

**REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN**

PMB 9081
Port Vila
Vanuatu

**PUBLIC REPORT
ON THE
FAILURE OF LUGANVILLE
MUNICIPALITY TO COMPLY WITH
TENDER REQUIREMENTS**

12 March 2003

9606/2003/03

FAILURE OF LUGANVILLE MUNICIPALITY TO COMPLY WITH TENDER REQUIREMENTS

SUMMARY

Outline of events (see further page 4)

In March 1999, Luganville Municipality contracted with Northern Islands Stevedoring Company Limited (NISCOL) to carry out road works for the Municipality without putting the work to tender, as required by law. Mr Kalmer Vocor, who was both a councillor and the general manager of NISCOL, did not absent himself from the discussion, but played a major part in the decision. Although invoices were sent by NISCOL to the Municipality, they remained unpaid as at the date when the Ombudsman completed this investigation.

Findings (see further page 5)

- There is evidence that councillors ignored basic legal requirements to put all contracts to tender and instead contracted with NISCOL, breaching both the Municipalities Act and Leadership Code Act. Excuses advanced by some of the councillors are neither convincing nor effective as legal defences.
- There is strong evidence that Mr Kalmer Vocor placed himself in a position where his interests as a councillor conflicted with his interests as general manager of NISCOL, further breaching the Leadership Code Act.
- There were serious record-keeping deficiencies in the accounting system of Luganville Municipality early in 1999 that the current, newly appointed, accountant is trying to remedy.

Recommendations (see further page 5)

The Ombudsman recommends:

- The Minister for Internal Affairs audit Luganville Municipality for compliance with the legislative tender requirements and remind both Luganville and Port Vila Municipalities of the requirements to put contract to tender when required by law.
- The Public Prosecutor consider taking action against the councillors who were involved in the decision to enter into the contract with NISCOL for breaches of the Municipalities Act and Leadership Code Act.
- The Public Prosecutor consider additional charges against Mr Kalmer Vocor in relation to conflict of interest.
- The Minister of Internal Affairs investigate the accounting system in place within Luganville Municipality and ensure that it is adequate and complete.

TABLE OF CONTENTS

SUMMARY.....	2
1. JURISDICTION.....	4
2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED.....	4
3. RELEVANT LAWS, REGULATIONS AND RULES.....	4
4. OUTLINE OF EVENTS.....	4
5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM.....	5
6. FINDINGS.....	5
7. RECOMMENDATIONS.....	7
8. INDEX OF APPENDICES.....	8

1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to investigate the conduct of government, and government agencies, including Luganville Municipal Council and NISCOL.
- 1.2 The Leadership Code Act allows the Ombudsman to look into the conduct of Leaders, including the councillors of Luganville Municipality and the general manager of NISCOL.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this paper is to present the Ombudsman's findings as required by the Constitution, Ombudsman Act and Leadership Code Act.
- 2.2 The scope of this investigation is to establish the facts about the decision by Luganville Municipal Council ("**LMC**") to engage Northern Islands Stevedoring Company Limited ("**NISCIL**") to undertake road works for the Municipality during early 1999 without putting the works to tender, to determine whether there is evidence that the councillors breached provisions of the Leadership Code Act in doing so and to examine the role of Mr Kalmer Vocor, who held positions both as LMC councillor and general manager of NISCOL.
- 2.3 This Office collects information and documents by informal request, summons, letters, interviews and research.

3. RELEVANT LAWS, REGULATIONS AND RULES

- 3.1 Relevant parts of the following laws are reproduced in **Appendix H**.

