



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

ON THE UNLAWFUL APPOINTMENT OF THE CHAIRMAN OF SCHOLARSHIP BOARD & TRAINING BY THE CARETAKER MINISTER OF EDUCATION, JOHNSON SIMIL

Date: 10 June 2025



REPUBLIC OF VANUATU

OMB24-0003/2025/04

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1. PURPOSE

The purpose of the investigation is to determine whether the Caretaker Minister has the power to appoint the Chairman of Scholarship Board and Training.

2. SCOPE

The scope of the investigation is;

- a. to look into the appointment of the Scholarship Board Chairman and determine whether the Caretaker Minister has power to make such an appointment during that period
- b. To look into the appointment and determine whether the Minister complied with the merit process under the leadership code Act
- c. To look into the appointment and determine whether the Care Taker Minister had a conflict of interest.

3. ISSUES

The following issues raised in this matter;

1. Whether the Caretaker Minister has the power to appoint the Chairman of Scholarship and Training Board;
2. Whether the appointment made was based on merit process;
3. Whether there was conflict of interest in the appointment of the Scholarship Chairman.

4. OUTLINE OF EVENTS

1. On 15 January 2025, Iamanik Stephen issued a notice of first Board meeting to be held on the 28th January 2025.
2. On 20 January 2025 the instrument of appointment was made and signed by the Care Taker Minister Simil Johnson.
3. On the same date, 20 January 2025, the appointment of the new Chairman was gazetted by the Office of the Attorney General.
4. On 4 February 2025, Nicholson Mwai wrote a report and published in the Daily post with the title, *"Public questioned caretaker Minister's appointment of the new scholarship Chairman"*.

5. DISCUSSIONS

The first issue raised in this matter is whether the Caretaker Minister, Johnson Simil, had the power to appoint the Chairman of Scholarship and Training Board, Iaman Stephen Nauko, at any time when he made the decision.

Before the dissolution of Parliament by the Head of State (HoS) On the 18th of November 2024, Hon. Johnson Simil served as the Minister of Education and Training (MOET). During that time, the Chairman of the Scholarship Board and training was Mr Jean-Alain Bong.

After the dissolution, Johnson Simil remained as caretaker Minister while Jean-Alain Bong resigned and contested the SNAP election on the 17th of January 2025. On the 20th of January 2025, the Caretaker Minister appointed Iamanik Stephen Nauko as the new Chairman of the Scholarship Board and Training.

The evidences available comes from a number of sources. Firstly from Antoine Boudier, Director of Chamber of Commerce and member of Scholarship Board and Training. He made this statement on the 3rd of March 2025. The relevant part of his statement goes as follows;

“Taem blong mekem appointment, hemi Caretaker Minister mo hemi kam introducim new Chairman”.

Another evidence comes from Jean Piere Nirua, Vice Chanchellor of National University of Vanuatu (NUV). His statement was made on the 6th of March 2025. The relevant part of his statement goes as follows;

“Mifla I jes aware long 15 January 2025 time Caretaker Minister I kam introducim”.

The third evidence comes from Bergman Iati, the Director General of the Ministry of Education. His statement was made on 12th of March 2025. The relevant part of his statement goes as follows;

“Mi confirm se long taem blong appointment ia, Johnson Simil I stap olsem Caretaker Minister. Mo mi confirm se mi aware long appointment we caretaker Minister I mekem”.

The question surrounding the appointment was;

- a. Whether the timing of the appointment was appropriate and;
- b. Whether the caretaker Minister had the power to make such an appointment when he was a caretaker Minister

Section 19 of the Interpretation Act talks about the timing for exercise of powers as follows;

“19. Time for exercise of powers

Where an Act of Parliament confers any power or imposes any duty, the power may be exercised and the duty shall be performed from time to time as occasion requires”.

Section 11 (1) of the Education Act states that;

11 Functions and powers of the Minister

- (1) The Minister has such functions and powers as are conferred on the Minister by this Act.

The authority of the Minister is stated under the Education Act NO.9 of 2014 .The amended section 64 (2),(e) and 64(4A) states as follows;

“(e) a person appointed by the Minister by Order for a term of 2 years.”

“(4A) The Minister is to appoint the Chairperson of the Board from amongst the members.”

