



D2.1 National Whistleblower Protection Ecosystem in the Area of Public Procurement and Financial Integrity in Malta

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Author(s) in alphabetical order: Francesca Mangion

Revised by (quality manager, partners etc.): CSD

Contact for queries: Emanuel.delia@repubblica.org, francesca.mangion@repubblica.org

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1. Executive summary and methodology

Executive summary

Malta's framework for protecting whistleblowers is grounded in the Protection of the Whistleblower Act (Chapter 527 of the Laws of Malta)¹, as amended in 2021 to transpose Directive (EU) 2019/1937². Public procurement falls within the material scope of the framework, and protection extends beyond conventional employees to a broad range of persons participating in procurement related work, including contractors, subcontractors, former workers, job applicants, volunteers, shareholders and trainees, subject to the statutory conditions.

The sample of interviewees covers the central perspectives for the research topic. We interviewed the National Audit Office, the Office of the Standards Commissioner, legal academic Dr. David Fabri and practising lawyer Dr. Mark Said. The interviewees were selected because together they cover the institutional, academic and practitioner sides of the topic. The National Audit Office brings the perspective of an oversight body with direct insight into how public procurement operates and where irregularities surface. The Office of the Standards Commissioner speaks to the ethics and integrity oversight of public office holders, and to how disclosures are received and handled in practice by an authority with a role in the external reporting framework. Dr David Fabri, as a legal academic, offers a critical reading of the Act and its transposition of Directive (EU) 2019/1937 against wider EU and standards. Dr Mark Said, as a practising lawyer, adds the view from the ground. Interviews with the Ombudsman, the Department of Contracts, the Permanent Commission Against Corruption, the Internal Audit and Investigations Directorate, and the Whistleblowing Unit at the Office of the Prime Minister and investigative journalists were requested but had not taken place at the time of writing.

Procurement related concerns may engage the Department of Contracts (hereinafter the 'DoC'), the Public Contracts Review Board (the 'PCRB'), the National Audit Office (the 'NAO'), the Permanent Commission Against Corruption (the 'PCAC'), the Malta Police Force (the 'MPF'), the Internal Audit and Investigations Directorate (the 'IAID'), the Office of the Ombudsman and, depending on the subject matter, sectoral authorities such as the Financial Intelligence Analysis Unit (the 'FIAU'), the Malta Financial Services Agency (the 'MFSA') and Commissioner for Revenue (the 'CFR'). These bodies generally have distinct mandates. The more significant issue is functional overlap at the reporting, triage and referral stages.

The same factual circumstances can therefore enter more than one institutional system. A concern about a manipulated tender, for example, may constitute a procurement irregularity, a protected whistleblowing disclosure and, depending on the evidence, possible corruption or criminal conduct. This does not mean that the institutions duplicate one another. There is, however, a risk arising from

¹ <https://legislation.mt/eli/cap/527/eng>

² <https://eur-lex.europa.eu/eli/dir/2019/1937/oj/eng>

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the lack of clarity in the interfaces between them. The interviews which were carried out for the purpose of this study identified this fragmentation and uncertainty at these interfaces as important practical concerns.

Four semi-structured interviews were conducted with stakeholders spanning oversight bodies, legal practitioners, lawyers and academics. The interviews also reported that overlaps exist between the audit institution's mandate and those of several other bodies, while also describing cooperation with the Police and periodic engagement among institutional heads. They nevertheless did not identify a single coordinated referral map covering all bodies involved in procurement related whistleblowing. Taken together, they reinforce the finding that Malta's principal challenge is not just the absence of competent institutions or formal legal protection, but the lack of sufficiently visible, standardised and trusted interfaces between them.

Capacity is similarly uneven. The Maltese framework does not establish specialist procurement whistleblowing units. Initial reports are generally handled through the general whistleblowing architecture and may subsequently be referred to institutions with substantive expertise. There is limited evidence of procurement specific training for WROs, while procurement and oversight bodies may themselves require stronger expertise in recognising and preserving whistleblower protections.

What emerged from the legal framework analysis and the interviews conducted in Malta is that relying on whistleblowing alone to drive change in public procurement exposes whistleblowers to a risk that is disproportionate to the systemic benefit their reports can be expected to deliver. On the evidence gathered for this report, whistleblowing is effective only when paired with measures that address the structural vulnerabilities of the procurement system itself, and with the full and effective enforcement of anti-corruption, anti-money laundering and organised crime safeguards, particularly in sectors and contexts most exposed to undue influence and criminal infiltration. Whistleblowing is an important component of this system, but it cannot substitute for the other preventive measures on which integrity in public procurement depends.

