



ARBITER FOR
FINANCIAL
SERVICES

**Strategic Plan &
Projected Income and
Expenditure Statement
2021**

OFFICE OF THE ARBITER FOR FINANCIAL SERVICES

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Abbreviations

Act	Arbiter for Financial Services Act, 2016
ADR	Alternative Dispute Resolution
CRO	Customer Relations Officer
OAFS/Office	Office of the Arbiter for Financial Services

Legislation (Malta & EU)

Act XVI of 2016	Arbiter for Financial Services Act, 2016 (<i>Chapter 555 of the Laws of Malta</i>)
ADR Directive	Directive 2013/11/EU on alternative dispute resolution for consumer disputes (Directive on consumer ADR) <i>OJ L 165</i>

Requirement to produce a yearly Strategic Plan

Article 9(3) of the Act obliges the Board of Management and Administration of the Office of the Arbiter for Financial Services (OAFS) to prepare and approve a Strategic Plan for the year, in consultation with the Arbiter for Financial Services.

The report is required to specify the objectives of the activities of the OAFS for the financial year concerned; the nature and scope of the activities to be undertaken; the targets and criteria for assessing the performance of the OAFS; and the uses for which it is proposed to apply the OAFS's resources.

A copy of the strategic plan, as approved by the Board, is required to be sent to the Minister for Finance who shall lay it on the Table of the House of Representatives and shall also be made available to the public.

Act XVI of 2016, Arbiter for Financial Services Act

The legislation establishing the Arbiter for Financial Services - [Act XVI of 2016](#) - came into force on 18 April 2016.

Shortly after the coming into force of this Act, Government published Legal Notice 137 of 2017 titled "Arbiter for Financial Services (Designation of ADR Entity) Regulations, 2017". By virtue of this Legal Notice, the Minister for Finance, as the competent authority for the purposes of the ADR Directive, appointed the Office of the Arbiter for Financial Services as the ADR (Alternative Dispute Resolution) entity for financial services in Malta in accordance with the ADR Directive.

Brief Notes

The Office of the Arbiter for Financial Services (OAFS)

- Set up by law with power to mediate, investigate and adjudicate complaints filed by customers against all financial services providers.
- Composed of the Arbiter for Financial Services and the substitute Arbiter, if any, the Board of Management and Administration (the Board) and of such officers and staff members appointed or employed with the Office.
- Its day-to-day management is the responsibility of a Board (referred to as the Board of Management and Administration) headed by a chairperson. The Board is not in any way involved in the complaints' handling and decision-making process.

The Arbiter for Financial Services

- Totally independent and impartial of all parties concerned to the complaint and is not subject to the direction or control of any other person or authority.
- Has the authority to determine and adjudge a complaint by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.
- Is required to deal with complaints in a procedurally fair, informal, economical and expeditious manner.
- May, if he thinks fit, treat individual complaints made with the Office together, provided that such complaints are intrinsically similar in nature.
- Can make awards up to €250,000, together with any additional sum for interest due and other costs, to each claimant for claims arising from the same conduct.
- Decisions are binding on both parties but subject to appeal to the Court of Appeal (Inferior Jurisdiction).

Complaints handling

- Natural persons and micro-enterprises may lodge a complaint with the OAFS.
- Complaints may be lodged against all financial services providers, which are or have been licensed or otherwise authorised by the Malta Financial Services Authority or any other financial services law, which offers or have offered financial services in or from Malta.
- The charge for lodging a complaint with the OAFS is €25 which is reimbursable in full if the complainant decides to withdraw his complaint or the parties to the complaint agree on to settle the dispute.
- Before submitting a complaint with the OAFS, a customer has to give a financial service provider reasonable opportunity to deal with a complaint. Supporting evidence to this effect would be requested of the complainant.
- Complaints about the conduct complained of, which are or have been the subject of a law suit before a court or tribunal initiated by the same complainant on the same subject matter, will not be accepted.

Taking stock

THE CHALLENGES AND OPPORTUNITIES BROUGHT BY THE PANDEMIC IN 2020

Before proposing the OAFS' strategy for the upcoming year 2021, it is prudent to take stock of the processes that had to be introduced and adapted to during 2020 as a result of the pandemic. These aspects were certainly not foreseen at the time the OAFS Strategy for the year was presented to parliament by the Minister for Finance.

The OAFS' utmost priority was, and remains, the wellbeing of its staff. As soon as the first cases of Covid-19 were announced by the health authorities, the OAFS started planning for the eventuality that its staff would be required to telework for an uncertain period of time. Indeed, during the second week of March, all members of staff were requested to telework and all the necessary support, especially on the use of video conferencing software, was provided. Despite some expected teething problems, all staff were able to work remotely and to access scanned case files and emails through encrypted two-factor authentication.

