bodies, or partnerships or other bodies as aforesaid to facilitate the discovery of any corrupt practices and recommend the revision of methods of work or procedures which may be conducive to corrupt practices; and
 - (v) instructing, advising and assisting any person who has ministerial responsibility or who has functions relating to the administration of a government department, authority, body or partnership as aforesaid on ways in which corrupt practices may be eliminated, at his/her request.
- 4.2 Whenever the Commission conducts functions (i) - (iv) as stated above, reports of such findings shall be sent for review to the Minister for Justice and, if the Commission deems that corrupt practices have been conducted, a report with findings shall be sent to the Attorney General.
- 4.3 The Commission enjoys the status of injured party in terms of Act XLI of 2020 and is entitled to make any claim and to exercise any action as an injured party when the Commission reports any corrupt practice as defined in the Permanent Commission Against Corruption Act to the Attorney General.
- 4.4 Should the Attorney General decide not to prosecute, the Commission as an injured party may, within a period of one month from when the Commission knows or could have known, whichever is the earlier, of the decision of the Attorney General not to prosecute, request the Attorney General in writing, and giving reasons, to reconsider the decision.
- 4.5 If within one month from the request for re-consideration referred to in paragraph 4.4 the Attorney General either informs the Commission that it has reconsidered the case and decided to confirm its decision against the institution of criminal proceedings or fails to reply to the injured party (i.e. the Commission), then the Commission as the injured party shall be entitled to seek judicial review of the decision of the Attorney General not to prosecute in accordance with the provisions of article 469B of the Code of Organization and Civil Procedure.

5 Corrupt practices that the Permanent Commission Against Corruption investigates

- 5.1 The corrupt practices that the Commission investigates are clearly stipulated in the Act itself. Such practices mainly relate to:
- (i) acts or omissions which are defined to be an offence under articles 112 to 118, 120, 121, 121A, 121B, 124 126 and 138 of the Criminal Code;

- (ii) acts or omissions which are deemed to be an attempt to carry out the offences mentioned previously, or which constitute collaboration and involvement under articles 41 and 42 of the Criminal Code; and
- (iii) conspiracy to execute any of the aforementioned acts or omissions which constitute an offence.

5.2 Ultimately, the Commission investigates practices related to unlawful exaction, extortion, aggravating circumstances, malversation and bribery pertaining to public officials and/or entities.

6. Investigations

6.1 The Commission conducts investigations either on its own initiative or following reports made to it by any person, provided that in such instances the allegations are confirmed on oath.

6.2 Investigations may be conducted in respect of acts or omissions which arise:

- i) either on or after the date of the coming into force of the Act, provided that the investigation is commenced before the lapse of five years from the date of such act or omission; or
- ii) which arose within a period of twelve years before the date of the coming into force of the Act, provided that such investigations were initiated before the lapse of 5 years from the coming into force of the Act.

6.3 The Commission has the power to summon witnesses, request files or other documentary evidence as well as to seek Police assistance when it deems fit.

6.4 Witnesses are heard on oath and may refuse to answer questions that could incriminate them. They also have the right to be assisted by an advocate or legal procurator.

6.5 Any person who is suspected to be involved in one of the corrupt practices listed under article 6 of the Act, is to be given the opportunity to be heard on oath by the Commission to establish what he has to say about the allegations made. He has the right to be assisted by a lawyer or a legal procurator.

6.6 The Attorney General may grant exemption from criminal proceedings to any person under the conditions specified in the Act.

6.7 If, during the course of an investigation, the Commission discovers an act or omission that could be connected with the act of corruption being investigated, it may also investigate such act or omission.

6.8 No action shall lie at law in connection with the making of any report or request by the Commission or the Attorney General in accordance with the provisions of the Act and any publication of such report, or in connection with the giving in good faith of any information to the Commission for the purpose of the Act.

