

SUBSIDIARY LEGISLATION 595.37**VICTIM SUPPORT AGENCY
(ESTABLISHMENT) ORDER**

3rd November, 2020

LEGAL NOTICE 418 of 2020, as amended by Legal Notice 418 of 2021.

1. The title of this Order is Victim Support Agency (Establishment) Order. Citation.
2. In this Order, unless the context otherwise requires: Interpretation.
 - "Act" means the Public Administration Act; Cap. 595.
 - "Agency" means the Agency established by this order;
 - "Agency Agreement" means the Agreement mentioned in article 6;
 - "Board" means the Board established by article 10;
 - "data protection law" means the Data Protection Act and any legislation established thereunder and the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as in force from time to time; Cap. 586.
 - "Minister" means the Minister responsible for home affairs;
 - "Permanent Secretary" means the Permanent Secretary of the Ministry for Home Affairs; and
 - "service users" means victims of crime, their families, significant others and witnesses.
3. (1) There shall be an Agency, to be known as the Victim Support Agency, which shall carry out the functions listed in article 4. Establishment of Agency.
 - (2) Employees of this Agency shall be appointed by the Chief Executive Officer under such terms and conditions as may be approved by the Minister and shall include:
 - (a) any public officer;
 - (b) any member of and any other person employed or appointed in or for the purposes of the Malta Police Force as well as of any other disciplined force of the State; and
 - (c) any member of and any other person employed or

appointed in or for the purposes of the Department of Probation and Parole.

Cap. 595. (3) The Agency may also appoint other officers and employees. The terms and conditions of employment shall be established by the Agency with the concurrence of the Minister in accordance with the provisions of the Public Administration Act and any subsidiary legislation made thereunder.

(4) The Agency shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with sub-article (1) determine, such officers and employees of the Agency as may be necessary for the due and efficient discharge of the function of the Agency in compliance with established Government procedures:

Cap. 452. Provided that all employees having an employment contract on the date of the coming into force of this Order shall be taken over by the Agency in terms of article 38 of the Employment and Industrial Relations Act and become employees of the Agency.

(5) Public officers deployed with the Agency shall be deemed to be detailed with the Agency in accordance with article 43 of the Act.

(6) The Victim Support Agency shall, as from the coming into force of this order assume responsibility for all assets, liabilities and obligations previously entered into by the Hate Crime and Speech Unit.

Functions of the Agency.

4. The Agency shall have the following functions and duties:

(a) ensuring that the services are run, managed and provided in terms of the existing and approved standards from time to time;

(b) serving as a point of contact for victims of crime, by coordinating and make easily accessible all the different services offered;

(c) conducts individual assessments of victims to ensure that each victim receives the right support in a timely and efficient manner;

(d) monitors from time to time the victims' progress throughout their use of the Agency's services;

(e) enters into agreements with other governmental and non-governmental organisations to ensure the best service for victims of crime;

- (f) referring victims to specialised services offered by other governmental or non-governmental organisations;
- (g) providing victims with information concerning their rights, including legal advice;
- (h) providing the necessary support and assistance to victims, including;
 - (i) information and follow-up about their cases,
 - (ii) the opportunity to provide a Victim Personal Statement to express how the crime has affected them,
 - (iii) guidance about what to expect in court,
 - (iv) accompanying victims in Court, and
 - (v) information about the release of offenders from prison;
- (i) compiling reports and record statistics of the number of victims accessing and benefiting from victim support services;
- (j) monitoring and documenting local and international legal developments and best practices;
- (k) raising awareness and advocate for victims' rights to encourage other victims to report and seek support;
- (l) reaching out to victims to help them feel safe, process their traumatic experience and restore their former quality of life;
- (m) promoting a multidisciplinary, multiagency approach to maintain the holistic wellbeing of victims whilst ensuring continuity of services; and
- (n) carrying out other pertinent tasks identified by the Agency.

4A. The Agency shall have the power to obtain information on the release date of sentenced persons, prison leave as provided in regulation 61 of the Prisons Regulations, any absence from prison of persons subject to pre-sentencing imprisonment, and any other absence from prison of the persons concerned. Such information shall be obtained from the Correctional Services Agency and may be transmitted to the victim or potential victim, provided that it is directly relevant to such person.