CONSTITUTION OF THE REPUBLIC OF VANUATU LEADERSHIP CODE ACT NO.2 OF 1998 MUNICIPALITIES ACT [CAP 126] NO.5 OF 1980

4. OUTLINE OF EVENTS

- 4.1 On 18 and 19 March 1999, the Finance Committee of LMC met and discussed the condition of roads within the municipal boundaries. According to the minutes (**Appendix A**) a decision was made to engage NISCOL to carry out road works for the Municipality during a one-week period and then put further road works out to public tender.
- 4.2 Subsequently, NISCOL carried out various road works and issued invoices no. 23448 in relation to "Road maintenance - Sarakata" for Vt195,244 (**Appendix B**) and no. 23449 for "Road Maintenance - Sea Wall" for Vt300,206 (**Appendix C**), a total of Vt495,450. Both invoices stated the client to be "Luganville Municipal Santo" and were dated 13 April 1999.
- 4.3 On 13 August 1999, the then Town Clerk, Mr Karl Batick, wrote to the Ombudsman in response to an enquiry made as part of this investigation (**Appendix D**). He stated that LMC had not paid NISCOL for the work at that time.
- 4.4 On 17 August 1999 the then Lord Mayor, Mr Roy Bongelan, wrote to the Ombudsman in response to an enquiry made as part of this investigation (**Appendix E**). In his letter he acknowledged that the Council had decided to engage NISCOL to carry out road works for one week without tender.
- 4.5 ON 19 August 1999 the then deputy Lord Mayor and General Manager of NISCOL, Mr Kalmer Vocor wrote to the Ombudsman in response to an enquiry made as part of this investigation (**Appendix F**). Among other comments, he also stated that NISCOL had not been paid by LMC for the road works.

- 4.6 On the copy of invoice 23448 held by LMC (**Appendix B**), the following handwritten inscription appears:

	Vt495,450
less	-367,240
O/S	128,210Vt

- 4.7 This suggests that a payment or "contra" entry of some description for Vt367,240 was netted off by LMC to reduce the amount outstanding under the invoices from Vt495,450 to Vt128,210. The LMC accountant, Ms Marina Moli, has only held the position since mid-2002 and informed this office that she had been unable to locate any explanation for the apparent contra in the municipal files for the period which, she indicated, were incomplete and poorly organised.
- 4.8 The Ombudsman has been unable to contact the former LMC treasurer, Mr Oscar Buleuru whom, it was hoped, would have been able to explain the handwritten notation.
- 4.9 Ms Moli advised that she could find no evidence of the NISCOL invoices having paid as at 7 October 2002. The General Manager of NISCOL also stated in a letter dated 7 November 2002 that no payment had been received from LMC (see **Appendix G**).

5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

- 5.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, a working paper was provided prior to preparation of this public report to give the individuals mentioned in this report another opportunity to respond.
- 5.2 No responses were received to the working paper.

6. FINDINGS

- 6.1 **Finding 1:** **The Ombudsman finds evidence that LMC breached the law when it contracted with NISCOL to carry out road repairs without putting the work out to public tender.**
- 6.1.1 Section 27(2) of the Municipalities Act [CAP 126] prevents a council from entering into any contract for execution of work except after publicly calling for tenders.¹
- 6.1.2 The fact alleged by Mr Kalmer Vocor in his letter dated 19 August 1999 (**Appendix F**) that not other tenders were received when later road works were put to tender is irrelevant and provides no excuse for breaking the law.
- 6.1.3 Nor is the urgency alleged by Mr Vocor, and also by Mr Roy Bongelan in his letter (**Appendix E**), an excuse to proceed other than in accordance with the law. In any event, the councillors had had approximately six months since their election to take action and to suggest that, after six months, the roads suddenly had to be repaired "immediately", rather than comply with the law by putting the work to tender is evidence of a lack of planning and mis-management by the councillors.
- 6.1.4 Equally, the fact that the contract was only going to cover a one-week period does not prevent the actions of LMC from being a breach of the law. Its only relevance may be to mitigate any sentence handed down by the Court on conviction.
- 6.1.5 The minutes of the meeting (**Appendix A**) suggest a disturbing ignorance by the councillors of the most fundamental legal requirements of their office - the need for public tenders.
- 6.2 **Finding 2:** **The evidence unearthed by the Ombudsman during this investigation justifies charges being laid against the councillors who were present at the committee meeting where the decision**

to contract with NISCOL was taken for breaches of the Leadership Code Act.