- 6.9 Proceedings before the Commission are held in private and the information obtained by the members of the Commission, any person appointed in a consultative manner or its staff may not be disclosed except for the purposes of the investigation itself and/or any report relating to the investigation. Any member or officer of the Commission who discloses any official secret in connection with any investigation shall be subject to the punishment established in section 133 of the Criminal Code.
- 6.10 The procedure to be followed should be such as the Commission considers appropriate according to the circumstances of each case and necessary for the discovery of the truth, provided it is in conformity with the principles of natural justice.

7. Definitions related to Corruption

- 7.1 The Permanent Commission against Corruption investigates unlawful exaction, extortion, bribery, instances where failure of duty consists in passing sentence on a defendant or person accused, instances where failure of duty consists in releasing a person charged or in discharging a defendant or the person accused, bribery of a member of the House of Representatives, acts of persons who bribe public officers or servants, embracery and corruption of jurors or other persons including public officers or servants of a foreign State who fall under any of the categories mentioned in section 121 of the Criminal Code, trading in influence, accounting offences – when these are committed by persons indicated under articles 4(b) and 4(c) of Chapter 326-, private interest in adjudications or contracts, private interest in the issuing of orders and malicious violation of official duties. The PCAC can also investigate any attempt to commit any of these crimes, complicity in any of these crimes or taking part in a conspiracy to commit any of the crimes indicated. All such instances fall under the term “corruption”.
- 7.2 Collusion is a deceitful agreement or secret cooperation between two or more parties to limit open competition by deceiving, misleading or defrauding others of their legal right.

8. Whistle-blower Protection

- 8.1 The Protection of the Whistleblower Act Chapter 527 of the Laws of Malta, established in 2013, provides a framework for the safe reporting of improper practices and wrongdoings in the workplace, applicable to both the private sector and public administration. This act was further strengthened by the EU Directive (EU) 2019/1937, which came into force in December 2019 and led to amendments in Malta’s whistleblower legislation effective from December 2021.
- 8.2 Any individual wishing to report an act of corruption or illegality can do so safely within the parameters of the Whistleblower Act. In terms of this legislation, citizens are given the right to report abuses whilst enjoying the protection of the law.
- 8.3 Whistleblower status can be achieved by individuals in a work-related context who have information about a breach of law and are not protected from retaliation by other mechanisms. This includes all employees, self-employed individuals, shareholders, volunteers, trainees, and those working under contractors or suppliers.

8.4 ***Internal Reporting***

Reporting persons can report wrongdoings to an internal officer who will refer the report for further follow-up, whilst keeping the identity of the reporting person strictly confidential. The reporting person will remain anonymous and therefore protected from retaliation at the workplace.

8.5 ***External Reporting***

Reporting persons can also report wrongdoings externally to one of the competent authorities mentioned in the WhistleBlower law. These include: the Commissioner of Revenue (CfR), Financial Intelligence Analysis Unit (FIAU), Malta Financial Services Authority (MFSA), Commissioner for Voluntary Organisation (CVO), Permanent Commission Against Corruption and the Ombudsman.

8.6 ***Public Disclosure***

Public Disclosures are an added layer of reporting. A person may disclose information by making it available in the public domain, such as placing it on the internet.

8.7 For Public Sector Employees an External Whistleblowing Officer has been appointed within the Cabinet Office.

8.8 Each Government Ministry is represented by a Whistleblowing Reporting Officer (WRO). The WRO is responsible for receiving internal disclosures and addressing the concerns raised by the whistleblower accordingly.

8.9 The PCAC is obliged to investigate if an “external disclosure” is received in accordance with the provisions of Cap. 527.

9 Organisational Set Up

9.1 The Commission is composed of a Chairman and two other members.

9.2 The Chairman is appointed by the President of Malta, acting in accordance with a Resolution of the House supported by the votes of not less than two-thirds of all members of the House. A person can only be elected as a Chairman if he/she either holds or has held the office of a judge or magistrate in Malta, or has practised as an advocate for at least 12 years in Malta.

9.3 The other two members are appointed by the President, acting on the advice of the Prime Minister for one member and the advice of the Leader of the Opposition for the other member.