However, mindful that during this time, the OAFS stakeholders, especially consumers who access its services in-person or via telephone, would still need to speak with any of its officials, new mobile numbers were signposted at the entrance to the OAFS offices and the website was updated with such information accordingly. Its Customer Relations Officers (CROs) were tasked with handling incoming calls through these new mobile numbers. The office central answering machine also relayed these mobile numbers in both English and Maltese. The OAFS also offered callers a call-back service for calls made on these mobile numbers. Thus, the OAFS CROs continued managing multiple calls and email enquiries during lockdown with minimum disruption.

The Office has now switched to hybrid working arrangements. While some staff are working from home only, others have been given the opportunity to work from the office or home according to agreed planned schedules. These arrangements are primarily meant to contain the spread of the virus whilst ensuring that the OAFS continues to provide a service at minimal disruption. Such arrangements will continue to be in place for the foreseeable future but will be reviewed as the need arises.

All mediation sessions conducted by the mediator and hearings convened by the Arbiter are now being held virtually using appropriate video conferencing software applications. The use of such video conferencing for oral hearings is not really an innovative development to our office as the OAFS has been convening virtual hearings for non-resident complainants since it has been setup in 2016. Although technology creates challenges (mostly for first-time users of the technology) and may occasionally be declined (especially by parties who would prefer physical interaction during hearings) the new alternative of convening hearings virtually appears now to be an accepted practical solution, apart from the fact that it does not impinge on the swift administration of justice synonymous with redress mechanisms such as the OAFS. The Office is, however, sensitive to situations in which complainants would not have access

to internet connectivity. In such (rare) cases, the OAFS may accommodate mediation or hearings over the phone.

CASE LOAD DURING THE FIRST 10 MONTHS OF 2020

The number of new cases that the OAFS may receive during any year cannot be projected on the basis of previous years' complaint workload. What appears certain is that the pandemic has not affected the number of enquiries/small cases and formal cases that have been processed by the OAFS during the first 10 months of the year.

During the first 10 months of 2020, a total of 125 complaints were registered by the Office, which exceeds the total number of complaints that were processed in 2019. The number of complaints, however, is not indicative of the complexity of the underlying cases that are presented to us.

Over 60% of the cases registered in 2020 so far concern an insurance matter, mostly life insurance. This is followed by investments (25%) and banking (14%) cases.

Other than those cases which have been referred to mediation, all cases have been called for a first hearing and only a few remain to be called for a second hearing.

As at end of October 2020, the Arbiter issued decisions on 114 cases (of which 39 cases, that were tabled individually but whose merits were intrinsically similar in nature, were treated collectively and thus one decision was issued). Further cases are expected to be determined by year end and decisions issued accordingly. Preliminary data also reveal that between January and October 2020, a number of cases were resolved at mediation.

Besides formal complaints, the OAFS also oversees enquiries and minor cases which may either require the provision of information or informal intervention with the financial provider. The number of enquiries and minor cases received during the first 10 months of 2020 amounted to 933, a 12% increase over the same period in 2019. A large proportion of enquiries relate to insurance issues.

The OAFS 2020 Annual Report will contain a summary of the Arbiter's decisions delivered during the year as well as highlights of main issues that have been brought up through enquiries.

The OAFS objectives for 2021 and beyond

The OAFS' objectives for 2021 – its fifth anniversary since it has been setup - continue to build on those of the previous years.

In its operations, the OAFS deals with the public and a range of private financial services providers. It is therefore reasonable to expect the OAFS to provide an efficient and transparent public service. Indeed, the OAFS's operational objectives continue to be built on accessibility, fairness, transparency, accountability, and independence.

The five pillars of the OAFS's operational objectives are amplified below.

A. IMPROVING ACCESSIBILITY AND AWARENESS BY BOTH CUSTOMERS AND FINANCIAL SERVICES PROVIDERS ABOUT RIGHTS TO COMPLAIN, DEALINGS WITH FINANCIAL SERVICE PROVIDERS AND THE DISPUTE RESOLUTION PROCEDURE OF THE OAFS.

The OAFS is required to provide an accessible service to both customers and financial service providers.