6.2.1 The following is a list of the breaches of the Leadership Code Act (and, where applicable, the Constitution) by the councillors for which the Ombudsman had found evidence:

Section	Provision	Penalty on conviction
Article 66(a)(d)	A leader must not endanger or diminish respect for and confidence in the integrity of the Government of Vanuatu	Fine not exceeding VT5 million or imprisonment not exceeding 10 years
Section 3	A leader must avoid behaviour likely to bring his or her office into disrepute	Fine not exceeding VT2 million
Section 3	A leader must ensure that he or she is familiar with and understands the laws that affect the area or role of his or her leadership	Fine not exceeding VT2 million
Section 13(1)(a)	A leader must comply with and observe the law.	Fine not exceeding VT5 million or imprisonment not exceeding 10 years.
Sections 28, 29	Failing to comply with another enactment is a breach of the Code	Fine not exceeding VT2 million

6.2.2 The Court, on conviction, may also impose additional penalties such as dismissal, disqualification and loss of employment benefits.

6.3 Finding 3: There is strong evidence that Mr Kalmer Vocor placed himself in a position where his interests as a councillor and his interests as general manager of NISCOL were in conflict.

6.3.1 The fact that NISCOL has not recovered its outstanding debt of VT495,450 from LMC after over three years is strong evidence that Mr Vocor has improperly allowed the interests of LMC to come in front of the interests of NISCOL and its shareholders.

6.4 Finding 4: There were serious record-keeping deficiencies within the accounting section of LMC early in 1999.

6.4.1 The current municipal accountant (who was not employed by LMC at the time in question) has been unable to locate records that a properly maintained system would show.

6.4.2 The Ombudsman understands that the current accountant is improving the situation.

6.5 Finding 5: The Ombudsman has found no explanation for the apparent "contract" noted on invoice no.23448.

6.5.1 Having no evidence of the meaning of this notation or how it was put into effect, the Ombudsman cannot say whether it shows any improper dealings between LMC and NISCOL.

6.5.2 However, it represents an irregular accounting practice and emphasises the poor record-keeping practices mentioned above.

7. RECOMMENDATIONS

- 7.1 The Minister for Internal Affairs audit Luganville Municipality for compliance with the legislative tender requirements and remind both Luganville and Port Vila municipalities of the requirement to put contracts to tender when required by law.
- 7.2 The Public Prosecutor consider taking action against the Councillors who were involved in the decision to enter into the contract with NISCOL for breaches of the Municipalities Act and Leadership Code Act.
- 7.3 The Public Prosecutor consider additional charges against Mr Kalmer Vocor in relation to conflict of interest.
- 7.4 The Minister for Internal Affairs investigate the accounting system in place within Luganville Municipality and ensure that it is adequate and complete.

Dated the 12th day of March 2003.



Hannington G. ALATOA
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

- A** Copied extract from minutes of Luganville Municipal Council Finance committee meeting 18 & 19 March 1999.
- B** Copy of NISCOL invoice no.23448 dated 13 April 1999 (from LMC records).
- C** Copy of NISCOL invoice no.23449 dated 13 April 1999 (from LMC records).
- D** Copy of letter from Mr Karl Batick, Town Clerk, to the Ombudsman dated 13 August 1999.
- E** Copy of letter from Mr Roy Bongelan, Lord Mayor, to the Ombudsman dated 17 August 1999.
- F** Copy of letter from Mr Kalmer Vocor, general manager NISCOL and deputy Lord Mayor to the Ombudsman dated 13 August 1999.
- G** Copy of letter from Mr Kalmer Vocor, general manager, NISCOL to the Ombudsman dated 7 November 2002.
- H** Relevant laws.

Agenda 7 Road Maintenance

Councillor Gaetan Pikioune - Mi think se yumi should findem wan possible way blong maintenance blong road we igat tumas complain long public mo saposse emi need blong yumi findem private company blong temporary taem blong makem maintenance.

Lord Mayor Roy Bongalan - Necociation i stap go underway withem NISCOL blong makem 1 month trial long Road Maintenance.

Deputy Mayor Kalmer Vocor - Responsibility blong road istap withem LMC mo withem Tourisim we babae oli flow in long end blong this month mi think se NISCOL i should assist withem Road Maintenance ia quick taem. Mo emi now ol prices we NISCOL emi offerem.

Hire of Dipper Truck - 7.000 vt. per hour.
Labour Cost - 950 vt. per hour.

Chairman - Mi think se LMC i should putum long tender for mo quotation than babae Council i just go for the cheapest.