Article 45 (b) of the Constitution states as follows;

45. Other times when a Minister ceases to hold office

A Minister, including the Prime Minister, shall also cease to hold office –

- (b) *if he ceases to be a member of Parliament for any reason other than a dissolution of Parliament; or*

According to Article 45 (b) of the Constitution, a Minister may continue to be in Office after Parliament is dissolved. A “caretaker Minister” is a Minister who is temporarily holding office, typically during a period of Government transition or when a new Government is being formed. The Minister is responsible for ensuring the normal function of the Ministry until the new Government takes over.

That, to me, the caretaker Minister has no power to do something that is new but to look after the Ministry until a new Minister is appointed.

The second issue raised in this matter is whether the appointment was based on merit.

Iamanik Stephen was from Tanna. He was appointed by the Caretaker Minister when he was on Tanna, and later flew to Port Vila. The Caretaker Minister failed to comply with section 14 of the Leadership Code Act which requires the appointment to be done on merit.

The evidence available comes from number of sources. Firstly, from Iamanik Stephen, the appointed Chairman. He made this statement on the 6th of March 2025. The relevant part of his statement goes as follows;

“Mi skul long nakamal nomo. Long taem blong appointment mi no bin mekem any work”.

The Chairman admitted that he has no qualification. He gained knowledge from the Nakamal. He further affirmed that;

“Hemi new ofis we mi go inside be mi bin stap work long sam position finis we mi ting se hemi related long work ia, especially how mi chairem meeting long nakamal or long ples we mi work long hem”.

The importance of a merit process in this issue is to promote fairness by ensuring that individuals are selected, promoted or rewarded based on their qualifications, skills and performance rather than personal connections or biases.

Another evidence comes from Lespet Jimmy, Acting Chief Executive Officer (CEO) of Vanuatu Qualification Authority (VQA) and member of Scholarship Board. She made this statement on the 28th of February 2025. The relevant part of her statement goes as follows;

“Umi needim professional people to look into the priorities of the government. Having somebody to take up the role, hemi needim somebody we hemi save ol different priorities blong gavman”.

Another evidence comes from Director General of Education, Bergman Iati. The relevant part of his statement goes as follows:

“Long time blong appointment hemi stap long Tanna”.

Section 19 of the Leadership Code Act talks about merit process as follows.

“14. Appointing people on merit

A leader must:

(a) act fairly in appointing people to offices and positions for which he or she has responsibility, so that people are appointed impartially and on merit; and

(b) do his or her best to encourage participation in government by men and women according to their abilities; and

(c) not interfere or attempt to interfere in the Public Service Commission in breach of the Public Service Act [Cap. 246]”.

Based on the statement of Iamanik Stephen, his appointment made by the Caretaker Minister contradicted section 14 of the leadership Code Act and raised the question as to whether his actions and reasons or his decision complies with section 3 of the Leadership Code Act, which states;

"3. Leader's behaviour

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 behavior 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".

There was no evidence forthcoming that showed that the position was advertised to ensure that the most suitable person was appointed. Further, the three (3) statements indicated that the appointment lacked merit process, where qualification, capacity and knowledge of the position should have been considered prior to making such appointment.

The fourth issue raised in this matter is whether there was conflict of interest in the appointment of the Scholarship Board Chairman.

The caretaker Minister, Johnson Simil was from Tanna. The appointed Chairman was also from Tanna.

The evidence available comes from number of sources. First from Iamanik Stephen, Chairman of Scholarship Board. The relevant part of his statement goes as follows;

"Mitufila save mitufila tru long politics nomo. Relationship we mitufila I gat tru long political nomo".

The statement provided above comes from a question posted on his relationship with the Caretaker Minister. That statement alone contradict Article 66 (1) (a) of the Constitution that states;

66. Conduct of leaders

- (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;

Another evidence comes from Antoine Boudier, the President of Chamber of Commerce, and member of Scholarship Board. The relevant part of his statement goes as follows;

Mi confirm se appointment blong Chairman hemi political. Mi serve six (6) years olsem member blong board. Long-time ia, everi Chairman oli appointed by the Ministers.

In 2020, the Education Act was amended. Section 64 (2) (a) was deleted where Director General no longer remain as the Chairperson of the Board, and substituted with section 64 (2) (e) that states a member appointed by the Minister by order for a term of 2

years to be the Chairman. Under Section 64 (4A) states that the Minister is to appoint the Chair Person of the Board from amongst the members.

