



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

**ON
THE RECOMMENDATION TO REVIEW THE VMF FIRE SERVICE
FOLLOWING
ITS INACTION TO STOP FIRE BURNING DOWN A DWELLING
AT ANAMBROU AREA, PORT VILA**



REPUBLIC OF VANUATU

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Rue Pasteur, Ombudsman Haos, PMB 9081, Port Vila, Vanuatu
Tel: +678 27200, Voip: 2760, Email: ombudsman@vanuatu.gov.vu, website:
www.ombudsman.gov.vu

PUBLIC REPORT ON THE RECOMMENDATION TO REVIEW THE VMF FIRE SERVICE FOLLOWING ITS INACTION TO STOP FIRE BURNING DOWN DWELLING AT ANAMBROU AREA, PORT VILA

SUMMARY

On 31 March 2014 a fire burnt down a dwelling house at Anambrou Area at approximately 4.30 in the morning. Although the VMF Fire Service was given the alert they failed to respond and said that they have no petrol. The fire brigade later arrived at the scene but the house had already burnt down. This incident prompted the Office of the Ombudsman to carry out an investigation. Lieutenant Bomma Avia, the officer in charge of the VMF Fire Service was contacted by letter dated 19 February 2016. Lieutenant Boma replied on 15 June 2016 stating that the fire service brigade could not move to the scene because they had no funds to pay for petrol. He further stated that his department does not control the money but the office of the Commissioner does. This is one example of the many fire incidents that the VMF Fire Service failed to take control of.

Findings:

The Vanuatu Mobile Force Fire Service (VMFFS) has no fire Act and for this reason the fire service has to run its day to day operations from instructions coming from the superiors. Due to lack of a Fire Act, the VMFFS cannot provide safety as required or enforce the fire safety for all citizens residential and business houses. Further, for their safety and also to protect the fire fighters from injuries such as an insurance in case other causes may affect their lives due to chemicals and other operation claims.

Recommendations:

The Ombudsman recommends that:

- The Commissioner of Police do all it can to allocate sufficient funds from the Police budget to the Vanuatu Mobile Force Fire Service.
- In the alternative, the Police Commissioner may liaise with the relevant authorities to transfer the Vanuatu Mobile Force Fire Service to a ministry or department such as the Internal Affairs or NDMO. In such an event, the Minister may consider making it a separate Department pursuant to a review by the Vanuatu Law Reform Commission (VLRC) and other stakeholders.

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1.0.0 JURISDICTION

1.1.1 The Constitution, the Ombudsman Act [CAP 252] and the Leadership Code Act [CAP 240] allow the Ombudsman to enquire into the conduct of government related bodies and Leaders. This includes the Police Force and the Vanuatu Mobile Force. The Vanuatu Mobile Force Fire Services (VMFFS) is under the control of the Vanuatu Police Commissioner. The Ombudsman can also enquire into defects in laws or administrative practises, including the procedures utilised by the Police Commissioner to allocate or distribute money to other sections of the Police force.

2.0.0 PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution and the Ombudsman Act.
- 2.1.2 The scope of this investigation is to establish the facts about the alleged improper allocation or distribution procedures of the Police Budget and to determine whether the Police Commissioner's conduct in distributing the allocation was proper by allocating money to run the Vanuatu Mobile Force Fire Service.
- 2.1.3 This Office collects information and documents by informal requests, summons, letters, interviews and research when conducting an enquiry. This enquiry was carried out by the Maladministration Section of the Ombudsman's Office on behalf of the Ombudsman.

3. RELEVANT LAWS

Relevant parts of the following laws are reproduced in **Appendix A**.

Constitution of the Republic of Vanuatu

Ombudsman Act [CAP 252]

Police Act (CAP. 105)

4.0.0 OUTLINE OF EVENTS

4.1.1 On 31 March 2014, a fire burnt down a dwelling house at Anambrou Area at approximately 4.30am. Although the VMF Fire Service was given the alert, they failed to respond and said that they had no petrol. They later arrived but the house had already burnt down. This incident prompted the Office of the Ombudsman to carry out an investigation on its own initiative. *Lieutenant Bomma Avia*, the officer in charge of the VMF Fire Service was contacted by letter dated 19 February 2016. *Lieutenant Bomma* replied to our enquiry dated 15 June 2016 stating that the fire service could not move to the scene because they had no funds to pay for petrol. He further stated that his department does not have the money nor does it control it but the office of the

Commissioner of Police does. This is only one example of the many fire incidents that the VMF Fire Service had failed to take under control.