9.4 The elected members of the Commission hold office for 5 years from the date of their appointment, and may only be removed from office prior to this date by the President of Malta, acting in accordance with the advice of the Cabinet of Ministers, for inability to discharge the functions of their office (whether arising from infirmity of mind or of body or any other cause) or for misbehaviour. Furthermore, the office of a member of the Commission shall become vacant if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

9.5 The Secretary to the Commission is appointed by the Prime Minister and may be a public officer designated by the Prime Minister to perform the functions of Secretary.

9.6 The Prime Minister may, at the request of the Commission, appoint a person or designate a public officer to assist it in its investigations in a consultative capacity.

- 9.7 The Administrative Staff to the Commission are to be engaged following a call for applications issued by the Public Administration. Once selected the administrative staff are also to be appointed by the Prime Minister.

10 Documentation

- 10.1 The Commission has the right to request the production of privileged documents notwithstanding the prohibition under section 637(3) to (6) of Chapter 12 of the Laws of Malta.

11 Oath of Office

- 11.1 Every person appointed to be, or to serve as, Chairman or member of the Commission or appointed or designated to assist the Commission shall, before entering upon those duties, take and subscribe to an oath in the form set out in the Schedule to Chapter 326 of the Laws of Malta.
- 11.2 Such oath shall be taken before any Commissioner for Oaths and shall be deposited with the Attorney General.

12 Secrecy of Information

- 12.1 Proceedings before the Commission are held in private and the information obtained by the members of the Commission, any person appointed in a consultative manner or its staff cannot be disclosed except for the purpose of the investigation itself and/or any report relating to the investigation.
- 12.2 The members of the Commission and its officers cannot be called upon to give evidence in any proceedings of matters coming to their knowledge in the course of an investigation under Cap 326 of the Laws of Malta. However, the members of the Commission and any person appointed under section 12, or for the purpose of any proceedings relating to the investigation or under article 10 (Summoning of witnesses), can be called to testify if there are any court proceedings involving a crime which falls within the competence of the Commission under article 6.
- 12.3 Article 133 of the Criminal Code shall apply to and in relation to members and officers of the Commission as it applies to or in relation to a public officer or servant referred to in article 133 of the Criminal Code.

13 Roles and responsibilities of the Administrative Staff

- 13.1 The Administrative staff of the PCAC is responsible to provide the necessary support and advice to the Commission on all issues and initiatives that are relevant for the development and evaluation of policy, strategic documents and office briefs.
- 13.2 Officers are to keep abreast of relevant legislation at EU and International level in areas related to the Commission and to update the Chairperson and Members accordingly.

- 13.3 Officers are required to coordinate the drafting of legislative and policy proposals on matters related to the Commission, conduct quantitative and qualitative analysis and prepare reports for submission to the Commission and to various bodies as may be requested.
- 13.4 The administrative staff is also responsible to:
- a. plan and lead the implementation of projects, measures and initiatives and to ensure their timely and effective completion;
 - b. Support the proposed activities of the Commission by facilitating its management and operations including the budget, procurement, internal resources planning, its day to day running and other related functions;
 - c. Provide support in the compilation of Annual Reports and other administrative reports;
 - d. coordinate the digitisation process of files and reports and ensure that these are stored in a safe place;
 - e. take a leading role in, co-ordinate and support meetings by preparing the necessary documentation and reports, keep internal records of these meetings, and follow up any actions as necessary;
 - f. Develop and compile content which is relevant to the Commission's functions for publications and reports, in collaboration with the Commission's Secretary. ,;
 - g. Act as a focal point for other Ministries and organisations for the development of ethics awareness modules or programmes;
 - h. Ensure compliance with central policies across the Public Service;

14 Handling of Correspondence containing sensitive information

- 14.1 Correspondence received by the PCAC may contain sensitive information dealing with a complaint or a report against a person/entity
- 14.2 Once any correspondence is received, the administrative staff shall register the correspondence and send an acknowledgement where the sender is known.
- 14.3 A file shall be opened for correspondence relating to each new complaint/report, and the contents of such correspondence shall be brought immediately to the attention of the Secretary to the Commission.
- 14.4 The Secretary to the Commission shall bring the contents of the complaint/report to the attention of the Members of the Commission, who shall first determine whether there is a *prima facie* case to investigate.
- 14.5 Should the Commission decide that there is a *prima facie* case to investigate, the Secretary to the Commission shall inform the administrative staff to notify the complainant by means of an Official Letter to come forward and give evidence before the Commission.
- 14.6 The same procedure shall be followed should the Commission decide to hear more witnesses.
- 14.7 If the Commission decides that there is no *prima facie* case to investigate, the complainant shall be informed accordingly.
- 14.8 If a complaint/report is filed anonymously, the correspondence shall also be registered, filed and brought to the attention of the Secretary to the Commission.