The report therefore identifies three overarching priorities, supported by eight specific recommendations (discussed in Section Four): (1) clearer and safer referral pathways between institutions; (2) documented procedures governing intake, triage, confidentiality and inter agency transfer; and (3) targeted training that combines procurement integrity expertise with whistleblower protection expertise. Greater publication of anonymised information on procurement related disclosures and outcomes would also materially improve the ability to assess effectiveness.

Methodology

The report is based principally on desk research of the Maltese legal and institutional framework, including Chapter 527 of the Laws of Malta, relevant government and institutional guidance, and materials concerning procurement, audit, anti-corruption and whistleblowing procedures. The research also incorporates interview evidence.

The evidence base has important limitations. Publicly available statistics on procurement specific whistleblowing are limited (and whistleblowing, generally), and the report has not identified a sufficiently developed body of published procurement specific case law concerning retaliation, compensation, injunctions or sanctions. Where institutional practice is based on interview evidence rather than published or independently verified statistics, it is identified as such.

Interviews followed the common thematic guide agreed among poWer partners. Interview evidence reflects the views of individual institutions and professionals; it is not presented as representative of the wider procurement ecosystem, and is never treated as an established trend unless supported by documentary evidence or by two independent sources. Desk evidence, institutional evidence and interpretive evidence are identified as such in the text.

The interview sample has a notable limitation. It does not include persons who have made a protected disclosure in a procurement context, economic operators, contracting authorities, Whistleblowing Reporting Officers or the Department of Contracts. The findings on how the system is experienced by reporting persons and suppliers are therefore inferential, and this is an area for further research within the poWer project.

2. Effectiveness of the national whistleblowing framework in public procurement

2.1. Public procurement material scope and relevant reporting persons

Malta transposed Directive (EU) 2019/1937 through the Protection of the Whistleblower Act (Chapter 527), as amended by the Protection of the Whistleblower (Amendment) Act, 2021 (Act LXVII of 2021). The amendments entered into force in December 2021 and broadened the personal and material scope of the framework. The Act is supplemented by internal and external reporting mechanisms administered by designated Whistleblowing Reporting Officers (WROs), with external reports directed to competent authorities designated under the Act.

Public procurement is included through the Third Schedule to Chapter 527, which incorporates the Annex to Directive (EU) 2019/1937. Accordingly, reports concerning infringements of EU or national procurement rules may qualify for statutory protection where the statutory conditions are satisfied. The practical scope remains dependent on the connection between the reported conduct and the relevant procurement obligations; purely internal employment or management disputes unconnected with procurement law would generally fall outside that material scope.

The framework covers a broad range of reporting persons in the procurement ecosystem, including:

- employees and other persons working under the supervision or control of another person;
- former employees and secondees;
- persons employed in the public administration, including members of disciplined forces;

- contractors and subcontractors;
- volunteers and job applicants where the relevant information was acquired in a work- related or pre-contractual context;
- shareholders and members of administrative, management or supervisory bodies; and
- paid and unpaid trainees, together with facilitators, connected third persons and certain connected legal entities.

This breadth is a particular strength in procurement, where information may be held by economic operators, consultants, subcontractors or former personnel rather than by employees of the contracting authority.

Practical protection and awareness

Formally, qualifying reporting persons are protected against retaliation and benefit from confidentiality safeguards. Internal reporting channels are mandatory for public sector entities and for private organisations meeting the statutory thresholds, while external reporting is available in limited circumstances established by the Act.

The practical effectiveness of these protections is more difficult to assess. Reporting structures have been established across ministries, public bodies and qualifying organisations, but there is no published information on the number of procurement related reports, the proportion investigated, the outcomes achieved or the confidence of reporting persons in the system.

Awareness among procurement stakeholders is similarly under evidenced. Public guidance explains the framework, but there is limited published research demonstrating whether contracting authorities, procurement professionals, suppliers and subcontractors have a detailed understanding of their rights and obligations. Awareness is likely to vary, with compliance personnel and larger public bodies better placed to understand the system than smaller or occasional economic operators.

A key question is whether all categories of people involved in public procurement, including employees of suppliers and contractors, consultants are aware of their protected status. This points to a possible gap between formal coverage and practical awareness, which the poWer project could usefully address through targeted awareness-raising activities.

Legal and institutional gaps

The statutory architecture provides multiple reporting routes, but responsibilities are distributed among competent authorities according to the nature of the alleged breach. Procurement concerns may overlap with corruption, fraud, financial irregularities and administrative misconduct, creating potential uncertainty about the appropriate route.

Published information on procurement specific investigations, enforcement and outcomes is limited, making it difficult to determine whether formal protections translate into confidence and effective reporting in practice.

