



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

ON THE BREACH OF OMBUDSMAN ACT BY MINISTER OF CLIMATE
CHANGE, HONOURABLE BRUNO LEINGKON

Dated: 17 December 2021



REPUBLIC OF VANUATU

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6. The Ombudsman however, continued with his investigation in relation to the Minister's conduct of 7th August 2020.

4. OUTLINE OF EVENTS

7. On 11 June 2020, the Ombudsman commenced an own initiative inquiry into the conduct of the Minister on the 1st of May 2020.
8. On the 5th of August 2020, the Ombudsman formally invited the Minister to attend a meeting at the Ombudsman Office.
9. On the 7th of August 2020, Honourable Bruno Leingkone attended the Ombudsman's Office, to answer the allegations under investigation about his conduct on 1st of May 2020.
10. The meeting was chaired by the Ombudsman in the presence of Director Robert Thomas, Director Velma Karabani and Principal Investigator Dorah Samuel. In the course of the proceeding the Ombudsman explained that Director Robert Thomas will administer the Oath and also, cautioned the Minister before proceeding any further in the proceeding. The Minister however, refused to take the oath alleging that the Attorney General had advised him that he is immune from proceedings under section 44 of the Disaster Risk Management Act due to the State of Emergency.
11. On 15th September 2020 and again on 22nd October 2020 the Ombudsman sought the assistance from the Attorney General to confirm the Minister's assertion.
12. On the 10th November 2020, the Attorney General, Kiel Loghman responded to the request of the Ombudsman, that he has not provided an advice on the immunity from the proceeding under section 44 of the Disaster Risk Management Act No.23 of 2019 to the Minister in relation to the incident under investigation by the Ombudsman.

5. DISCUSSION

11. Section 51(b) of the Ombudsman Act provides that *"a person is guilty of an offence if the person interrupts any proceedings being held as part of an inquiry being undertaken by the Ombudsman or the officer"*.
12. The above section give rise to the issue as to whether or not the Minister's conduct on 7th August 2020 to claim immunity under the Disaster Risk Management Act not to participate in the Ombudsman enquiry amounts to a breach of section 51(b) of the Ombudsman Act.

21. During the enquiry, the Ombudsman notified the Minister of the complaint and gave him the right to reply. Also, a Working Paper on the findings of the Ombudsman was provided, prior to preparation of this public report, to the Minister giving him the opportunity to respond to the findings.

22. First, I say thank you to the Minister for his responses to the Working Paper.

23. Second, in relation to the findings, the Minister stated that the inquiry or investigation was not “interrupted”. In his own words he stated “... it is clear that the process was not interrupted but instead maybe not in order when relating to the process of acquiring advice from the State Law Office.”

The Minister insisted that he “had a verbal conversation with the SLO and AG after visiting the PM’s Office and informed him of being summoned to appear before you (the Ombudsman)”.

I have written evidence from the Attorney General that he had not advise the Minister on the matter, - that the Minister is immune to prosecutions under the DMR Act due to the fact that a Declaration of a State of Emergency is still in force.

In such a situation, I ask myself who is most likely to tell me the truth. The Minister or the Attorney General. I have considered the question very thoroughly and I have come to the conclusion that I prefer the evidence of the Attorney General.

On 7th August 2020 the Minister appeared before the Ombudsman and stated in his defence that he had sought and obtained advice from the Attorney General that he is immune from proceedings pursuant to section 44 of the Disaster Risk Management Act of 2019 due to the State of Emergency. That he was in Santo as part of the Prime Ministers’ team assessing the disaster caused by TC Harold when the incidents happened.

The Minister insisted in his response dated 2 November 2021 that he “needed to have a conversation with the AG on the intent of getting more clarity on what and how the immunity in the DRM Act relates to the Minister and of course when a State of Emergency is in place”.

If the intent of the Minister is to seek such advice to assist him in ensuring that he complies with the Act that is fine.

If the intent of the Minister on insisting to see the Attorney General to obtain further advice on the matter where it relates to his conduct before the Ombudsman, then that in my view is not right. The duty to consult or seek some legal advice from the Attorney General applies in “legal matters concerning the State or Government” (S. 22 (1) of State Law Office Act).

The Ministers’ conduct before the Ombudsman is personal to the Minister and has nothing to do with the State or Government, in my view. Only the Minister is answerable.

(b) I ask the question of myself whether the Ministers' responses have thrown doubt on the findings of the Ombudsman and therefore the matter should not be pursued further. The answer is the negative.

(c) I ask myself further whether the response from the Minister is evidence based to assist his case. I have reached a conclusion in the negative.

I ask myself further whether the conduct of the Minister in giving information that is misleading and false to the Ombudsman during the inquiry amounts to a breach of his duty as a leader under the Leadership Code in article 66 (1) of the Constitution and section 13 of the Leadership Code Act. The answer to this question, in my view, is yes.

6 FINDINGS

Finding 1: The Minister has breached Section 51 (b) of the Ombudsman Act by interrupting the proceedings of the Ombudsman.

Finding 2: The Minister has breached Section 13(a) (b) of the Leadership Code Act that imposes a statutory duty on him as a leader to comply with and observe the fundamental principles of leadership contained in Article 66 of the Constitution.

Finding 3: The Minister lied to the Ombudsman that he had sought and obtained advice from the Attorney General.

Finding 4: The allegation to be immune to the proceedings of the Ombudsman is a lie.

Finding 5: The Minister has breached Section 50 of the Ombudsman Act by giving false information in the proceedings before the Ombudsman

Finding 6: On the 27th of July 2021, the Supreme Court of Vanuatu made its ruling based on 3 charges that the Minister pleaded guilty to;

(a) Doing an Act that endangered the safety of an aircraft ;

(b) Intentionally boarding an aircraft while intoxicated; and

(c) Breaching the leadership code by failing to comply with and observe the law.