



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

ON THE APPOINTMENT OF THE ASSISTANT CLERK, CORPORATE SERVICE OF PARLIAMENT

Date: 28 March 2024



REPUBLIC OF VANUATU

OMB23/0006/24/01

TABLE OF CONTENTS

| | |
|--|----|
| 1. PURPOSE | 3 |
| 2. SCOPE | 3 |
| 3. ISSUE | 3 |
| 4. OUTLINE OF EVENTS | 3 |
| 5. DISCUSSION | 4 |
| 6. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM | 6 |
| 7. OMBUDSMAN RESPOND | 7 |
| 8. FINDINGS | 10 |
| 9. RECOMMENDATIONS | 11 |

1. PURPOSE

The purpose of the investigation is to determine whether there was conflict of interest in the process of shortlisting candidates for the interview.

2. SCOPE

To look into the conduct of Roslyn Jimmy as to whether or not she had a conflict of interest with Estella Banga

3. ISSUES

The only issue arising in this matter is whether the Convener had a conflict of interest when nominating Estella Banga to be interviewed even though she was not shortlisted.

4. OUTLINE OF EVENTS

- 4.1. On 10 November 2021, the Office of the Clerk advertised the position of Acting Clerk Corporate after being notified on the Board approval on decision number N0.7/12/2021.
- 4.2. On February 2022, the Office of the Clerk advertised the position of Assistant Clerk, Corporate Service of Parliament.
- 4.3. On 4 May 2022, the screening of candidates was made by the panel members.
- 4.4. On 6 May 2022, the letters were dispatched to the shortlisted candidates. The letters were sent to inform them that they have been shortlisted and to attend an interview on the times stated.
- 4.5. On 10 May 2022, the shortlisted candidates were interviewed by the panel.
- 4.6. On 13 May 2022, the interviewees were finalised and a suitable candidate was recommended.
- 4.7. On June 2022, a selection panel report was forwarded to the Office of the Clerk, with the recommendation to re-advertise the position of Assistant Clerk.
- 4.8. On 18 January 2023, Nirose Sila, Researcher & Analyse for the Public Accounts Committee of Parliament, sent an email to Raymond Manuake, Clerk of Parliament, enquiring on why the post has to be re-advertised.
- 4.9. On 24 January 2023, the Office of the Clerk of Parliament re-advertised the position of Assistant Clerk within the Corporate Service.

4.10. On the same date, 24 January 2023, the Clerk of Parliament responded to Nirose Silas, advising her of the Parliamentary Board decision to re-advertise the said post.

5 DISCUSSIONS

The main issue arising in this matter is whether the Convenor had a conflict of interest in replacing Joylee Seresere with Estella Banga even though she was not shortlisted to be interviewed.

On the 10th of May 2022, the four (4) shortlisted candidates namely Patricia Kalpokas, Julie Takau, Nirose Silas and Joylee Seresere went through an interview for the position of Assistant Clerk Corporate. Unfortunately, one of the shortlisted candidates, Joylee Seresere couldn't make it to the interview for unknown reasons. There was no record of any explanations from him about his absence. The convenor, Roslyn Jimmy stated in her statement that;

“Mi kolem hem several times be call I diverted”.

It is noted from the statements from three (3) people that, even though she was the runner up of Joylee Seresere, another panel member should have raised her name to the panel. Her name should have been approved by the Clerk and formal request be made to Estella Banga to attend an interview.

I beg to differ on this reasoning. I do not think that is the proper approach. The process is one where applicants for the position are –

- (a) assessed by the Panel as to their suitability and qualification for the position they applied for;
- (b) determined who are the best candidates and agreed accordingly. This results in a short list of best candidates for interview; and
- (c) the short-listed candidates are then interviewed.

It goes against good judgment and fairness principles to bring some one in to be interviewed who was not considered suitable for the position by the panel in the first place.

It appears what actually happened was that the Convenor asked Roslyn Jimmy to appear on the appointed day and be interviewed for the position she had been bypassed in the preliminary assessment by the Panel. The assessment of the suitability and qualification of Ms Roslyn Jimmy in the second paragraph below, is very telling.