The Act establishes WROs but provides limited detailed guidance on the institutional profile and specialist competencies required for the role. The Directive's recitals emphasise professional training, including data handling, communication and follow-up. In this respect, the Maltese framework would benefit from more explicit operational guidance on these competencies.

The report identifies concerns regarding the scope and operation of certain statutory limitations, including the treatment of occupational detriment and the extent to which administrative or organisational justifications may affect retaliation claims.

The framework would benefit from stronger transparency and reporting on implementation, including anonymised data on disclosures, referrals, investigations, retaliation claims and outcomes.

One government agency stated that procurement related findings are among the recurring issues arising across its financial and compliance, performance audit and investigative work. It estimated that it receives fewer than ten reports annually from individuals concerning suspected procurement irregularities, often through anonymous correspondence. It stressed that it does not maintain published statistics and presented this figure as an internal perception rather than a statistical series.

Significantly, it indicated that such anonymous communications are not internally classified or treated as 'whistleblowing' matters, and that it was not aware of a case it would characterise in those terms.

Equality and accessibility

No substantial evidence identified in the research indicates that Chapter 527 protection formally varies by sex, age or disability. The more significant procurement related distinction concerns employment and professional status. The post-2021 framework expressly extends protection to a wide range of non-traditional reporting persons, which is particularly important where procurement information is held by suppliers, subcontractors, consultants or former workers.

There remains limited evidence, however, on whether these protections are equally accessible in practice. Smaller economic operators and individuals whose livelihood depends on continuing commercial relationships may face practical barriers, even where the statutory protection is formally available.

2.2. Reporting routes and handling of procurement related reports

The Maltese framework establishes a dual system of internal and external reporting, supplemented in limited circumstances by public disclosure.

Internal reporting

Internal reporting is the principal mechanism. Public sector organisations and qualifying private legal entities must establish internal reporting procedures and appoint a WRO responsible for receiving, recording and following up reports. Channels must preserve confidentiality and allow reporting in writing or orally.

Most ministries, government departments, public entities and larger contracting authorities appear to have established designated reporting officers. However, there is limited public evidence concerning formal procedures as well as the number of procurement related disclosures received internally, the proportion resulting in investigations, or reporting persons' confidence in the impartiality of the mechanisms. Formal compliance can therefore be established more readily than practical effectiveness.

External reporting

Where the reporting person has 'reasonable grounds' to believe that internal reporting is inappropriate or ineffective, Chapter 527 permits protected external disclosures to designated competent authorities.³ Depending on the subject matter, these may include the FIAU, MFSA, Auditor General, Commissioner for Revenue, Ombudsman, Permanent Commission Against Corruption and the external whistleblowing mechanism for the public administration.

The relevant institution depends on the substance of the disclosure. This sectoral allocation can create uncertainty where procurement allegations engage several legal regimes simultaneously.

Public disclosure

Public disclosure is permitted only under strict statutory conditions⁴. The reporting person must have previously used an internal or external channel or reasonably believes that immediate

³ **16.** (1) An external disclosure may be made to the whistleblowing reports unit of the authority as provided in the First Schedule directly if the whistleblower believes on reasonable grounds –

(a) that the head of the organisation is or may be involved in the improper practice alleged in the disclosure; or

(b) that immediate reference to the authority, is justified by the urgency of the matter to which the disclosure relates, or some other exceptional circumstances; or

(c) at the time he makes the external disclosure, that he will be subjected to an occupational detriment by his employer if he makes an internal disclosure; or

(d) that it is likely that evidence relating to the improper practice will be concealed or destroyed if he makes an internal disclosure; or

(e) that although an internal disclosure has previously been made, the whistleblower has not been informed on the status of the matter disclosed or it is reasonably evident to the whistleblower that there has been no action or recommended action on the matter to which the disclosure relates within a reasonable time from the making of the disclosure.

⁴ **18A.** (1) Except as provided in this Part, a public disclosure shall only be protected if an internal disclosure in accordance with Section 2 of this Part and an external disclosure in accordance with Section 3 of this Part

disclosure is necessary because of an imminent or manifest danger to the public interest, a risk of retaliation, or a likelihood that evidence will be concealed or destroyed.

Handling, triage and referral

Reports are registered and subject to preliminary assessment by the WRO or competent external authority. The initial assessment should establish whether the report falls within the material scope of the Act, whether further information is required and whether referral to another competent authority is appropriate. The framework incorporates procedural safeguards concerning acknowledgement, confidentiality, record keeping and communication.

