



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

SPECIAL REPORT NO: 05/11 – INVESTIGATION REPORT NO: 02/10

ON A REPORT OF

INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS REGISTERED WITH THE OMBUDSMAN.

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“ONE-WAY TRAFFIC”

A REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS REGISTERED WITH THE OMBUDSMAN.

[July 2011]

Investigation Report No: 02/10

Report by the Ombudsman of Solomon Islands, Joe Poraiwai, under the
Solomon Islands Independence Order 1978 and the Ombudsman (Further Provisions) Act 1981

A. OMBUDSMAN’S INTRODUCTION

1. Authority



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(i) **Legislative Mandate**

Pursuant to Section 96(1) of the Constitution and the Ombudsman (Further Provisions) Act, 1980 below outlined are the Vision and Mission of the Ombudsman

Vision

- *To promote fair, transparent and accountable public administration that benefits the people of the Solomon Islands.*

Mission

The Ombudsman safeguards the interest of the Solomon Islands community in its dealings with government by:

- *Assisting people to resolve complaints about government administration;*
- *Independently investigating and reporting on the actions and practices of government; and*
- *Fostering accountable, lawful, fair, transparent and responsive administration.*

(ii) Functions

As noted above, section 97(1) of the Constitution provides that the functions of the Ombudsman are to:

- Enquire into the conduct of any person to whom this section applies in the exercise of his office or authority or abuse thereof;
- Assist in the improvement of the practices and procedures of public bodies;
- Ensure the elimination of arbitrary and unfair decisions.

2. **Change of Focus**

As always reiterated, the office has attained thirty years since inception, it is time it should be proactive.

One of the aims of the office is to venture into Own Motion and Systemic Investigations, a twist from the normal practice of just waiting to investigate into complaints received from complainants, some of which are minor and irrelevant. What the office will hence focus on is to have the Investigators make regular intensive investigations and follow ups where responses are neither received nor slow.



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3. Own Motion and Systemic Investigations

As this being one of the series of Systemic Investigation, the task gave the Investigators very good learning experience in conducting interviews and investigations. There is a plan in place for a Unit within the Investigation Division to be headed by a Principal Investigation Officer assigned mainly to deal with Own Motion and Systemic Investigations

4. Number of complaints and rate of compliance

According to complaints statistics of my office, over the years, highest number of complaints received about the Ministry of Education.

The following table sets out the number of education-related complaints to the Office between 2006 and 2009, and their proportions as a percentage of all complaints received each year.

Year	MEHRD	Education Authorities	Other Complaints	Total	Education related complaints as a percentage
2006	63	36	206	305	32.5%
2007	67	102	159	328	51.5%
2008	87	40	124	251	50.6%
2009	37	84	137	258	46.9%
Average percentage over 2005-2009					41.2%

The co Complaints are from both teachers and the parents or the citizens.

- (i) Teachers - complaints are about unfair treatment by Provincial Education Authorities and the Teaching Service Division on teachers' human resource matters.
- (ii) Parents complain mostly about teachers' absentisms, etc.

While my office investigates the complaints, the most problem experienced is on non responsiveness. Whenever letters are written to the Authorities, I could hardly receive responses. Even if investigators visit the Teaching Service Office or the Provincial Education Authorities to follow up on complaints, information required could not be found or officers could not cooperate with the investigators.

5. Problems detected.



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While teachers complain a lot about unfair treatment by Authorities, some of them, their performances are below par. On the outset, complaints labeled against some teachers by parents are justified especially their loyalty to the teaching profession. What concern the parents are the teachers lateness or non-attendance to teach during the instruction hours. There are incidences where teachers don't bother to report early to their respective schools during beginning of school terms. On making this Report I am conscious to deal; with only the issues of teachers' complaints against state authorities. I did not pursue investigations into the issues against the teachers because:

- Already the Auditor General made an investigation into the matter of Teachers Absentism and other matters related to teachers actions in their personal capacity.
- I can investigate only into actions by state authorities.

This Investigation Report highlights complaints about unfair actions by State Authorities, the Ministry of Education and Provincial Education Authorities for that matter which I am empowered to deal with.

6. Non responsiveness by Education Authorities to the Ombudsman.

Basing on the statistics of cases received against respective Education Authorities the highest number of complaints from teachers which have not been attended to by the Authorities. My office could not receive responses despite several follow ups by letters or phones. In 2009, I planned to make series of personal visits to Provinces to talk with Education Authority Heads to see what the problems are and why responses could not be made to my enquiries.

On completion of the Investigations, **Investigation Report No: 02/10** was compiled and distributed to the respective Education Authorities for Natural Justice Comments. After thirty days as required by my instructions for them to response, unfortunately no respond was made to assure me whether my Recommendations were attended to.