The evidence available comes from a number of sources. First, from George lapsen, one of the panel members. The relevant part goes as follows –

“Roslyn I bin akiu very strongly wetem justification se mifla mas complitim interview lo that day, therefore, hemi tingting blo karem this one (Estella) I kam inside. Lo assessment, hemi no even kam close lo nara 4 we mifla I selectem olgeta blo interview olgeta. So she should never have be interviewed. Lo taem blo interview, mi refuse,

Leah Kaltoi, another member of the panel stated in her statement that,

“Convener nao I suggestem, which is Estella work mate, or umi save talem se Estella olgeta oli work under lo hem lo structure blo olgeta. Convener I suggestem and mifla everi wan I agri”.

Another evidence comes from Leon Teter, Assistant Clerk Standing Committee. The relevant parts go as follows -

“Roslyn Jimmy I kam luk mi long ofis blong mi mo talem se, hemia we I acting lo position ia and same time HR blo mifla, Estella Banga hemi no bin short listed be hemi wandem spos I save listim olsem one short listed candidate. Mi respond long hem, se ino mi blong ansarem question blo yu ia, yu gat one panel, yu chairem mo askem olgeta spos I nid blong ufla short listim hem, ufla mekem. Bae mi no save talem any samting long hem from mi no member blong panel”.

On another part of the statement of Leah Kaltoi, she went on to say as follows;

“One samting mi noticim long olgeta, although the convener was there, she was not really helpful, hemi convener be capacity blong hem lo recruitment process hemi no gat that capacity blo I ranem one recruitment process. She kept on delaying things”.

Now I come to the Law. Part 3, section 3.3 (1) (i) and 3.4 (i) of the Staff Manual are relevant to the discussions.

3.3 Staff Members Obligations

- (1) Every Staff Member must in the course of his or her employment in the Parliamentary Service -
 - (i) *Disclose and take reasonable steps to avoid any conflict of interest (real or apparent) in connection with his or her employment.”*

3.4 Disciplinary Offences

- (1) *An Officer commits a disciplinary offence who -*

(c) is negligent, careless, indolent, inefficient, or incompetent in the discharge of his or her duties.”

6. RESPONSES BY THOSE WITH FINDINGS AGAINAT THEM

Before starting this investigation, 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.

Firstly, I say thank you to Roslyn Jimmy for her respond to the Working Paper. Roslyn Jimmy disputed the issues raised in the Working Paper as they were based on the new version of Parliamentary staff manual. Her response goes as follows:

1. The selection panel was appointed under the direction of the Parliamentary Management Board being the practice in accordance to PSM version 1 dated from 1st January 2008 to 14 December 2022.
2. All the process of recruitment was done in accordance to the PSSM version 1. On that note, the quotes from the revised PSSM are irrelevant since the panel met before its approval.
3. Part (c) of the scope was misleading as Roslyn Jimmy was a Convener and not one of the applicants.
4. Part (d) of the scope was again misleading as the Convener was Roslyn Jimmy and not an applicant. All process done undergo democratic process whereby all panel members gave their consent.
5. Part (a) & (b) of issues in PSSM version 1 is on terms and conditions of employment and not recruitment.
6. Section 4.0 of discussions, I see the panel member-Ms Leah Kaltoi's comments were immature in spelling out that I wasn't helpful. As a convenor, I was present in all process and attended to all necessities to ensure everything was done in a democratic and transparent manner to avoid extra meeting times as the panel was meant to meet only 4 times due to the allocated budget for the allowances. Her quote on the delay was due to her, Mr Kaluat and Mr lapsen who had travelled out of Vila for Job commitments at different times, hence, caused the delay. Another cause of delay was when Parliament was dissolved in August 2022, resulted in nonexistence of the PMB. The composition of Board was again formed on 7 November and PMB meeting on the 15th December 2022 resolved in item 3 that the Assistant Clerk – Corporate post be readvertised.
7. Section 4.0 of discussion, again, Mr lapsen's comment was a lie, because he held grudges against Estella Banga an applicant who is also a Parliament Human Resource Officer. Mr lapsen insisted for Estella to facilitate his gratuity payment, however, she was advised by the Finance Officer no to, triggered the differences that was noted in his comments and reactions during the whole process of the panel meetings. Mr lapsen's comment on Estella's assessment note even close to the 4 is a lie as seen below.
8. The panel members agreed that there must be 4 candidates to be interviewed.

