

Report on Case No CEDUC-25-6628

The complaint

1. The instant complaint was filed with the Office of the Ombudsman on the 3rd of September 2025. The complainants are three hundred and twenty-nine (329) Learning Support Educators in Government Service.

2. The complainants allege improper discrimination in breach of the law in the way individual state schools rank them for purposes of seniority. The complaint was formally served upon the Permanent Secretary at the ministry responsible for education on the 23rd of October 2025, with a request for the said Permanent Secretary's views on the matter.

The investigation and findings

3. In their complaint, the complainants, after giving a brief account of the history behind the creation of the LSE grade, alleged that what happens in practice is that LSEs are ranked for purposes of seniority in the service on the basis of their academic qualifications – which are often obtained after engagement in the public service – with the result that the moment an LSE obtains an academic or higher academic qualification, he/she ranks higher in seniority in the school in relation to someone with a lower qualification. Furthermore and crucially, the complainants alleged that this stands in stark contrast to the situation of other educators in other grades, like teachers and kindergarten assistants, who retain their seniority at their assigned school, regardless of any new staff member possessing higher qualifications.

4. In the complaint, the complainants made it pellucidly clear that they are not complaining with regard to remuneration – in other words they are not against LSEs with qualifications or further qualifications receiving better remuneration (as set out in clause 2.3 of Part IV of the current Collective Agreement signed between the Government and the Malta Union of Teachers on the 15th of July 2024); their only complaint is about the seniority issue in individual schools, and ultimately within the Education Division as a whole, by which LSEs obtaining a qualification or additional qualification automatically trump others seniority-wise, thereby negatively affecting the complainants in their re-deployment to other schools.

5. When the complaint was first served upon the Permanent Secretary (for the purposes of Art. 18(1) of the Ombudsman Act) on the 23rd of October 2025 (see para. 2. *supra*), the undersigned requested the Ministry's views (through the Permanent Secretary, as is the usual practice) by the 25th November 2025. On the 24th November 2025, the Office of the Permanent Secretary informed the undersigned to the following effect:

“The Ministry for Education, Sport, Youth, Research and Innovation (MEYR) wishes to inform you that discussions with the Malta Union of Teachers are currently ongoing and, considering the implications, discussions will take some time. MEYR will keep you informed of any developments and progress in this regard.”

6. On the 25th of November 2025, the undersigned wrote to the Permanent Secretary noting that an investigation by the Ombudsman's Office cannot be stultified simply because the respondent entity was discussing something with a trade union, and that what was requested in the original communication was simply confirmation or otherwise of the factual basis of the complaint. On the 8th

January 2026 the undersigned wrote again to the Permanent Secretary for the Ministry's views "... *as to the factual correctness of the complaint and/or any legal basis underlying the individual schools' position regarding seniority.*" On the 9th instant, the Office of the Permanent Secretary replied as follows:

"Further to your email of 25th November 2025, MEYR would like to clarify that, by it's [recte: its] Interim Reply, it did not intend to suspend the investigation. The purpose of the Interim Reply was to inform you that discussions with the MUT are ongoing, and that MEYR will inform you as soon as there are any developments.

With regard to MEYR's views, please note that MEYR is not in a position to express its position at this stage, since discussions with the MUT are ongoing."

7. In spite of the lack of positive co-operation by the Office of the Permanent Secretary, the undersigned, exercising the coercive powers under Article 19 of the Ombudsman Act, has been able to establish the factual position with regard to the complaint, as preferred, and its legal basis – or rather the total absence of a legal basis.

8. From the evidence received it results that the factual situation as described by the complainants is correct. One witness - a senior official within the Education Division – stated that this situation (that is, that individual schools grant seniority to LSEs who obtain qualifications or further qualifications over those already in the grade) goes as far back as 2013; but neither this official nor any one of the other witnesses could produce any circular or document on which this practice is based. All the witnesses were in agreement that said practice applies only to LSE and not to any other grade of educators, not even to KGEs.

9. Clause 3.14.1 of the Manual on Resourcing, Policies and Procedures of the PSMC clearly states that:

“Seniority amongst public officers is determined, as explained below, by the date of appointment/order of merit/precedence in:

- i. The current position/grade; and subsequently*
- ii. Any previous positions/grades.”*

Both the current Collective Agreement aforementioned, as well as the previous one (signed on the 21st December 2017) establish one position or grade of Learning Support Educator (even though remuneration may increase with progression in the grade). The current practice adopted in state schools, as correctly described by the complainants, is therefore manifestly in breach of the law (i.e. the said Manual). It is also discriminatory because this practice applies only to LSEs and to no other grade of educators – no objective and reasonable justification, founded in law, has been advanced for this singularly different treatment.

10. Nor can it be argued that this different treatment is based on Clause 3.14.3 of the abovementioned Manual, which clause states:

“The above is applicable if different nomenclatures are pegged to the same salary point/scale. In the case of nomenclatures carrying different salary scales/points, the officer with the highest salary scale/point would be the most senior, since the higher salary would indicate a higher level of responsibility.”

Although there are, indeed, different salary scales (through progression) for LSEs, the responsibilities of those in a higher scale are, according to the current and to the previous Collective Agreements, no less than in practice, identical for all LSEs. All LSEs share identical responsibilities, working conditions and an identical job description. Therefore Clause 3.14.3 is not applicable.

Conclusion and recommendation

11. For all the above reasons, the complaint is fully justified and is therefore sustained. The current practice as to seniority in individual state schools is manifestly in violation of paragraphs (a), (b) and (d) of subarticle (1) of Article 22 of the Ombudsman Act, and, in so far as the Office of the Permanent Secretary MEYR has failed to explain the Ministry's position on the issue at hand, also in violation of subarticle (2) of said Article 22.

12. The undersigned recommends that the said illegal practice cease forthwith and that seniority for LSEs at every level of the public service should adhere strictly to Clause 3.14.1 of the above-mentioned Manual.

Vincent A De Gaetano
Commissioner for Education

15 January 2026