Lord Mayor Roy Bongalan - Mi think se emi (6.30pm) and mi move se meeting emi adjourn untill 8.30 tomorrow morning 19/03/99.

Deputy Mayor Kalmer Vocor - Mi secondem mover. Emi unanimously approved.

19.03.99

Meeting emi start withem prayer from Councillor Ham Japhet.

Chairman - Discussion blong NISCOL blong road maintenance ino should kam from LMC i never gat share withem NISCOL mo emi no fare blong LMC i givim money long NISCOL.

Councillor Gaetan Pikioune - Emi stap long Government & LMC blong necociate blong LMC i gat some share withem NISCOL. Mo mi think saposse LMC i giim 1 week trial long NISCOL mo LMC putum aot Tender Notice blong Road Maintenance. Mo mi think se NISCOL emi offerem the cheapest rate long LMC.

Deputy Mayor Kalmer Vocor - Thank you long toktok blong Chairman aboutem share blong LMC long NISCOL but mi think se NISCOL emi contribute bigwan long LMC. Without share blong LMC long NISCOL ol contributions -

500.000 vt. Queros Park mo supportem ol events mo sports blong LMC. Mo mi think se wan week NISCOL i save work than LMC i putum on Tender Notice.

Councillor Ham Japhet - Bae mi agree withem Councillor Gaetan blong givim wan week long NISCOL than tender notice igo aot long public.

Councillor Gaetan Pikioune - Mi move blong Road Maintenance trial long wan week long NISCOL and LMC i putum out Road Maintenance Tender Notice long Public.

Lord Mayor Roy Bongelan - Mi secondem mover. Emi unanimously approved.

Agenda 8 Other Business

A) ICE CREAM SNACK

Councillor Ham Japhet. Previous Council emi approve so mi think se work i should continue. Because emi should rent out olsem ol narafala stalls.

Lord Mayor Roy Bongelan - Mi move blong Project i continue.

Councillor Sam Mailan - Mi secondem mover. Emi unanimously approved.

B) RIVER SIDE SHIPPING FEE

Town Clerk emi talem se employee blong yumi we emi look outem Shipping Fees ia emi findem i hard blong afterem ol ship owner mo weekend emi save check long River Side sapos any ship ikam in mo go out so emi wandem wan bicycle.

Deputy Mayor Kalmer Vocor - Mi move blong LMC i pem wan bicycle without deductim long LMC employee ia.

Councillor Ham Japhet - Mi secondem. Emi unanimously approved.

C) LEGAL CONSALTANT

Town Clerk - Mi conductem three (3) Consaltant J. William Timakata, emi never response back. Ridgway Blake emi se emi no save takem ol case blong LMC from two (2) reason -

1. I gat wan case agenstem LMC.
2. LMC emi needim approval blong A.G. Chamber before emi save act long behalf long LMC.

Raynold Associate - Emi 100.000 vt. per month.

Deputy Mayor Kalmer Vocor - Emi no stap long Budget so mi move blong Town Clerk i mas continue mo long findem Legal consaltant mo report back long next meeting.

Councillor Gaetan Pikioune - Mi secondem mover. Emi unanimously approved.

NORTHERN ISLANDS STEVEDORING COMPANY LIMITED

P.O. BOX 226,
Luganville,
Santo.
Telephone : 36084
Fax: 36085

COPY ONLY

Client:

LUGANVILLE MUNICIPAL
SANTO -

A/c No

Invoice

Date: 13 / 04 / 99

Voyage:

Vessel :

Arrival date:...../...../..... Departure date:...../...../.....

Storage commences:...../...../.....

[illegible]

Printed by Sun Productions

Cheque no. :

Cash ☐

Accounts ☐

Credit invoices must be paid in full by the 15th of the following month, otherwise the credit facility will be terminated.

CUSTOMER BOOK

Appendix C

NORTHERN ISLANDS STEVEDORING COMPANY LIMITED

P.O. BOX 226

Luganville.

Santo.

Telephone : 36084

Fax: 36085

Client:

A/c No:.....

Invoice: 23449

Date: 13/04/99

Voyage:.....

Storage commences:...../...../.....

Vessel

Arrival date:/...../..... Departure date:/...../.....