Power to obtain information on the release date of sentenced.
Added by:
L.N. 418 of 2021.
S.L. 260.03.

Power to request information from the Malta Police Force.
Added by:
L.N. 418 of 2021.

4B. It shall also be lawful for the Agency to request and receive information from the Malta Police Force necessary for the identification of victims or potential victims, who are directly or indirectly affected by the crime.

Financial arrangements.
Cap. 601.

5. The Agency shall be governed by the provisions of the Public Finance Management Act unless otherwise authorised in the Agency Agreement.

Operations of the Agency.

6. The operations of the Agency shall follow an Agency Agreement which is to be agreed between the Permanent Secretary and the Victim Support Agency.

Chief Executive Officer.

7. (1) There shall be a Chief Executive Officer appointed by the Minister, who shall have the overall responsibility for the day-to-day running of the Agency who shall perform all the functions and duties as stipulated in this order.

(2) The Chief Executive Officer shall report on a regular basis to the Minister on the day-to-day running of the Agency and related matters.

Legal and juridical representation.

8. The legal and judicial representation of the Agency shall vest in the Chief Executive Officer or in such other officer of the Agency whom the Minister may, for this purpose, appoint from time to time.

Data protection.

9. (1) Nothing in this order shall prejudice the provisions of the applicable data protection law.

(2) Any processing of personal data by the Agency in relation to the exercise of its functions, including any communication or transfer of personal data to other government agencies, departments and non-governmental organisations shall be strictly processed for the purpose of the provision of the voluntary service to the service users.

(3) The controller shall retain the personal data of the service users for a period not exceeding two (2) years from the date when the service has been terminated.

S.L. 586.08.

(4) Pursuant to article 3(2), any personal data relating to service users, held by the Malta Police Force, processed in accordance with the provisions of the Data Protection (Processing of Personal Data by Competent Authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties) regulations, shall be solely and strictly accessed by the deployed police officers in order to assess the risks and mitigation measures which may be required in relation to the provision of the service offered by the Agency.

Board of Governors.

10. (1) The Agency shall be governed by a Board of Governors appointed by the Minister.

(2) The Board shall establish the policies to be pursued by the Agency. In determining such policies, the Board shall follow such policy guidelines as may be set out by the Minister.

(3) The Board of Governors shall consist of the following:

(a) Chairperson appointed by the Minister;

(b) not less than four (4) but not more than six (6) other Governors appointed by the Minister from among persons with a background in Social profession, Law and Police.

(4) The Chairperson and the other members of the Board shall be appointed for a term being not more than three (3) years, as may be specified in the instrument of appointment. However, the members so appointed may be re-appointed on the expiry of their term of office.

(5) The Minister may designate one of the other members of the Board as Deputy Chairperson, and the member so designated shall have all the powers and perform all the functions of the Chairperson during his absence or inability to act as Chairperson, or while the Chairperson is on vacation or during any vacancy in the office of Chairperson.

(6) A person shall not be eligible to be appointed as Chairperson or as a member of the Board of Governors, or hold any other office with the Agency, if he:

(a) is a Minister, Parliamentary Secretary or a member of the House;

(b) is a judge or magistrate of the Courts of Justice;

(c) is legally incapacitated or interdicted;

(d) has been convicted of an offence punishable by imprisonment for a period of six (6) months or more;

(e) is otherwise not a fit and proper person to hold that office.

(7) Subject to the provisions of this article, the office of a member of the Board shall become vacant:

(a) at the expiry of his term of office;

(b) if he resigns;

(c) if any circumstances arise that disqualify such member from holding office as a member of the Board; or

(d) if he is removed from office in terms of this

article.

(8) A member of the Board may be removed if:

(a) such member is, in the opinion of the Minister, unfit to continue in office or has become incapable of properly performing his duties as a member;

(b) the behaviour or performance of the member brings into question his suitability or ability to continue as a member, in particular for behaviour that affects or may affect his reputation;

(c) the member fails to perform his duties for a prolonged period without any valid justification.
