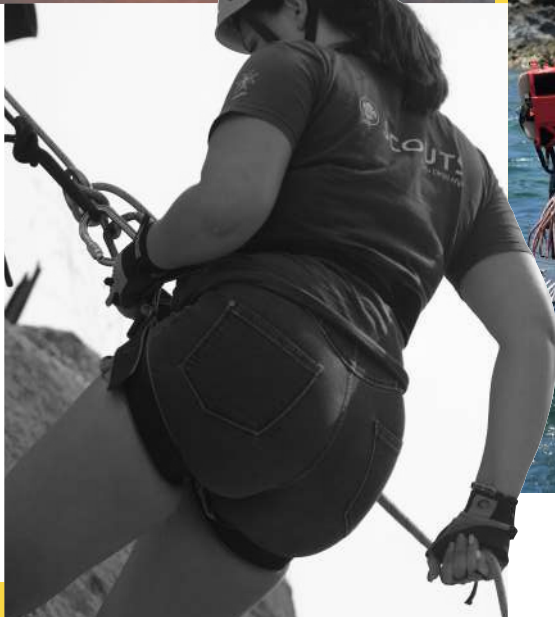




GOVERNMENT OF MALTA
MINISTRY FOR INCLUSION
AND THE VOLUNTARY SECTOR

BL-OH#LA DAWL LIBBIST

The Reform of the Voluntary and
Not for Profit Sector



Public Consultation Document
February 2024

The Reform of the Voluntary and Not for Profit Sector

“Bl-oñla dawl libbist”

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INTRODUCTION

MESSAGE FROM THE MINISTER

Julia Farrugia Portelli | *Minister for Inclusion
and Voluntary Organisations*

The Government believes that volunteering has an important socio-economic role in our country. Today the sector has evolved in a way that it covers a wide number of organisations that cover a number of fields and sectors.

The need to update the way the sector is regulated has been felt for a long time, as well as to give the sector the opportunity to continue working in its fields.

It is in this spirit that we are proposing these changes in the legislative framework to safeguard and strengthen the sector and update the way it is regulated.

The proposals being presented are based on study, analysis, research and discussions with the unions and a number of other stakeholders. It was an extensive process that looked at the operation of the various associations as well as at the realities the sector is facing and even the way many people are benefiting from the service provided by a number of associations.

The Government is committed in continuing to help this sector, a living sector, not only by continuing to invest in it, but by providing a legislative framework that addresses the wide diversity that the voluntary sector in Malta is endowed with.

INTRODUCTION

Jesmond Saliba | *Commissioner for
Voluntary Organisations*

The Office of the Commissioner for Voluntary Organisations (OCVO) launched a consultation process, VO Plus, with the aim of reforming the sector and ensuring it meets the present and future needs of voluntarism in Malta.

The launch, which was held on Saturday 4th December 2021 at the President's Palace, was held under the patronage of the President of Malta H.E. George Vella.

The convention was inspired by the principle that the voluntary sector must continue being recognised as an important pillar in society and eliminate the narrative of amateurism. We need to give the sector the strength and tools it needs to be able to function properly. The process of change needs to go beyond legislative change and we need to navigate the sector in a collective manner.

The convention included over 1,300 meetings with organisations, a review of the operations and structures of all enrolled organisations and 2 research projects.

A highly prevalent theme was that, whilst working in the voluntary sector is a rewarding experience, it is also considered by many to be unnecessarily challenging.

It was noticed that there is a need for voluntary organisations to be further differentiated - according to their size, turnover, and purpose - in terms of the requirements placed on the organisation.

When asked for their opinions about what the main challenges of working in the voluntary sector are, respondents provided various responses. These ranged from issues of recruiting appropriate staff to support their organisations, obtaining funding, and keeping up to date with relevant legislations. With regard to the issue of recruiting staff, finding volunteers who are willing to dedicate their time to the organisation was highlighted as a current issue. It was noted that small organisations are placed at a disadvantage because they are subject to reporting and legislation requirements, which are more applicable to larger organisations which have the requisite resources to carry them out.

A related sub-theme to the need for differentiation of organisations which was mentioned in the focus groups, was that many organisations disagree with the term 'voluntary organisation' being applied to all organisations. This is because certain organisations would be better defined by other terms, with suggestions including 'the third sector', 'non-governmental organisations', or 'non-profit organisations'.

A number of practical recommendations were made with regard to the type of support which respondents believe would help their organisation to overcome the issues they face. Provision of resources and assistance with increasing visibility of organisations, as well as facilitating networking between organisations, were common suggestions. The need to differentiate requirements based on the size of organisations was also noted as a possible means of improvement.

The overall sentiment of responses to this question was that organisations are very interested in collaborating with the public sector and welcome the opportunity to offer their expertise from their respective areas.

Historically the OCVO was set up to satisfy a number of international obligations and also to create a regulatory framework for organisations which would not fit under any other form and structure in other regulatory frameworks available. This has led to the situation where we have all the above mentioned formats within our register rather than a register which is responsible for a set of organisations.