B/L no. and port	Wharfage	Toll Tax	Storage Tax	Total
ROAD MAINTENANCE - SEA WALL -				
- HIRE OF DIPPER TRUCK				
31 HRS @ 7000 VT/HR				217.000 vt.
HIRE OF LOADER				
8 HRS @ 5000 VT/HR				40.000 vt.
LABOUR				9.850 vt.
	# ADD VAT	12.5%		33.356 vt.
TOTAL AMOUNT PAYABLE				300.206 vt.

Cheque no. :

Cash ☐Accounts ☐

Printed by Sun Productions

Credit invoices must be paid in full by the 15th of the following month, otherwise the credit facility will be terminated.

CUSTOMER BOOK

**MUNICIPALITÉ
DE
LUGANVILLE**

Boîte Postale 232
Tel: 36646 / 36840
Télécopie: 36648
Republique de Vanuatu



PT 13

**MUNICIPALITY
OF
LUGANVILLE**

P.O. Box 232
Tel: 36646 / 36840
Facsimile: 36648
Republic of Vanuatu

13th August 1999

OUR REF: LMC/ 22.16/BK/an

The Ombudsman
Office of the Ombudsman
Private Mail Bag 081
PORT VILA

Dear Sir

RE: ALLEGED BREACH OF TENDER PROCEDURE BY THE MUNICIPALITY
AND BREACH OF LEADERSHIP CODE BY MAYOR AND DEPUTY MAYOR

Refer to your letter Ref: 6246/9606/L01/kb
Our responses to queries raised by your office with respect
to the above.

1. No payment have been made to NISCOL since NISCOL
Repair some of the Roads in Luganville
2. On its second finance meeting it was approve
unanimously that NISCOL to repair this roads for
only one week.

Attach with this responses are minutes of second Finance
meeting.

Yours sincerely



BATI
Town Clerk, LMC

**MUNICIPALITÉ
DE
LUGANVILLE**

Boîte Postale 232
Tel: 36646 / 36840
Télécopie: 36648
Republique de Vanuatu

Appendix E



**MUNICIPALITY
OF
LUGANVILLE**

P.O. Box 232
Tel: 36646 / 36840
Facsimile: 36648
Republic of Vanuatu

17th August 1999

The Ombudsman
Office of the Ombudsman
Private Mail Bag 081
PORT VILA

Dear sir

**RE: ALLEGED BREACH OF TENDER PROCEDURES AND BREACH OF THE
LEADERSHIP CODE**

Refer to your letter ref. 6256/9606/L01/rb. Our responses to your queries raised by your office.

Since last year 1998 the Road have not been repair since this new Council have been form. The first complain we receive is the conditions of Luganville Roads by the Public and even at the stage were the Publisher of newspaper publish the condition of road in Luganville which really damage the picture of Luganville town.

And Sir, it is my duty to take initiative step before things go worst or even out of hand.

Therefore, as a Mayor my Deputy Mayor is the General Manager of NISCOL we arrange that NISCOL should repair this road for a week while procedures of tender's of Road Repair is advertise on news papers. Roads that have been repair are the worst condition we have approach Public Works Department but due to shortage of machinery that are repairing roads in rural areas it will be very hard to move the machines around.

Therefore, PWD have to finish repairing roads at rural areas before moving all equipment back to Luganville and this take months.

We hope that you will understand our Council.

Yours sincerely



Lo: J. SONGEL Mayor, Luganville Municipal Council



NORTHERN ISLANDS STEVEDORING COMPANY LIMITED

P.O. Box 226
Luganville
Santo,
Vanuatu

Tel: 36085 (G. Manager)
36084 (Office)
36086 (Supervisor)
36087 (Chief Mech)
36088 (S. Wharf)
Fax: 36035

19 August 1999

Office of the Ombudsman
PMB 081
PORT VILA

Your ref: 8232/9606/L01/km

Dear Mrs Patterson

I reply to your letter of 11 August 1999.

You have written to me as Deputy Mayor but I am replying on NISCOL's letterhead as I am sure that this investigation is all part of your witch hunt to try and discredit me and NISCOL.