The amendment was fine, but the actual application of the power exercised by the Minister was not fair when the Minister decided to appoint any person under the specific provision as member of the Board and at the same time appointed him to be the Chairperson of the Board. From the Chairman himself, he stated that they both come from Tanna and they know each other "tru long politic nomo". This appeared to be the only reason giving rise to the appointment of Iamanik Stephen to be the Chairman of the Board. That in my view amounts to conflict of interest by the Caretaker Minister. He knew him very well

Under section 64 (2 & 3) provides the names of people and institution they belong to as Board members as follows;

64 Establishment and membership of the National Scholarship and Training Board

- (2) The persons occupying the following positions are members of the Board:
 - (a) the Director General of the Ministry of Education who is to be the Chairperson of the Board; and
 - (b) the Director General of the Ministry of Finance and Economic Management; and
 - (c) the Director General of the Ministry of Foreign Affairs and External Trade; and
 - (d) the Director General of the Office of the Prime Minister; and
 - (e) the Director of Education.
- (3) In addition to subsection (2), the Minister is to appoint on the advice of the Director General, 6 other members of the Board who are:
 - (a) a representative of the Chamber of Commerce and Industries; and
 - (b) a representative of tertiary education institutions; and
 - (c) a representative of the Department of Labour; and
 - (d) a representative of the Vanuatu Finance Centre; and
 - (e) a representative of the Civil Society; and
 - (f) a representative of the Vanuatu Qualifications Authority.

On 2019, the Education Act was amended where section 64 (3) (a)(b)(c)(d) was repealed and subtitled as follows;

11 Paragraphs 64(3)(a), (b), (c) and (d)

Repeal the paragraphs, substitute

- “(a) the President of the Chamber of Commerce and Industries; and
- (b) the Vice-Chancellor of the National University of Vanuatu; and
- (c) the Commissioner of Labour; and
- (d) the Commissioner of the Vanuatu Financial Service Commission; and”

Iamanik Stephen was appointed as representative of civil society, mentioned under section 64 (3) (e) of the same Act. Did the Director General advice the Caretaker Minister under section 64 (3)(c). There was no evidence that this provision was complied with.

In my view, that was not a fair exercise of power to appoint a member who doesn't know about government structure, government process and government priorities to be the Chairman of the Board. The Chairman has to be appointed from amongst the existing members who holds positions within the institutions specified under the Education Act.

6. RESPONSES BY THOSE WITH COMPLAINTS AGAINST 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 the preparation of this Public Report to give the individuals mentioned in this report another opportunity to respond.

Firstly, I say thank you to Branan Garae, Commissioner of Vanuatu Financial Service Commission & Member of the Scholarship Board and training for making minor change to page 7, citing that the position of Mr Antoine Boudier is the President of the Chamber of Commerce and not the Director.

Other Members of the Board, including the DG of Education and the Minister did not respond to the Working Paper

7. FINDINGS

Finding 1: On 18 November 2024, the Head of State Nikenike Vurobaravu dissolved the Parliament.

The Head of State dissolve the Parliament as per Article 28(3) of the Constitution

Finding 2: The Minister of Education that time was Johnson Simil. He became the Caretaker Minister after the dissolution.

By disregarding the Education Act and the Constitution, the appointment made by the caretaker Minister was unlawful.

Finding 3: Caretaker Minister has a conflict of interest in the appointment of the Scholarship Board Chairman.


By disregarding leaders duties under Article 66 (1) (a) of the Constitution, the fact that they knew each other, and that the position was not advertised, his action amounts to conflict of interest

8. RECOMMENDATION

I make the following recommendations:

1. Chairman of the Scholarship Board and Training to be terminated;
2. The Minister of Education to appoint a new Scholarship Board Chairman from amongst the existing members;
3. The Principal Scholarship Officer to ensure that the member of the Civil Society remains on the board to avoid unnecessary appointment of politicians as member and Chairman at the same time;
4. The Minister, Johnson Simil to be prosecuted for breaching the Constitution, the Leadership Code Act and the Education Act.
5. The Prime Minister to inform the Ombudsman within 30 days on the recommendations of the Ombudsman

Dated 10 June 2025


Hamlison Bulu
OMBUDSMAN OF THE REPUBLIC OF VANUATU

