



National Commission
for the Promotion
of Equality for
Men And Women

Kummissjoni Nazzjonali
ghall-Promozzjoni
ta' l-Ugwaljanza
ghall-Irgiel u n-Nisa

National Commission for the Promotion of Equality

Investigations Report

Stephanie Magro Gazzano



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Presentation Outline

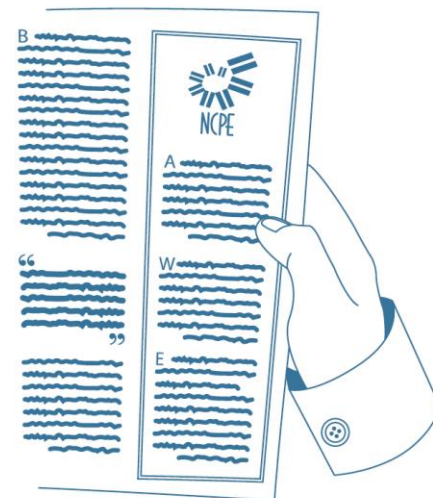
- **Operating procedure for the investigation of complaints**
- **Complaints lodged in 2017**
- **Examples of cases investigated in 2017**



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Operating procedure for the investigation of complaints





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Legal provisions for NCPE's investigative function

- CAP 456 – Equality for Men and Women Act

NCPE can “*independently investigate complaints of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints*” [Art. 12 (1) (h)]

- L.N. 316 of 2011 – Procedure for Investigation Regulations, 2011
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Lodging of complaints

- Complaints to be made in writing on NCPE's Complaints Form available on:
 - NCPE's website (www.equality.gov.mt)
 - NCPE's offices
 - via email/ postal mail upon request
- The Officer (Complaints & Clients' Support) may provide assistance in filling the Complaints Form on request





NCPE's process following the receipt of a complaint (1)

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Complaints Form is acknowledged within three working days from the date of receipt



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NCPE's process following the receipt of a complaint (2)

- Commissioner determines whether complaint falls within NCPE's remit; ie: discrimination on basis of:
 - sex or family responsibilities, sexual orientation, age, religion/belief, race/ethnic origin, gender identity, gender expression and sex characteristics in employment, education, banks and financial institutions
 - race/ ethnic origin and gender in the provision of goods and services





NCPE's process following the receipt of a complaint (3)

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As of 2016, NCPE's remit was extended to receive complaints with regards to the freedom of movement for workers in the EU



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Investigation procedure (1)

Copy of Complaints Form is sent to alleged harasser/ employer/ service provider who is requested to provide written report outlining the position vis-à-vis the complaint lodged within ten working days



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Investigation procedure (2)

- NCPE holds sittings with parties concerned for evidence gathering
 - Commissioner is accompanied by NCPE's legal advisor during all sittings
 - All sittings are recorded
 - Submissions are sent to the relevant party/parties
-



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Opinion

- To conclude the investigation process, NCPE's Commissioner issues an opinion as per Equality Act provisions
- NCPE's Commissioner may:
 - Find that the complaint is proved and thereupon take the necessary action
 - Refer the matter to the competent authority for redress
 - Dismiss the complaint





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Ex-officio investigations

Should the Commission become aware of any alleged discriminatory act, practice or malfunction obstructing equality in various spheres of society, the Commissioner may deem it necessary to initiate investigations on any matter falling within NCPE's remit and as permitted by law



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Complaints lodged in 2017



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Complaints lodged in 2017

	2015				2016				2017			
	Women	Men	Ex Officio Investigations	Total	Women	Men	Ex Officio Investigations	Total	Women	Men	Ex Officio Investigations	Total
Gender-	6	2	1	9	4	0	0	4	2	1	0	3
Sexual Harassment	3	0	0	3	0	0	0	0	0	0	0	0
Race/Ethnic Origin	0	3	1	4	0	2	0	2	1	1	1	3
Gender Identity/Gender Expression/Sex Characteristics	0	0	0	0	1	0	0	1	0	0	0	0
Age	0	2	0	2	0	1	0	1	1	1	0	2
Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0
Religion or belief	0	0	1	1	0	1	0	1	0	1	0	1
Alleged discrimination based on other grounds not within NCPE's remit	0	20*	0	20	0	29***	0	29	0	30****	0	30
Freedom of Movement	/	/	/	/	0	0	0	0	0	0	0	0
Total Complaints Lodged	38**				38				39			

* These 20 complaints were lodged by 2 individuals

** 1 complaint covered more than 1 ground; 3 of the 38 investigations were initiated by the Commissioner; the remaining 35 complaints were lodged by 12 individuals

*** These 29 complaints were lodged by 1 individual

**** These 30 complaints were lodged by 1 individual



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The background of the slide is a stylized illustration of human figures. It features several grey silhouettes of people in various poses, some with arms raised. The background is composed of large, overlapping geometric shapes in shades of blue, orange, and grey, creating a modern, abstract aesthetic.

Examples of cases investigated in 2017



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Case A: Alleged unfair treatment – Race and ethnic origin (1)

Complaint lodged by:

- Male complainant alleging discrimination on the basis of his race

Events of the case:

- Complainant intervened to calm down an argument between two bouncers, his friend and his brother, outside a bar
- Other bouncers from nearby clubs joined in the fight
- Complainant, although injured, managed to escape however, bouncers chased him and continued beating him



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Case A: Alleged unfair treatment – Race and ethnic origin (2)

Investigation:

Evidence gathered from the:

- complainant's witnesses and other third parties
- Bar's Manager
- Police

Opinion:

- Commissioner deemed that:
 - the nature of this attack
 - the fact that a number of bouncers ganged up on the complainant and his friends
 - the fact that not only did these bouncers attack the complainant in front of the places they were engaged to protect, but also proceeded to follow the complainant and continued to beat him, hundreds of metres away from their place of work

Indicated a clear case of discrimination based on race and ethnic origin



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Case B: Alleged discrimination in the supply of goods and services - Gender (1)

Complaint lodged by:

- Female complainant alleging discrimination in the provision of health services

Events of the case:

- The Department of Health informed the complainant that gender reassignment treatment and hormone regime would not be provided free of charge at Mater Dei Malta, but was available in private clinics



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Case B: Alleged discrimination in the supply of goods and services - Gender (2)

Investigation:

- Evidence provided by complainant
- Relevant laws and case-law

Opinion:

- The Complainant had indeed been **indirectly discriminated against on the basis of gender**
- The Commissioner recommended that:
 - the Department of Health should implement a concrete plan which would enable free access to gender reassignment services in healthcare to all persons
 - the Government of Malta should put forward a legislative process to address the legal situation of trans gender persons in Malta in relation to free healthcare



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Thank you