The Maltese framework does not establish specialist procurement whistleblowing units. Procurement reports are therefore initially handled through the general whistleblowing architecture and may then be investigated or followed up by bodies with sector specific competence. While this model avoids unnecessary institutional duplication it places considerable weight on the quality of initial triage.

There is limited publicly available operational guidance on referrals where several authorities possess overlapping responsibilities. The same gap is apparent in relation to secure information-sharing, joint handling and feedback between institutions. The Permanent Commission Against Corruption's internal standard operating procedures,⁵ for instance, provide detail on its own intake arrangements, but do not constitute a comprehensive domestic referral framework covering other competent authorities.

The statutory framework incorporates time limits broadly reflecting the Directive. Acknowledgement are within seven days and feedback within three months, subject to applicable extensions. Referrals to another authority or the Police should occur within the applicable statutory period, without terminating the protected status of the disclosure. The practical compliance of institutions with

Part has already been made, but no appropriate action was taken in response to the report within the timeframes referred to in article 13(1) and article 17(1)(b).

A public disclosure shall be as a protected disclosure under this Act if any one (1) of the following conditions are fulfilled:

The whistleblower has reasonable grounds to believe that:

(a) the breach may constitute an imminent or manifest danger to the public interest, such as when there is an emergency situation or a risk of irreversible damage;

or

(b) in the case of external reporting, there is a risk of retaliation or there is a low prospect of the breach being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed or where an authority may be in collusion with the perpetrator of the breach or involved in the breach.

⁵ <https://pcac.gov.mt/wp-content/uploads/2025/08/PCAC-SOP-Eng.pdf>

these requirements cannot presently be assessed with confidence because comprehensive performance data have not been identified.

A critical distinction should be maintained between “receiving and protecting a disclosure” and “investigating the underlying procurement conduct”. The WRO or competent authority may receive and follow up the disclosure, while substantive investigation may be undertaken by an audit body, regulator or the Police with the relevant legal powers. This division of labour broadly reflects the Directive's architecture, but it requires clear referral rules to operate safely and effectively.

The scope of this report includes financial integrity alongside public procurement. Chapter 527 covers anti-money laundering and financial services breaches through the Third Schedule, and the FIAU, the MFSA and the Commissioner for Revenue are competent authorities for external disclosure. Where a procurement irregularity has a financial crime element, for example proceeds of a kickback, the same disclosure may engage the FIAU and the PCAC as well as procurement bodies. This reinforces the coordination problem identified in Section 4.3.

2.3. Confidentiality, anonymity and risk of identification

Chapter 527 incorporates confidentiality requirements intended to protect the identity of the reporting person and information from which that identity could be directly or indirectly deduced. Disclosure is permitted only in the circumstances and subject to the safeguards established by law. Personal data processing must also comply with the GDPR and Maltese data protection legislation.

Article 6(3) of Directive (EU) 2019/1937 requires protection for persons who reported anonymously and are subsequently identified and suffer retaliation. It protects persons who reported or publicly disclosed anonymously, but are later identified and suffer retaliation. It covers internal, external and public reports. Art. 11(3) is limited to public disclosures.

The framework permits anonymous reporting. However, the legislation does not require every anonymous disclosure to be investigated and does not provide a fully detailed operational framework for their treatment. Organisations retain discretion to determine whether an anonymous allegation contains sufficient information to justify further action. This provides flexibility but may leave potential reporters uncertain about whether an anonymous report will receive adequate consideration.

Article 9 of Chapter 527 sets the qualifying test and says nothing about anonymity. Since the 2021 amendments, a disclosure is protected if the whistleblower had reasonable grounds to believe the information was true and within the Act's scope, and disclosed it through the internal route (Art. 12), the external route (Art. 16) or a public disclosure meeting Art. 18A.

Article 11 then adds an exclusion on top of this test. Anonymous disclosures are not protected disclosures (11(1)). Reporting officers and external reports units may receive and process them and may take them into account when deciding whether an improper practice occurred (11(2)). The only

exception is where an anonymous public disclosure is followed by identification and retaliation, in which case it stays protected if the Art. 9(1) conditions are met (11(3)). This effectively means that an anonymous report can satisfy Art. 9(1)(a) and (b) and still fail because of Art. 11(1).

Other confidentiality issues also arise during referral and investigation. Procurement cases often contain highly distinctive information, tender evaluations, correspondence, technical reports or contract management records, that may allow the identity of a reporting person to be easily inferred even where the name is withheld. The formal legal obligation to preserve confidentiality therefore needs to be supplemented by practical risk assessment, data minimisation, redaction and secure transmission procedures.

