



National Commission
for the Promotion
of Equality for
Men And Women

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

National Commission for the Promotion of Equality

Investigations Report

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Presentation Outline

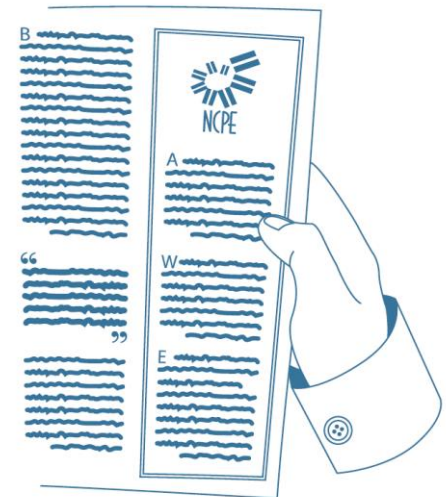
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- A photograph showing several hands of different skin tones reaching in from the edges of a frame to assemble large, colorful puzzle pieces on a light-colored surface. The puzzle pieces are in shades of purple, green, blue, and yellow. The image is framed with a white border and a decorative corner cutout.
- **Operating procedure for the investigation of complaints**
 - **Complaints lodged in 2016**
 - **Examples of cases investigated in 2016**



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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 Complaints & Clients' Support Officer 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



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
 - All sittings are recorded and transcribed
 - Transcriptions are sent to the relevant party for confirmation of content within five working days
 - Upon confirmation copy of the transcript is then sent to all the parties concerned
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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 2016



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Complaints lodged in 2016

	Women	Men	Ex Officio Investigations	Total
Gender-Sexual Harassment	4	0	0	4
Race/Ethnic Origin	0	2	0	2
Gender Identity/Gender Expression/Sex Characteristics	1	0	0	1
Age	0	1	0	1
Sexual Orientation	0	0	0	0
Religion or belief	0	1	0	1
Not within NCPE's remit	0	29*	0	29
Total Complaints Lodged				38

* These 29 complaints were lodged by one individual



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Examples of cases investigated in 2016



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Case A: Alleged discrimination on the basis of race and ethnic origin (1)

- Complaint lodged by:
Complainant shopping with his family at a supermarket
- Alleged discrimination:
 - Being asked by another customer to let him skip the line at till with an attitude that he had to be obeyed
 - Told by another customer to go back to Africa; telling him how things worked in Malta and that he was not in his country anymore
 - The fact that check out clerk that witnessed this occurrence kept silent and that a security guard went and stood behind them, watching them
 - The fact that complainant was not given assistance in carrying his shopping to the car



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Case A: Alleged discrimination on the basis of race and ethnic origin (2)

- Investigation:
 - Customer who asked to skip the queue did not say anything which could be interpreted as racist in nature
 - Not enough evidence to prove other customer's racist statements since neither complainant nor cashiers could remember this specific alleged incident
 - Enough evidence to prove that it is not company's policy to assist customers with carrying their shopping to the car
 - Persons responsible for establishment cannot be accused of not fulfilling their duty to suppress harassment since no such claim of harassment was put forward by complainant at that point and thus it cannot be proved that there was inaction by establishment
- Opinion:

NCPE's Commissioner dismissed the complaint as unfounded



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Case B: Alleged discrimination at place of work on basis of gender and family responsibilities (1)

- Complaint lodged by:
Employee who alleged that she was being discriminated against since the arrangement of her working conditions was made in a discriminatory manner in context of her family responsibilities
- Alleged discrimination:
Employer's refusal to extend complainant's reduced hours contract for a further period following her return from maternity and parental leave in the interim period before going out on maternity leave for her second pregnancy



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Case B: Alleged discrimination at the place of work on the basis of gender and family responsibilities (2)

- Investigation:
 - Commissioner noted that whilst reduced hours are not mandated by law, it is Government policy to promote equality between men and women
 - Commissioner noted that whilst employer argued that complainant's role was irreplaceable, during company's testimony it was confirmed that complainant's colleagues could take over her responsibilities, even to adhere to strict EU-mandated deadlines
 - Company failed to explain how workload increase in other sections could/ did affect workload in complainant's section
 - Company's argument that it could not train another person to temporarily cover complainant's responsibilities, did not hold water as this was not the first complainant's absence from work
 - Opinion: Commissioner found enough evidence to prove occurrence of discrimination against complainant
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Thank you