- 14.9 If an anonymous report is to be investigated further, the Commission may carry out further investigations and invoke witnesses to provide evidence.
- 14.10 If the preliminary investigation concludes that there is no *prima facie* case to investigate an anonymous report, this shall be minuted in the file and the case shall be closed.

15 Record-keeping and Register

- 15.1 All incoming post, paperwork, documents and computer-based information are to be registered, organised, and stored.
- 15.2 Confidential documents are to be scanned, catalogued, indexed and securely stored within the premises of the Commission.
- 15.3 Voice recordings are to be recorded in a digital system, transcribed and stored in a safe place.
- 15.4 All cases are to be recorded in the PCAC Digital Registry System and all documentation, voice recordings and other supporting documentation are to be uploaded in the PCAC digital registry.

16. Digital Registry

- 16.1 The PCAC Digital Registry caters for three specific digital registers as outlined below, which are linked to one other:
- 1) Cases - This registry shall contain all the information related to a particular Case, including its title, the date when it was reported, its reporter and contact details, case conclusions and any follow-ups required. This is vital to view and store all information on the case, enhancing the efficiency of the PCAC's operations.
 - 2) Sittings - Each case shall have multiple sittings which are recorded. This table holds all the evidence provided and a summary of each sitting. Each sitting is linked to a particular case.
 - 3) Commission Members - The Commission members are appointed for a period of three years, and they are present during all the sittings to hear the evidence. This table will include the Commission member details and which cases they have been involved with.
- 16.2 The PCAC Digital Registry Users' Manual Guide provides a step-by-step guide on the upkeep of the digital registry.
- 16.3 The Digital Registry is to be continuously maintained and updated.

17. Cooperation with International Anti-Corruption Bodies

- 17.1 PCAC may explore the possibility of cooperation and coordination with other foreign anti-corruption counterparts in the areas of preventing and combatting corruption

17.2 Cooperation and coordination may be undertaken in relation to training, attendance at seminars and workshops, exchange of ideas and best practices and technical assistance where required.

18. Training and Communication

18.1 Administrative staff shall develop and coordinate informative sessions/outreach programmes for the general public regarding the role of the Commission.

18.2 Outreach programmes shall also be developed with educational institutions to instil a sense of integrity and ethical behaviour amongst the younger generation.

18.3 Training programmes shall be developed for Members of the Commission and its administrative staff.

18.4 A record of all training attended by members and staff shall be kept.

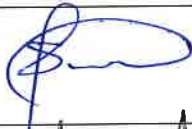
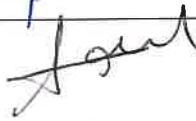
18.5 The Commission shall also deliver training programmes to public authorities and public officers on prevention and using best practices to prevent and combat corruption.

19 Monitoring and Compliance

19.1 The Head of the Administrative Staff is to ensure that the administrative staff adhere to the policies and routine duties specified in this SOP.

19.2 The SOP is to be reviewed periodically by the Head of the Administrative Staff and in consultation with the Secretary PCAC, carry out any updates in accordance with any legislative amendments, policy and operational developments.

19.3 Any amendments to the SOP are to be recorded and brought to the attention of all PCAC Members and Staff, including the date when the amendments came into force.

	Name & Surname	Designation	Signature	Date
Drawn by	Ms Simone Mousu	Director General Strategy & Support MJR		Drawn: March 2025
Endorsed by	Mr Saviour Attard Bezzina	Secretary PCAC		Effective: July 2025
Reviewed by				Review:
Endorsed by				Effective