During one of the interviews certain agencies stated that a practical approach of effectively making credible information 'its own'. Where a matter falls within its mandate, the office seeks to conduct independent audit work, obtain supporting documentation through its statutory access to public service records, and report findings without identifying the person who originally raised the concern. In their assessment, this reduces the risk of indirect identification.

Where referral to another institution is necessary, a graduated approach was described. The source may be invited to approach the receiving institution directly; consent may be sought before identity is disclosed; or the information may be presented as the agency's own work product without identifying the original source. The approach is left to the auditor handling the matter. This is useful practice level evidence of data minimisation at referral, although it evidently does not substitute for a uniform cross-institutional protocol.

One government agency specified that it was not aware of retaliation against a source in practice. It also noted that, beyond referral to the Police, it does not currently have a formal mechanism specifically designed to respond to a hypothetical retaliation scenario.

2.4. Retaliation and attitudes

Chapter 527 adopts a broad concept of 'occupational detriment', covering measures such as suspension, dismissal, demotion, transfer of duties, reduced remuneration or working hours, negative performance assessments, disciplinary measures, intimidation, harassment, discrimination, non-renewal of temporary employment, financial loss, loss of business or income, blacklisting, early termination of contracts for goods or services and cancellation of licenses or permits.

A procurement specific risk is that a reporting person may be identifiable from the substance of the information disclosed. In a small evaluation team or procurement involving a limited number of bidders, colleagues may infer the source even where the formal reporting channel remains confidential. The resulting fear of damaged professional relationships or commercial opportunities can operate as a deterrent independently of formal retaliation.

A relevant pre-2021 example concerns Arthur Bajada, then Executive Secretary of the Sannat Local Council. In 2013 he reportedly disclosed to the Police information concerning an alleged attempt to discourage a contractor from submitting an offer for a tender for rubble-wall construction. Following the mayor's awareness of the recording and its contents, a council meeting approved Bajada's removal.⁶ The available reporting does not establish that the removal was judicially characterised as unlawful retaliation under the Whistleblower Act, and the case predates the current framework. It is therefore best treated as an illustrative historical example.

The research has not established sufficient evidence to conclude that retaliation is more severe in public procurement than in other sectors. It does, however, indicate procurement-specific conditions that may aggravate identification and commercial retaliation risks, particularly where the reporting person depends on a continuing employment, contracting or supplier relationship.

Judicial treatment of reporting persons in procurement-related cases.

No reported decision has been identified in which a court applied the post-2021 retaliation provisions of Chapter 527 to a procurement-related disclosure. Two decisions are analysed in the Annex. Neither fills this gap, but both are instructive.

Jonathan Ferris v Commissioner of Police (Constitutional Court, 19 January 2026) arose from an officer's public criticism of the Police Force and the FIAU, including remarks touching on the leak of a report linked to the LNG tanker contract. The claim was litigated as a constitutional discrimination and property claim, and the judgment does not address any whistleblowing channel or protection. Its relevance is limited to illustrating that, absent a framework claim, persons who raise concerns and then speak publicly have had to rely on general constitutional remedies, which failed on the facts.

Il-Pulizija v Anthony Debono (Court of Criminal Appeal, 3 September 2021) predates the 2021 amendments but is significant for what it reveals about judicial attitudes. The key witness, a contractor, had been granted informant status under Article 5(4) of the Act in respect of offences committed between 2006 and 2013. Both courts found his account not credible, noting that his motivation was recovery of money owed to him rather than exposure of wrongdoing. The Court of Criminal Appeal observed, *obiter*, that informant status must not be used to recover money owed, distinguished good faith disclosures from those motivated by revenge or financial gain, and suggested that the regime be reviewed and that bad-faith applicants might face criminal proceedings.

These remarks are relevant because suppliers and subcontractors, the very category the post-2021 Act most usefully covers, will often have a commercial interest in the matter they report.

⁶ <https://www.maltatoday.com.mt/news/national/31529/whistleblower-ousted-from-executive-secretary-role-20131116>

2.5. Protection mechanisms, remedies and sanctions

Chapter 527 prohibits ‘detrimental action’ because of a protected disclosure. Once a reporting person establishes that a protected disclosure was made and that a detriment occurred, the detriment is presumed retaliatory under Article 7(4), subject to the statutory conditions; the person responsible must then establish duly justified grounds.

A reporting person who believes that detrimental action has occurred or is threatened may apply to the First Hall of the Civil Court for an order remedying the detriment or for an injunction. Interim relief is available pending final determination. The Act also provides a general right to compensation for damage caused by detrimental action.