- 4.1.2 Since its establishment in 1984, the Vanuatu Mobile Force Fire Service had a separate budget. This had enabled the fire service to purchase its own safety equipment from overseas and provide for everyday maintenance of its equipment and vehicles.
- 4.1.3 This trend continued without difficulties until the two force merged as Vanuatu Police Force with a joint command Center at VANSEC House. This also led on to a combined budget that resulted in the shortage of finance. The Fire Service then started experiencing break downs of equipment and no-availability of funds to fix equipment including very limited fuel allocated to the fire trucks.
- 4.1.4 In addition, the fire section also assisted with suggestions to the Force executive on how to improve finance for their final decision but still no funds were made available.
- 4.1.5 The Force Executive argue that it has to pay a lot of money for the members claims and this is one of the reasons why they cannot pay for operation of the Fire Service.
- 4.1.6 Today the Fire Service has no fire Act to provide safety or to enforce the fire safety in all citizens' residential and business houses and also to protect the fire fighters in any injuries such as an insurance in case other causes may affect their lives due to chemicals and other operation claims.
- 4.1.7 In reality, today the fire service is really under strength since the 1997 Reform Program.
- 4.1.8 There are not enough fire fighters to operate a shift to respond in major fires and other emergencies which currently can cater for only 2 to 3 personnel.
- 4.1.9 The current strength is only 15 personnel, although it is supposed to be a total of all fire fighters in Port Vila which should be around 25 personnel to be able to carry out the fire services roles and responsibilities in a professional manner.
- 4.10 With regards to the budget for 2014 when the fire burnt down the house, the fire service had no finance to operate the services. According to LT Bomma neither him nor his officers knew anything about the fire budget. LT. Bomma said that he never saw any budget being allocated to the fire service to this day.

5.0.0 RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

- 5.1.1 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.
- 5.1.2 Responses were received from the following:
- 5.1.3 Avia Bomma, Officer in charge of the VMF Fire Service.
Mr Bomma stated that he had no comments to make and that he agreed with the recommendations of the Ombudsman.

6. FINDINGS:

Finding 1: The current Vanuatu Mobile Force Fire Service (VMFFS) has no Act to provide safety or to enforce the fire safety for all citizens residential and business houses and most of all to also protect the fire fighters in any injuries that may affect their lives due to chemicals and other operation claims.

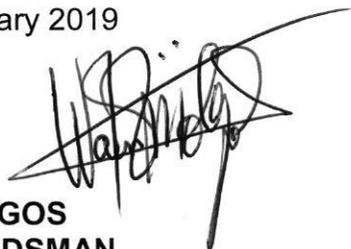
- 6.1.1 The Vanuatu Police Force Act pursuant to section 4(2)(b) gives power to the Police force to use all its powers necessary to preserve and protect life and property. While the VMFFS has no Act of its own, section 4(2)(b) of the Police Act authorised all sections across the Police Force including the VMFFS to protect life and property.
- 6.1.2 The VMFFS is part of the Vanuatu Police Force and under section 4(2)(b) of the Police Act their function, *inter alia* is to protect life and property.
- 6.1.3 As in the VMFFS case, their work is to protect property both for citizens and expatriates and for this reason the Police Commissioner should make sure that adequate funds are made available to carry out its functions to preserve and protect life and property.

7.0.0 RECOMMENDATIONS:

The Ombudsman recommends that:

- 7.1.1 The Commissioner of Police discusses options with the Ministry of Internal Affairs a possible transfer of the VMFFS to the control of the Ministry of Home Affairs or the National Disaster Management Office (NDMO) so that funds can be made available to carry out its duties adequately.
- 7.1.2 The Police Commissioner and Police Service Commission liaise with the Ministry of Internal Affairs, the Vanuatu Law Reform Commission, and the State Law Office for a review and a possible draft of a Fire Service legislation.
- 7.1.3 In the meantime, adequate funds are sourced from the Police budget to effectively carry out fire service duties within Port Vila and other areas in Vanuatu.

Dated 14 February 2019



Alain Wai MOLGOS
ACTING OMBUDSMAN

8. INDEX OF APPENDICES

A Relevant laws

APPENDIX A

CONSTITUTION OF THE REPUBLIC OF VANUATU

ENQUIRIES BY OMBUDSMAN

62. (1) The Ombudsman may enquire into the conduct of any person or body to which this Article applies
- (a) upon receiving a complaint from a member of the public (or, if for reasons of incapacity, from his representative or a member of his family) who claims to have been the victim of an injustice as a result of particular conduct;
 - (b) at the request of a Minister, a member of Parliament, of the National Council of Chief or of a local Government Council; or
 - (c) of his own initiative.
- (2) This article shall apply to all public servants, public authorities and ministerial departments, with the exception of the President of the Republic, the Judiciary Service Commission, the Supreme Court and other judicial bodies.
- (3) The Ombudsman may request any Minister public servants, administrator, authority concerned or any person likely to assist him, to furnish him with information and documents needed for his enquiry.
- (4) The Ombudsman shall grant the person or body complained of an opportunity to reply to the complainants made against them
- (5) The enquiries of the Ombudsman shall be conducted in private.

OMBUDSMAN ACT [CAP 252]

PART 4 – COMPLAINTS AND PROCEEDINGS

Division 1 – Procedures

17. *Complaints*

- (1) A person may make a complaint under the Constitution or this Act to the Ombudsman either orally or in writing.
- (2) If a complaint is made orally, the Ombudsman must make a written records of the complaint as soon as possible.

POLICE ACT [CAP.105]

4. Functions of the Force

- 1. It shall be an essential duty of the force to maintain an unnecessary vigilance for the prevention and suppression of crime.
- 2. The force shall be employed throughout Vanuatu and its territorial waters for:
 - (a) the preservation of peace and maintenance of order ;
 - (b) The protection of life and property ;
 - (c) The enforcement of laws
 - (d) The prevention and detection of offences and the production of offenders before the courts , and
 - (e) Such other duties as maybe expressly provided for by law.