The roads in Luganville are bad. The public are complaining and its even been mentioned in the paper. Both myself and the council have been voted in by the public so therefore we intend to serve them as best and as quickly as possible.

Some roads in Luganville were so bad that NISCOL were asked to repair these immediately. This was not a deal between the Mayor and myself as you claim, it was discussed and approved at council meetings. Further, there was no intention to give NISCOL preferential treatment. The intention was to give the public of Luganville preferential treatment by getting the road fixed as soon as possible. Public Works could not fix the roads as their machinery was fixing roads on other parts of Santo.

Your accusation that I had a conflict of interest seems to suggest something sinister. In actual fact it is lucky for Luganville that I am on the council otherwise the council would not have been able to fix up the worst roads. The council only approved that NISCOL fix the roads up for a period of 1 week while they advertised the tender and waited for applications. For your information there were no tenders at all received so if the council had followed what you call "tender rules" the roads would still not be fixed, and fixing the roads is surely something that the public voted us in to do.

NISCOL also quoted their rates before the council approved that NISCOL fix the worst roads over a period of a week.

Luganville and indeed all other areas of Vanuatu generally come second on the list after Port Vila when it comes to development. It disappoints me that someone would complain and you would even bother to investigate positive development in Luganville. The fact is the council did not have a choice. The Government wouldn't have provided the money, the Public Works couldn't do the work and no tenders were received so NISCOL offered to help the council on an urgent job. NISCOL

would have preferred not to do it, and for your information have not done any road maintenance since. but the public deserve half decent roads and I as Deputy Mayor offered NISCOL's services.

Further, the council has still not paid NISCOL for the work done. So I would be interested to hear from you personally as to how your so called conflict of interest has helped NISCOL. All it has helped is the public of Luganville. Maybe we shouldn't have bothered!

Yours faithfully



Kalmer Vocor
NISCOL General Manager and
Deputy Mayor of Luganville Municipal Council.



NORTHERN ISLANDS STEVEDORING COMPANY LIMITED

P.O. Box 226,
Luganville,
Santo,
Vanuatu

Tel : 36085 (G. Manager)
36084 (Office)
36086 (Supervisor)
36087 (Chief Mech)
36088 (S. Wharf)
Fax : 36085

Officer in Charge
Ombudsman Office
Luganville, Santo.

7th November 2002

Attn: Ian Byles

Dear Sir,

Re: Road works done by NISCOL(SO814/9606/L81/kv)

Thankyou for your letter dated 7th October and 23rd October 2002 respectively, with regards to the above mentioned.

We had carried out the road works as stated in your letter and raised invoice numbers 23448/23449 for services rendered to the Luganville Municipal Council (see copies attached). However, to date no payments has yet been received from the Council for the invoices.

I hope this information is of assistance to you in your investigation and should you have any queries please do not hesitate to contact the undersigned.

Yours faithfully


Kalmer Vocor
General Manager



CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

- 66(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to—
- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
- 66(2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub article (1).

DEFINITION OF A LEADER

- 67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

LEADERSHIP CODE ACT NO. 2 OF 1998

LEADER'S BEHAVIOUR

3. A leader holds a position of influence and authority in the community. A leader must behave fairly and honestly in all his or her official dealings with colleagues and other people, avoid personal gain, and avoid behaviour that is likely to bring his or her office into disrepute. A leader must ensure that he or she is familiar with and understands the laws that affect the area or role of his or her leadership.

LEADERS

5. In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders:
- ...
- (c) elected and nominated members of municipal councils;

DUTIES OF LEADERS

- 13(1) A leader must:
- (a) comply with and observe the law;
 - (b) comply with and observe the fundamental principles of leadership contained in Article 66 of the Constitution;
 - (c) comply with and observe the duties obligations and responsibilities established by this Code or any other enactment that affects the leader; and
 - (d) not influence or attempt to influence or exert pressure on or threaten or abuse persons carrying out their lawful duty.

CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

- 66(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to—
- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
- 66(2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub article (1).

DEFINITION OF A LEADER

- 67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

LEADERSHIP CODE ACT NO. 2 OF 1998

LEADER'S BEHAVIOUR

3. A leader holds a position of influence and authority in the community. A leader must behave fairly and honestly in all his or her official dealings with colleagues and other people, avoid personal gain, and avoid behaviour that is likely to bring his or her office into disrepute. A leader must ensure that he or she is familiar with and understands the laws that affect the area or role of his or her leadership.