The framework protects reporting persons from civil, criminal or disciplinary proceedings for making a protected disclosure, subject to the statutory conditions and exceptions. Where the reporting person participated in the underlying wrongdoing, the Act contains specific rules permitting the disclosure to be taken into account and providing for mitigation in specified circumstances.

For non-employees, the framework is particularly relevant to procurement because occupational detriment includes financial loss, loss of business and early termination or cancellation of contracts for goods or services. Suppliers and subcontractors may therefore potentially invoke protection where the statutory requirements are satisfied.

The principal sanctions for retaliation are civil and judicial in nature. Article 19 additionally criminalises specified forms of coercion, violence, stalking, intimidation and interference with property intended to compel or prevent the exercise of rights under the Act. These criminal provisions should not be treated as a general criminal sanction for every form of workplace or commercial retaliation.

Confidentiality is protected by Article 6, including protection against disclosure of information identifying or capable of identifying the whistleblower without the required consent. Data processing is also subject to GDPR and Maltese data-protection law. The Act does not, however, appear to establish a comprehensive standalone criminal penalty for every breach of confidentiality; consequences may instead arise under other applicable legal regimes.

Accessibility and effectiveness

The formal remedial framework combines a broad prohibition of retaliation, a burden of proof mechanism favourable to the reporting person, interim judicial protection, injunctions, compensation, protection from liability for protected disclosures, and coverage extending to non-employees and connected persons.

The principal limitation is the lack of procurement specific evidence demonstrating how often these remedies are actually used and with what results. The available material does not provide a

sufficiently developed body of cases from which to assess the frequency or adequacy of injunctions, corrective orders, compensation or sanctions in procurement related cases.

3. Use and relevance of protected reporting in relation to other mechanisms

3.1. Mechanisms available to potential reporting persons

Persons who detect procurement breaches have access to several mechanisms besides whistleblowing. Their purposes and eligibility differ, and the same facts may engage more than one mechanism.

Mechanism / institution	Primary function	Typical relevance to procurement
Whistleblowing channels / WROs	Receive and protect qualifying disclosures	Insider or work-related disclosure where confidentiality and protection against retaliation are important
Department of Contracts (DoC)	Procurement administration and oversight	Potential or alleged irregularities in tender processes outside the specific review function of the PCRB
Public Contracts Review Board (PCRB)	Procurement review and remedies	Challenges by persons with an interest in obtaining a contract who seek review of procurement decisions
National Audit Office (NAO)	Audit and public accountability	Misuse of public resources, procurement non-compliance and systemic weaknesses
Internal Audit and Investigations Directorate (IAID)	Internal audit and investigation within government	Internal control, financial-management and investigative issues
Permanent Commission Against Corruption (PCAC)	Anti-corruption investigation	Corruption and corrupt practices within its statutory remit

Police	Criminal investigation	Suspected criminal conduct, including corruption and fraud
Ombudsman	Maladministration and specified whistleblowing matters	Improper practices falling within its statutory remit, including residual matters
Sectoral competent authorities	Sector specific regulation	For example, AML, financial sector or tax matters where procurement conduct engages those regimes

3.2. Mechanisms used in practice and reasons for selection

During the interviews it emerged that procurement related concerns are more commonly pursued through procurement complaints and review procedures than through whistleblowing channels. It described the procurement review process as established and credible among market participants and noted that decisions have been at times successfully overturned on appeal.

This suggests that whistleblowing may be particularly important where the reporting person is an insider, fears retaliation, requires confidentiality or seeks to report conduct that cannot readily be framed as a challenge to a particular procurement decision. By contrast, procurement review may be more attractive to an economic operator seeking to stop, correct or overturn a procurement decision within a statutory procedural timeframe.

The mechanisms may also operate sequentially or in parallel. A whistleblowing disclosure may trigger referral to a procurement, audit or enforcement body. Conversely, information received through an audit or procurement process may raise a question as to whether the source should benefit from whistleblower protection. This makes clear referral rules and awareness of statutory protection particularly important.

4. Ecosystem capacity, coordination and support

The Maltese framework is then best understood as a network of institutions with differentiated mandates rather than as a single integrated whistleblowing authority. Its effectiveness therefore depends heavily on the quality of the connections between those institutions.

4.1. Availability and accessibility of advice and support

Potential reporting persons may seek assistance from WROs, the Ombudsman, the PCAC, procurement bodies, lawyers, professional associations, civil society organisations and other advisers. The research does not provide sufficient evidence to conclude that specialist procurement

whistleblowing advice is consistently identifiable and accessible across all categories of reporting person.

This is particularly relevant for suppliers, subcontractors and consultants, who may simultaneously face procurement, contractual, employment and reputational consequences. Formal eligibility for protection does not necessarily mean that a person understands the interaction between those regimes or knows which institution can provide advice.