- i. As announced in the Strategy Statement for 2020, the OAFS has applied for and been awarded funding to upgrade its current website, develop and install a Case and File e-Solution System (CFES), and provide training to its staff members in relation to the management and update of the website and the CFES. Such funding was made possible through the European Commission's Consumer Programme to support access to alternative dispute resolution mechanism for consumers.
- ii. This project will come into fruition during the first week of 2021. As with all IT projects of this dimension, several meetings were held during the year with the developer to ensure that the new system will meet the high specifications as laid out in the tender document. The bi-lingual and user-friendly responsive website will make it easier for consumers to engage with the OAFS. The website will also have a searchable facility, particularly useful for decisions issued by the Arbiter. The submission of electronic complaint forms and documents through a secure online environment will facilitate the processing of complaints especially for the increasing number of non-residents of Malta who are lodging complaints with the OAFS.
- iii. Some consumers may choose not to be represented when lodging a complaint with the OAFS offices. The OAFS will ensure that such consumers will not be disadvantaged or discouraged from accessing its redress mechanism which has been designed to deal with complaints in a procedurally fair, informal, economical and expeditious manner.
- iv. The OAFS will continue to disseminate information on its role to various interested bodies such as the media, statutory bodies, customer bodies, lawyers, financial sector representative bodies and to the general public.

B. RESOLVING COMPLAINTS IN ACCORDANCE WITH BEST PRACTICE AND THE HIGHEST STANDARDS OF CUSTOMER SERVICE

As the handling of complaints is at the very heart of the OAFS's public service function, it must be ensured that such matters are treated with the highest standard of customer service – including courtesy, timeliness, confidentiality and impartiality. The approach of the OAFS in this area must be to seek to investigate and reach a resolution to the problem at issue.

- i. The new Case and File e-Solutions System will assist the OAFS with managing its case workload in a streamlined and efficient manner whilst facilitating the compilation of statistical reports in fulfilment of its obligations in terms of the ADR Directive. The system will also meet enhanced data protection requirements.
- ii. As an ADR entity, the OAFS is encouraged by law to conduct mediation in an effective manner and it is the aim of the OAFS to strive to resolve cases informally and amicably by way of mediation. Although mediation is voluntary, both complainants and financial services providers ought to be amenable towards using mediation as a way to resolve their disputes. Mediation will continue to be conducted via video conferencing or, in exception circumstances, via telephone if any of the parties does not have access to internet.
- iii. Complaints that are referred to the Arbiter for investigation and determination will continue to be addressed promptly in order to facilitate their speedy and effective resolution having regard to the varying complexity of some cases, which can have significant implications for time scales. Until the foreseeable future, all hearings convened by the Arbiter will continue to be held remotely.
- iv. To ensure that parties, mostly complainants, do not feel nervous when using such video conferencing applications, OAFS staff will provide the necessary assistance in regard to the use of such software as and if necessary.

C. EXECUTING THE OAFS'S ROLE AND INDEPENDENT FUNCTIONS IN A MANNER THAT IS TRANSPARENT AND ACCOUNTABLE AND TO LEAD BY EXAMPLE AS A MODEL OF BEST PRACTICE

The OAFS is a public body, and the requirements of accountability and transparency are essential if it is to retain the confidence of the public. The OAFS's organisational structure will be continuously reviewed to ensure that it supports good internal and external communications, as well as the co-ordination of its activities, in order to achieve effective and optimal outcomes.

- i. As the law stands, the Board is required to maintain a register of all decisions delivered by the Arbiter which become *res judicata*. Complementary to this, decisions of the Arbiter are available on the OAFS's website (www.financialarbiter.org.mt). The name of the complainant(s) is (are) pseudonymised. The new website will also have a searchable functionality for the Arbiter's decisions.

- ii. Besides the statutory requirement to submit an annual report as well as a strategy statement to the Minister for Finance, quarterly cash flow statements as well as half-yearly financial statements will continue to be submitted to the Ministry for as long as Government subventions continue to be made to the OAFS.
- iii. In terms of the ADR Directive, the OAFS is obliged to provide detailed information about its operations to the Minister of Finance, as competent authority in terms of and for the purposes of this Directive. The OAFS will discharge its duties under the Directive, as well as its obligations under its operative law, in its 2020 Annual Report.
- iv. Administration of the finance and HR role will be reviewed on an ongoing basis, including the annual audit of the OAFS financial records by the National Audit Office.

D. DEVELOP THE ABILITIES, SKILLS AND COMPETENCE OF STAFF SO AS TO ENSURE CONTINUED IMPROVEMENT IN ORGANISATIONAL PERFORMANCE

The quality of the OAFS's service to the public is crucially dependent upon the capacity, performance and motivation of its staff. Moreover, if staff are to give commitment to the work of the OAFS, it must show commitment to the development of its staff. In particular, the OAFS must make sure staff have opportunities to participate in internal and external training and development on a regular basis.