LEADERS

5. In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders:
- ...
- (c) elected and nominated members of municipal councils;

DUTIES OF LEADERS

- 13(1) A leader must:
- (a) comply with and observe the law;
 - (b) comply with and observe the fundamental principles of leadership contained in Article 66 of the Constitution;
 - (c) comply with and observe the duties obligations and responsibilities established by this Code or any other enactment that affects the leader; and
 - (d) not influence or attempt to influence or exert pressure on or threaten or abuse persons carrying out their lawful duty.

Appendix H – Page 2 of 2

BREACH OF LEADERSHIP CODE

19. A person who does not comply with Part 2, 3 or 4 is guilty of a breach of this Code and is liable to punishment in accordance with Part 6.

OBEYING THE LAW

28. A leader acting in his or her capacity as a leader who fails to abide by an enactment that imposes on the leader a duty, obligation, or responsibility is in breach of this Code.

SPECIFIC PROVISIONS

29. Without limiting the generality of section 28 a leader who fails to abide by the provisions of an Act that provides for:
- (a) the public service; or
 - (b) public finance or economic management; or
 - (c) expenditure review committee or audit functions; or
 - (d) government contracts or tenders;
- is in breach of this Code.

FINE OR IMPRISONMENT

- 40(1) A leader who is convicted of a breach of section 19, or 20, or 21, or 22, or 23, or 24 or 26 or 27 is liable to –
- (a) a fine not exceeding VT5,000,000; or
 - (b) imprisonment for a period not exceeding 10 years.
- (2) A leader who is convicted of a breach of section 33 is liable to :
- (a) a fine not exceeding VT2,000,000; and
 - (b) if the offence is a continuing one to a fine not exceeding VT20,000 a day for each day or part day the leader remains in breach.
- (3) A leader who is convicted of a breach of this code for which no specific penalty is provided is liable to a fine not exceeding VT2,000,000.

MUNICIPALITIES ACT [CAP 126] NO. 5 OF 1980

CONTRACTS

- 27(2) Except as may be permitted by its standing orders a council shall not enter into any contract—
- (a) for the supply of any goods or materials; or
 - (b) for the execution of any works or provisions [sic] of any services, other than professional services, to or for the council, except after publicly calling for tenders for the same.

Appendix H – Page 2 of 2

BREACH OF LEADERSHIP CODE

19. A person who does not comply with Part 2, 3 or 4 is guilty of a breach of this Code and is liable to punishment in accordance with Part 6.

OBEYING THE LAW

28. A leader acting in his or her capacity as a leader who fails to abide by an enactment that imposes on the leader a duty, obligation, or responsibility is in breach of this Code.

SPECIFIC PROVISIONS

29. Without limiting the generality of section 28 a leader who fails to abide by the provisions of an Act that provides for:
- (a) the public service; or
 - (b) public finance or economic management; or
 - (c) expenditure review committee or audit functions; or
 - (d) government contracts or tenders;
- is in breach of this Code.

FINE OR IMPRISONMENT

- 40(1) A leader who is convicted of a breach of section 19, or 20, or 21, or 22, or 23, or 24 or 26 or 27 is liable to –
- (a) a fine not exceeding VT5,000,000; or
 - (b) imprisonment for a period not exceeding 10 years.
- (2) A leader who is convicted of a breach of section 33 is liable to :
- (a) a fine not exceeding VT2,000,000; and
 - (b) if the offence is a continuing one to a fine not exceeding VT20,000 a day for each day or part day the leader remains in breach.
- (3) A leader who is convicted of a breach of this code for which no specific penalty is provided is liable to a fine not exceeding VT2,000,000.

MUNICIPALITIES ACT [CAP 126] NO. 5 OF 1980

CONTRACTS

- 27(2) Except as may be permitted by its standing orders a council shall not enter into any contract—
- (a) for the supply of any goods or materials; or
 - (b) for the execution of any works or provisions [sic] of any services, other than professional services, to or for the council, except after publicly calling for tenders for the same.