4.2. Capacity of institutional and non-institutional actors

The central capacity challenge is two-sided. Whistleblowing actors need enough procurement expertise to recognise technical procurement misconduct and triage reports appropriately. Procurement, audit and oversight actors need enough whistleblower-protection expertise to recognise when information received through an ordinary procurement or audit channel may constitute a protected disclosure.

Training should therefore cover not only the law of whistleblowing but also practical procurement red flags, confidentiality and indirect identification risks, retaliation assessment, safe referral, evidence preservation and communication with reporting persons.

4.3. Cooperation, referral and institutional overlap

The research identifies “functional overlap rather than wholesale institutional duplication”. Different institutions have different mandates, but the same procurement concern may legitimately engage several of them.

Scenario	Potentially relevant mechanisms / actors
Tender procedure breached	Department of Contracts (the ‘DoC’); the PCRB where the statutory review route applies; whistleblowing channel where the disclosure qualifies
Tender deliberately designed to favour one bidder	Whistleblowing channel and DoC; potentially anti-corruption or criminal authorities depending on evidence
Evaluation committee manipulated	Whistleblowing channel and DoC; potentially PCAC or Police
Bid-rigging or collusion	Whistleblowing and relevant competition / criminal mechanisms, depending on circumstances
Official receives a kickback	Whistleblowing; PCAC and/or Police

Contract artificially extended or materially altered	DoC; NAO; whistleblowing; potentially other authorities depending on the conduct
Public funds deliberately misused	NAO; whistleblowing; potentially Police or PCAC
Supplier challenges an unlawful award	PCRB
Procurement officer reports wrongdoing by employer	Internal or external whistleblowing route
Procurement irregularity discovered during audit	NAO / IAID / DoC, with referral where appropriate
AML / financial-crime element	FIAU and the relevant whistleblowing framework
Tax fraud connected with procurement	Commissioner for Revenue and relevant whistleblowing framework

This overlap is not inherently inefficient. The problem arises where it is unclear which institution should receive the disclosure, who should preserve the whistleblower's protection, who should investigate the underlying conduct, and how information should be transferred without creating identification or duplication risks.

The interviews confirmed that overlaps exist in practice between oversight agencies' mandates and those of the Ombudsman, Commissioner for Standards in Public Life, Police, IAID and PCAC, while emphasising that the underlying mandates differ. One government agency described having a memorandum of understanding and high-level cooperation with the Police, including routine transfer of audit findings, and periodic meetings between institutional heads. It did not, however, identify a single coordinated referral map spanning all institutions engaged in procurement-related whistleblowing.

Principal recommendations include clearer referral procedures between institutions and updated, documented standard operating procedures within individual institutions. These recommendations are consistent with the wider finding that the principal weakness lies at institutional interfaces rather than in the absence of competent bodies.

4.4. Whistleblowing training for the public procurement ecosystem

Training should be role specific. The priority should not be to teach procurement personnel that whistleblowing exists, but to ensure that each actor can recognise a potentially protected disclosure, understand the relevant procurement risks and navigate the reporting and referral system safely.

Actor	Priority	Training focus
Procurement officers and contracting authority staff	Very high	Protected reporting; procurement red flags; conflicts of interest; evidence preservation; referral and retaliation risks
Evaluation / adjudication committee members	Very high	Conflicts of interest; undue influence; manipulation of specifications and evaluation; confidentiality
WROs, ethics/compliance officers and internal auditors	Very high	Intake; scope assessment; procurement triage; confidentiality; indirect identification; referral; follow-up
Senior management and officials approving procurement decisions	High	Duties when concerns are raised; anti-retaliation; escalation; ethical leadership
Political and senior public officials	High	Boundaries between legitimate policy involvement and improper influence; response to disclosures
Suppliers, contractors and economic operators	High	Recognising misconduct; reporting channels; confidentiality; commercial retaliation
Subcontractors and supply chain participants	Medium-high	Contract-performance red flags; reporting and protection
Audit, anti-corruption, competition and law-enforcement bodies	High	Cross-institutional referral; protection obligations;

		evidence handling and coordination
Civil society, professional associations and procurement monitors	Medium	Awareness of reporting routes, safe signposting and support without assuming investigative functions

Training should be practical and scenario-based rather than limited to legal presentations. A useful exercise would present participants with a tender containing several red flags and ask them to identify the misconduct, determine whether the information may constitute a protected disclosure, select the appropriate reporting route, assess confidentiality risks and determine whether referral is required.