On 20 June 2022, the Cabinet of Ministers approved the initiation of a wide-ranging reform for the sector. This reform was delegated to the OCVO. The corner-stone of the reform was a review of the organisations enrolled with office. All 1,800+ organisations were reviewed in terms of their format, the purpose and their operation. This was crucial to determine the paths which would reflect the next steps for the sector.

Parallel to this, the OCVO underwent a restructuring exercise so that it can be transformed into an entity which not just regulates but serves the sector while empowering and safeguarding the organisations.

MAIN TERMS

The first set of changes being proposed are those which will be aimed as the basis of a new Act for the Not For Profit and Voluntary Sector.

- 1.** *Role of Office*
- 2.** *Classification and Categorisation*
- 3.** *Change in Process*
- 4.** *Reporting Procedures*



Image: Kevin Cassar

PRINCIPAL PILLARS OF THE REFORM OF THE VOLUNTARY AND NOT FOR PROFIT SECTOR

- 1.** *Strong legislative framework*
- 2.** *Reduction of Bureaucracy*
- 3.** *Greater development of the Office and services*
- 4.** *A more comprehensive and adequate sector*
- 5.** *More adequate criteria*
- 6.** *More awareness of the sector*



Image: Noel Portelli



Image: Kevin Cassar

GUIDING PRINCIPLES

GUIDING PRINCIPLES

The following principles associated with this reform are focused on strengthening the Voluntary Sector in order to meet the present and future needs of volunteering in Malta, as well as continuing to recognise the sector of volunteering as an important pillar in society, give the strength and tools that the sector needs so that it can function properly and to have a process of change that goes beyond legislative change and that looks at the sector collectively.

1.

In line with the review of the existent organisations and the operations of each organisation, we are proposing that the OCVO becomes the Office of the Commissioner for the Voluntary and Not For Profit Sector.

2.

The new proposed categories will be as follows:

Status

- **Public Purpose and Public Benefit Organisation (NP-Org)** - The ultimate beneficiary of funds, services and benefits are the general public and society including the individuals, clubs and/or organisations which constitute the said institution and where the membership is of an inclusive nature, due to membership fees or other aspects that the Commissioner deems as such
- **Public Purpose Private Benefit Organisation (PR-Org)** - PR Org - The ultimate beneficiary of funds, services and benefits are exclusively the individuals, clubs and/or organisations which constitute the said institution and where the membership, registration of the individuals, clubs and/or organisations is of an exclusive nature, due to fees or other aspects that the Commissioner deems as such.

Structure

- **Association / Federation / Platform**
- **Foundation**
- **Trust**

2.

Class

- **Philanthropic** - Where money is invested back into the community or the organisation itself, which has a specific public purpose which is of a charitable, philanthropic, purpose and creates a social impact in the communities it works in and has a volunteer base and membership
- **Professional Associations, Federations or Platforms** - Where communities are formed and the money which is raised principally through membership is invested back into the organisation itself and its members. These organisations act also as lobbies to put forward their policy advisory on issues their members are engaged in
- **NGO / Advocacy** - A Not For Profit organisation where money is raised either through public and/or private funding and whose main purpose is to serve as a platform on specific issues. These organisations act also as lobbies to put forward their advice on policy issues they are engaged in
- **Voluntary** - An organised group of people, which is funded through fund raising, public and/or private funding or philanthropic ways and the money is invested back into the organisation to serve their members and the community they are active in. Their main purpose is that of providing recreational, vocational and formation opportunities in the communities they work in and which is run and administered on a voluntary basis and where the services are carried out by volunteers
- **Service Provider** - A Not For Profit organisation where money is raised either through philanthropic ways and fund raising, and/or public and private funding and is invested back in the organisation itself, which has a specific public purpose which provides a service to the community through which it creates a social impact in the communities it works in. Service Providers are also expected to employ a significant number of employees to be able to carry their specialised work. Service Providers are also the beneficiaries of public (and possibly in the future private) funds for the provision of services under the PSP agreements

2.

Class

- **Corporate Foundations** - A Not For Profit Public Purpose foundation set up for philanthropic purposes by a business organisation so as it channels its social and CSR initiatives through this arm.

Category

- **Social Interest:**
 - Education & Research
 - Community Development
 - Social Services
 - Recreational Sport Activity
 - Arts and Culture
 - Inclusion
 - Health
 - International Development and Humanitarian Aid
- **Environmental Interest**
 - Natural Environment
 - Urban Environment
 - Built Heritage
 - Climate Action
 - Animal Welfare
 - Agriculture
- **Governance & Policy Interest**
 - Professional Organisations
 - Platforms
 - Advocacy Groups
- **Faith-based**
 - Congregations
 - Other related organisations or denominations
- **Sports**
 - National Associations/Federations
 - Clubs

3.