9. Para 2 on page 8, which states that Estella did not apply for the vacant post was a lie. Estella was an applicant.
10. Last Paragraph on page 9, as an assistant Clerk, I often consulted the HRO daily because she is the Acting Assistant Clerk and most of my tasks connects to her office. We worked as a team with the Clerk to manage the institutions Affairs. Our discussions focus on our tasks given by the Clerk to ensure things are done on time. In Parliament, our tasks are interrelated, thus, caused us to interact with other staffs.
11. Finding, I strongly disagree with the statements I had no conflict of interest with Estella. She is the Parliament HRO and Assistant Clerk who worked in her Office. I do not share the same office with her.
12. Recommendations 4, why should I be suspended or terminated when the working paper quotes the wrong PSM and most allegations made were made based on assumptions and lies

7. MY RESPONSE TO ROSLYN JIMMY IS AS FOLLOWS;

During the course of the investigation, the Ombudsman has requested a copy of the Parliamentary Staff Manual from the Parliament House, to see whether the process of appointment was followed in the appointment of Assistant Clerk Corporate. The Ombudsman was provided with the new version of the Parliamentary Staff Manual only which covers issues 1, 2 and 3 below;

1. Whether the appointment of panel members was done in accordance with the requirements under the Parliamentary Staff Manual and Parliamentary Administration Act (PAA);
2. Whether the appointment of the Convener of the panel was done in accordance with section 19 of the PAA;
3. Whether the Convener of the Panel, Roslyn Jimmy had a conflict of interest in nominating Estella Banga to the panel (to be interviewed) to replace Joylee Seresere even though she was not shortlisted.

The process of appointment was made on or about the 4th – 10th of May 2022 based on the old version of the Staff Manual dated 1st of January 2008 to 14 December 2022.

The Ombudsman have accepted that issues 1 and 2 can no longer apply and therefor be removed. However, issue 3 on conflict of interest still stands as it was covered in the old version of Staff Manual.

Point 6, 7 and 10 are discussed in the paragraph below (point 11).

Point 11 by Roslyn Jimmy stated that she strongly disagreed with the statements that she had no conflict of interest with Estella Banga.

To that, I say the following.

First, the Panel consisted of four members namely;

- Roslyn Jimmy (Convener);

- Lionel Kaluat;
- George Iapson; and
- Leah Kaltoi.

They had assessed all applicants, through their applications, for the position advertised and agreed on four suitable candidates as follows;

- Patricia Kalpokas Moli;
- Julie Takau;
- Niros Silas; and
- Joylee Seresere.

During the interview on the 6th of May 2022, Joylee Seresere failed to show up. No reasons were given for his absence.

According to the Panel Report at page 6, that at 12pm, on 10 May 2022, Estella Banga was informed verbally by Roslyn Jimmy to attend the interview at 3pm. She stated that the panel members have agreed to interview Estella.

Second, George Iapson had the following to say on the engagement of Estella Banga. I quote –

“Roslyn ibin akiu very strongly wetem justification se mifala mas complitim interview lo that day, therefore hemi tingting blo karem this one (Estella) i kam inside... So she should never have been interviewed. Lo taem blo interview, mi refuse.”

Leon Teter, the Assistant Clerk on Standing Committee, stated as follows –

“ Roslyn Jimmy ikam long ofis blong mi mo talem se, hemia we acting lo position ia and same time HR blo mifala, Estella Banga hemi no bin short listed be hemi wandem sapos i save listim olsem one short listed candidate.”

The two statements referred to above indicates an attitude or desire by the Convener to engage Roslyn Jimmy to be interviewed notwithstanding the fact that the Panel had found her wanting – that she was not considered suitable for the position of Acting Clerk.

In her response to the Ombudsman draft report, she stated very strongly that “she strongly disagreed with the statements that she had no conflict of interest with Estella Banga”.

Paragraph 3 (1) (i) of the Staff Manual provides very clearly that –

“(1) Every staff member must in the course of his or her employment in the Parliament Service –

- (i) Disclose and take reasonable steps to avoid any conflict of interest (real or apparent) in connection with his or her employment”

To determine whether the Convener’s conduct amounted to a conflict of interest, it is essential to determine what does “in connection with his or her employment” mean?

The Convener is employed in Parliament in the position of Assistant Clerk. Due to that, she was appointed to be a member and chair of the panel. The vacant position is for the Assistant Clerk, Corporate Service in the Parliament Service. She is employed in the Parliament Service too. As such, it is my considered opinion that her engagement as the convener of the Panel is “in connection with her employment”. Because she is employed in that position she was tasked or appointed further to perform the functions of the convener. Performing that extra function, in my view, also comes within the meaning of “in connection with her employment” in paragraph 3 (1) (i) of the Staff Manual.