For management, training should also address organisational culture. Managers should understand that reporting wrongdoing is an integrity and risk-management function, not disloyalty, and should know what they must not do, for example, attempting to identify the source or conducting an informal investigation that could compromise evidence or confidentiality.

4.5. Good practice and transferable measures

One government agency practice provides a useful example of operational data minimisation: where possible, it independently verifies information and produces its own evidentiary basis rather than reproducing material that identifies the source. Its description of graduated referral options also provides a practical illustration of how confidentiality can be preserved while allowing substantive follow-up.

The PCAC's documented standard operating procedures provide a further example of institution specific proceduralisation. The evidence should be treated as institutional practice rather than as a substitute for statutory rules or a national referral protocol. A potentially transferable model would combine institution-specific SOPs with a common inter-agency referral framework. A legal academic who was interviewed for this study suggested that a template of SOPs that each agency should follow should be annexed to the Act itself. As it currently stands each Ministry and relevant has its own SOPs. This creates confusion and it makes it harder to determine whether the SOPs are adequate and clear enough.

5. Conclusions, good practices and implications for project activities

5.1. Overall assessment

The principal challenge is implementation. The available evidence does not permit a confident assessment of the volume or outcomes of procurement-related whistleblowing. In particular, there is insufficient published evidence on disclosures, investigations, referrals, retaliation claims and judicial remedies. This limits conclusions about practical effectiveness.

Institutionally, Malta has the relevant actors, but the system is distributed across procurement, audit, anti-corruption, law-enforcement and whistleblowing structures. The evidence supports a finding of “functional overlap and fragmentation at the reporting and referral stages”, rather than wholesale duplication of substantive mandates. It was also suggested that there should be one centralised whistleblowing institution that is completely independent and entrenched in the Constitution which could receive and oversee all reports from reporting persons.

The central policy issue is therefore coordination. A reporting person should be able to understand, without navigating an institutional or bureaucratic maze, where to report, what protection attaches to the disclosure, which body will assess it, when it will be referred and how confidentiality will be maintained.

5.2. Priority recommendations

Develop a clear national referral map for procurement-related disclosures, identifying the respective roles of WROs, the Department of Contracts, PCRB, NAO, IAID, PCAC, Police, Ombudsman and other relevant competent authorities.

Develop documented inter-agency procedures governing referral, secure information transfer, data minimisation, redaction, preservation of whistleblower protection and feedback to the reporting person.

Strengthen WRO and equivalent officers' procurement expertise, while providing procurement, audit and oversight bodies with systematic training on whistleblower protection.

Introduce regular scenario-based training for procurement officials, evaluation committees, senior management and economic operators, with particular emphasis on retaliation and indirect identification.

Clarify, through guidance, the relationship between a protected whistleblowing disclosure and other procurement mechanisms, particularly procurement complaints, PCRB review, audit notifications and criminal complaints.

Encourage institutions receiving procurement-related information outside the formal whistleblowing framework to assess whether the source may qualify for statutory protection and to apply appropriate confidentiality safeguards.

Publish anonymised, aggregate information on procurement-related disclosures, referrals, investigations, retaliation complaints and outcomes, while preserving confidentiality.

Review institutional SOPs periodically and share anonymised lessons and good practices across the procurement and integrity ecosystem.

5.3. Implications for project activities

A practical package could include a model referral protocol, a procurement-specific WRO training module, a common confidentiality and indirect identification checklist, and scenario-based training for procurement practitioners and economic operators.

A sequencing principle could also be useful. Institution-specific SOPs should be developed or updated first but should operate within a wider referral framework. It specifically identified clearer referral procedures and updated documented SOPs as priorities, while its own developing whistleblowing policy may provide a useful institutional reference point once formally adopted.

5.4. Systemic limitations

The following limitations were observed:

- (1) No published data on procurement-related disclosures, investigations or outcomes;
- (2) No reported procurement-specific case law on retaliation, compensation or sanctions under the post-2021 Act;
- (3) No national referral map or common inter-agency protocol; SOPs differ across ministries and institutions;
- (4) Limited WRO guidance on competencies, and no procurement-specific expertise requirements;
- (5) Anonymous reports from suppliers and others are not consistently treated as protected disclosures;
- (6) No evidence on accessibility by sex, age, disability or occupational status, and;
- (7) Limited information on support services.

5.4. Final finding

The Maltese system should therefore be characterised neither as institutionally duplicative nor as fully integrated. It is a multi-agency system with differentiated mandates but insufficiently visible and standardised interfaces. While its formal legal protections are comparatively adequate, procurement specific implementation evidence is comparatively thin. The most important opportunity is to make the existing architecture easier to navigate, safer to use and more consistent in practice.

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