The changes in the processes will be the following:

- Being recognised as a VO today requires that an organisation **submits an intent** which is evaluated in terms of purpose, risk, the socio-economic impact, and key to this, a coordinated inter-regulatory framework. Enrolment, within the current framework, ultimately is a privilege and not a 'regulatory' aspect. The notification is the mandatory regulatory enrolment. All Not For Profit Sector (Private or Public), following the re-categorisation, is to have the mandatory 'NOTIFICATION'. The mandatory notification will ensure that all organisations are under the regulatory radar of the OCVO
- **Enrolment vs. Notification:** Organisations with a public purpose (public interest) will qualify for registration, while organisations with a public purpose (private interest) will be categorised through a notification process that will be mandatory.

4.

Reporting Procedures

Financial Category

- **Financial Category 1 (up to €95,000)**
A simplified return based on a new model from OCVO.
Organisations whose income will be below 25K Eur, will be assisted by the Maltese Council for the Voluntary Sector / MCVS if necessary
- **Financial Category 2 (€95,000 to €499,999)**
Accounts are to be presented in GAPSME format (may be audited)
- **Financial Category 3 (€500,000+)**
Accounts are to be presented in GAPSME format and with an auditor's opinion
- **Service Providers**
Financial Reporting will be based on those of Category 3, regardless of income. If the organisations have a PSP, the required reporting format requested by the Public Entity that provides the PSP applies.

4.

The Reporting is also to include:

- Administrator list report (replaced with templates used by MBR)
- Membership reports
- Public Collections + Charity Shops (report always due where applicable)
- Annual activity report
- Amended statute with track changes (if applicable)
- Annual return (including a section of Change of Address to replace the form)

To ensure the highest level of scrutiny also in terms of operation, the compliance of organisations that require a license or approval from other regulatory bodies will also have the following documents required:

License

- **Service Providers**
 - License from respective entity
- **Sport organisations**
 - Approval/compliance from the respective regulator (AIMS)
 - Purpose to provide documentation received by the organisation
- **Animal Sanctuaries**
 - Approval from Animal Welfare
- **Organisations working with children**
 - POMA clearance with submissions

4.

Compliance

- Due to the fact that a significant number of organisations find it difficult to be serviced by professional organisations, it is recommended that Compliance be valid for 18 months instead of 12 months, while the obligation to submit the documents remains as it is.

These changes will be rolled out over a period of 12 months to ensure the smooth transition of the changes being proposed.



IMPLEMENTATION PLAN

IMPLEMENTATION PLAN

1.

Strong legislative framework

- The pertinent legal aspects that need to be addressed with respect to the current law have been identified, including due to overlap with other laws/regulatory aspects.

The new law must be structured in order to give answers and not create more questions in the mind of the reader. It has to adapt to the sector which is always changing and which is very different from how it was in 2007. The new act will be a law that can be distinguished from others as being very easy to follow by everyone, where the procedures are explained and where organisations can refer to it as a manual without the need to engage a legal professional to explain it. Simple definitions should open up the new law.

2.

Reduction of Bureaucracy

- The concept of the One-Stop-Shop will continue to be developed, where we will continue to reduce the bureaucracy, because amongst other things, the lists and documents of the administrators will be replaced by those used by the MBR. The OCVO will be the only interface for the organisations, since the OCVO will take care of the documentation with the MBR and therefore there is no need to prepare documentation for different regulators.

3.

Greater development of the Office and services

- The new law to be drafted should determine the role and mandate that this Office should have, also as an entity that acts both as a regulator, and in the way it can also assist organisations with their regulatory requirements. This continues with point number 2.

4.

A more comprehensive and adequate sector

- The term volunteering will only classify voluntary organisations - the Not for Profit concept will be embraced and therefore organisations can be either for ultimate public benefit or for ultimate private benefit and can be structured in any form that is permissible under the laws of Malta.

5.

More adequate criteria

- There is this need for the development of more equal competition conditions, for the provision of practical support to the organisations as well as for the classification of the organisations so that there can be the differentiation of the reporting requirements according to the size and the turnover and purpose of the organisations.

6.

More awareness of the sector

- The Sector is to continue being recognised as an important socio-economic pillar in society and the narrative of amateurism is to be eliminated.



Image: Godwin Borg



Image: Renata Apanaviciene

CONSULTATIVE PROCESS

Contributions are sought in particular from: organisations, founders, administrators, members, volunteers and beneficiaries of organisations and any persons who are fond of volunteering and the Not for Profit sector.

In order to ensure that the goals of this reform are met, the public is being asked to give their feedback on the following questions:

1. What is your opinion on the strategic framework proposed in this document? Do you agree with the Guiding Principle and Implementation Plan?
2. How can the OCVO implement the reform in an accessible, practical, efficient and effective way?
3. What tangible and feasible complementary efforts, programs and initiatives do you propose to achieve better results?



Image: Kevin Cassar



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