- i. To support and encourage continued staff training and development – especially mediation – the OAFS will organise induction and support programmes, and encourage participation at external courses.
- ii. Regular staff briefings will be held to keep staff informed of general developments in financial services and customer service standards.
- iii. Further books and other technical materials will be acquired for internal use.
- iv. The staff handbook will be updated as necessary to cater for new and updates exigencies as they arise.

E. EU AND INTERNATIONAL OBLIGATIONS

The OAFS will continue to keep abreast with international developments in financial services and customer services to ensure that its techniques remain current and service standards primed to modern expectations.

The OAFS is an active member FIN-NET, the financial dispute resolution network of national out-of-court complaint schemes in the EU.

It is also a member of the International Network of Financial Services Ombudsman Schemes (INFO Network). INFO is the worldwide association for financial services ombudsmen and other out-of-court dispute resolution schemes entrusted with resolving financial consumer Complaints.

The OAFS will continue working in close collaboration with FIN-NET and INFO to further enhance best practices in the resolution of financial services complaints.

Income and Expenditure Statement for 2021

The provision of a professional and efficient service to all stakeholders who deal with the OAFS at any stage is a primary objective. For the OAFS to do so, it must have the appropriate financial resources.

Annex 1 outlines the financial plans for the OAFS for 2021. Circumstances may require changes and the Board shall ensure that these plans are kept under constant review for its relevance and effectiveness.

A. EXPLANATORY NOTES

Legal basis

In terms of article 9(2)(a) of the said Act, the Board of Management and Administration is required to prepare and approve a statement with estimates of income and expenditure relating to the OAFS for the year 2021.

The Board has approved the projected income and expenditure for 2021 (as featured in Annex 1 to this document).

In terms of article 9(2)(c) and pursuant to article 9(2)(d), the OAFS's estimates for 2021 are being submitted to the Honourable Minister for Finance and Employment for his consideration.

Assumptions

Income

So far, the OAFS has been financed by means of subventions made available by Government. However, the OAFS is

still committed to raise levies, charges or fees as provided by the Act.

Expenditure

A major part of the OAFS's budget is allocated to salaries and benefits to staff. Other than the Arbiter for Financial Services (whose salary is reimbursable from the Consolidated Fund) and the chairman of the Board, the current staff complement of the OAFS is composed of the following officials:

- Two Case Analysts
- Two Customer Relations Officers
- One Officer in charge of mediation
- One PA to the Arbiter
- One Administrative Assistant
- One Receptionist
- One Support Staff
- One Driver

Annex 1 - REVISED Projected Income and Expenditure (2020) and PROJECTED Income and Expenditure (2021)

	Revised 2020 forecast	Forecast 2021
Government subvention	640,000	675,000
Complaint Fees	3,000	3,000
Website + Case and File e-Solution System (EU Funding)		4,012
Total Projected Income	€ 643,000	€ 682,012
Salaries and Wages	456,000	460,000
Social Security Contributions	14,000	16,000
Allowances	65,000	68,000
Hospitality	750	750
Office Maintenance & Upkeep	13,500	13,500
Office Services	18,200	20,000
Other Office Costs	12,007	15,000
Telecommunications		7,000
Vehicle, Leasing and Fuel Expenses	18,000	18,000
Travelling Expenses		8,000
Printing & Publications	500	600
Professional Fees	4,720	5,000
Rent	-	5,000
Software Maintenance and Support		10,000
Training	2,500	2,500
Utilities		15,000
Depreciation Charge	6,540	7,000
	€ 611,717	€ 671,350
Capital Expenditure		
Computer and Equipment		2,000
Office Furniture		5,000
	--	€ 7,000
Total Projected Expenditure	€ 611,717	€ 678,350
Surplus/Loss for the period	€31,283	€ 3,662

Notes:

- (1) All figures are approximate. Full year audited figures for financial year ending 31 December 2020 will be reported in the OAFS Annual Report for the year. Reserves not shown.
- (2) The initial cost for the design and implementation of the Case and File e-Solution System (CFES) is expected to amount to around €52,510. The capital expenditure relating to the Case Management System software will be funded from EU funding (part of which was received in 2019) and reserves (derived from Government subvention).
- (3) A provision for rent, utilities and other ancillary expenditure is being made if the OAFS may be requested to relocate to other offices to enable renovation of the building in which it is currently housed.
- (4) The Government subvention for 2021 is as reported in the Draft Financial Estimates 2020 under the Ministry for Finance's vote (<https://mfin.gov.mt/en/The-Budget/Pages/The-Budget-2021-ND111213.aspx>). Additional funds may be required to cover unanticipated expenditure for the year.