That in my view, imposes a duty on the convener to disclose real or apparent interest in her dealings with Estella Banga. Over and above that, the Staff Manual requires her to disclose any conflict of interest (real or apparent). This is the law.

What is the meaning of “conflict of interest”. A conflict of interest occurs when an individual’s personal interests – family, friendships, or social factors – could compromise his or her judgment, decisions, or actions in the workplace.

In this matter, the background to the relationship existing between the Convener and Estella Banga is clear. In her own words, the Convener admitted her close association with Estella Banga in her response to the draft report of the Ombudsman in this matter as follows –

“As an assistant Clerk, I often consulted the HRO daily because she is the Acting Assistant Clerk and most of my tasks connects to her office. We worked as a team with the Clerk to manage the institutions Affairs. Our discussions focus on our tasks given by the Clerk to ensure things are done on time. In Parliament, our tasks are interrelated, thus, caused us to interact with other staffs.”

In my view, the Convener has an intimate relationship with Estella Banga due to the tight net work that exists around their duties in the Parliament Service.

The Panel had overlooked Estella Banga when assessing the applicants as to their suitability and qualifications for the Position of Acting Clerk.

In the Panel Meeting on the 10th of May 2022, she raised the matter for a decision by the Panel. In essence, she was asking the Panel to quash its earlier decision and now, somehow say that she is qualified to be interviewed with the others as well.

It is my considered view that the relationship between the Convener and Estella Banga is caught within the meaning of conflict of interest. She knows Estella very well and should have not involved herself at all in getting her to be interviewed. Her conflict in my view is real and not apparent.

Staff Manual paragraph 3 (1) (i) requires the Convener to declare her conflict of interest.

I am concerned about the manner in which she strongly denied that she did not have a conflict of interest. It appears as if she does not understand the law in this area.

Did she “disclose and take reasonable steps to avoid any conflict of interest (real or apparent)”. The answer to the question is obvious – she did nothing. In fact, on the evidence before the Ombudsman she went all out to ensure that Estella Banga was interviewed for the position of Assistant Clerk, Corporate Service of Parliament.

My response to Point 12. Ombudsman’s recommendation for either suspension or termination based on the evidence provided that Roslyn had a conflict of interest in nominating Estella Banga and further failed to comply with her obligations under Section 3.3 of the PSM. The evidences provided in response to her claim shows that she did have a conflict of interest.

I also say thank you to Raymond Manuake (former Clerk) for his response to the Working Paper.

I confirm that the issues raised against Mr Manuake was based on the new version of the PSM and these issues are removed accordingly.

8. FINDINGS

Finding 1: Roslyn Jimmy (Convener) had a conflict of interest in personally bringing in Estella Banga who was a friend of hers and they work together in the same Office to be interviewed.

By disregarding her obligations under Section 3 of the PSM, her action amounts to conflict of interest

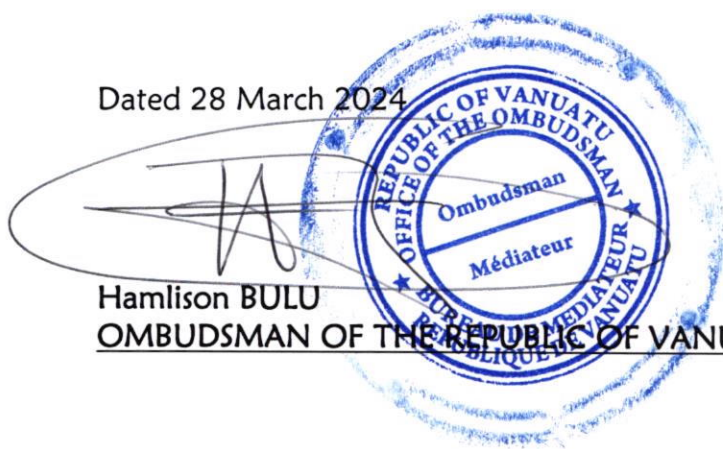
Finding 2: The panel recommended Julie Takau as the recommended candidate for the position and Niros Silas as the eligible candidate.

Julie Takau refused to take up the position because she did not agree with the salary scale. Niros Silas was the eligible candidate after Julie Takau.

9. I make the following recommendations:

1. Niros Silas to be appointed to the Position of Acting Clerk Corporate to avoid lengthy process of recruitment, and another waste of funds.
2. Roslyn Jimmy to be terminated for breaching her obligations under the PSM.

Dated 28 March 2024



Hamlison BULU

OMBUDSMAN OF THE REPUBLIC OF VANUATU