A lot of problems were revealed within Education Office during the investigation. Pursuant to section 97 (1) (b) of the Constitution, I will work with the Education Authorities to assist in rectifying some of the problems detected and to make improvements where required.

7. **Investigation Report**

I am privileged to furnish Parliament with this Investigation Report No: 03/10 on investigations into Malaita Education Authority for Non-responsiveness to complaints registered with my



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office. It is my hope Parliament will take note of my concern about the failure by the Authority to respond to and to attend to my recommendations as highlighted in this Report under cover of Special Report No: 03/11.

B. OMBUDSMAN'S CONCERN FOR PARLIAMENT TO TAKE NOTE OF.

I am bringing to the attention of Parliament to be made aware that the Ombudsman not a Judicial Review body nor a Court, as it only recommends and he has no now of enforcement, there are times which Authorities tend not to adhere to his Recommendations.

Over the past three decades the office has been finding difficulties with the area of non compliance and non responsiveness. Since 2009, on assumption of the Post of the Ombudsman, I tried to see how such problems could be dealt with and addressed. I made some initiatives to address this problem area by:

- Including a Provision for a Tribunal in my proposed amendment of the Ombudsman (Further Provisions) Act 1980
- Working with Provinces and Ministries to appoint Ombudsman Focal Point Officers or Contact Officers in their respect Agencies.

Power of the Ombudsman

While the Ombudsman has Recommendatory Powers and as such Agencies are not obligated to act on his recommendations, Agencies at times could not take Recommendations seriously or even deliberately ignore to take actions to recommendations of the Ombudsman.

Status of the Ombudsman

The High Court of Solomon Islands has stated that because the Office is a constitutional institution Ministers, Members of Parliament s and officials all have legal obligations to cooperate with the Ombudsman's Office.

Public office holders and public servants have a duty not to undermine its authority. It should not be ignored, and must be afforded the courtesy of prompt replies and clear explanations. Ombudsman recommendations are important, and should be acted upon unless there is exceptionally good reason not to.

The High Court has also said that the failure of public officials to respond Ombudsman Office Inquiries or to implement Ombudsman recommendations tends to perpetuate corruption by



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encouraging a belief on the part of upright people that graft and corruption work better.

- *Pacific Architects Ltd v Commissioner of Lands [1997] SBHC 10*
- *Maesimae v Trade Disputes Panel [1998] SBHC 51*

The Court decisions are at *Appendix. “2 (A) and 2 (B)”* attached to this Report.

1.0 Foreword

Under the *Solomon Islands Independence Order (the Constitution) 1978* (“the Constitution”) and the *Ombudsman (Further Provisions) Act 1980* (‘the Ombudsman Act’), the Ombudsman’s Office investigates the actions or conduct of specified public officials, assists in the improvement of administrative practices and procedures, and fosters fair and reasonable decision-making. The Office investigates and reports on complaints from members of the public about the actions of Government officials and agencies or following an invitation from a Minister or Member of Parliament. The Ombudsman can also commence an investigation on an ‘own motion’ basis, that is, on his own initiative.

Before commencing an investigation the Ombudsman must notify the relevant agency or organisation of his intention to investigate. When conducting an investigation, the Ombudsman can require a person to attend an interview, require a person to provide any documents considered relevant to an investigation to the Office, and can enter premises at any time in order to carry out an investigation after the giving of 24 hours notice.

If, after an investigation, the Ombudsman is of the opinion that an action was contrary to the law, based wholly or partly on the mistake of law or fact, unreasonably delayed or otherwise unjust or manifestly unreasonable, the Ombudsman can make recommendations to address the problem.

If the Ombudsman considers that remedial action is needed, the Ombudsman will n and reasons to the officer, the department or authority concerned, make such recommendations as he thinks fit, and send a copy of his report and recommendations to the Prime Minister and to any Minister concerned. The Ombudsman will also inform the person who has made a complaint of the result of his investigations, if the investigation relates to an open complaint. Where the Ombudsman makes critical comments in a report, the Ombudsman must provide an opportunity to comment to any person, officer or authority adversely affected.

When reporting his opinion to an officer of the department or authority concerned, the Ombudsman may request such officer to notify him within a specified time of the steps (if any) that are proposed to give effect to the Ombudsman’s recommendations. If within a reasonable time after a report has been made no adequate or appropriate action is taken, the Ombudsman



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may after considering any comments made by or behalf of any department, authority, body or person affected, make a further report on the matter to Parliament.

The Office is subject to secrecy provisions and for reasons of privacy and confidentiality, a report by the Ombudsman is not always made publicly available. However, in the interests of transparent and accountable government and administration, the Office will endeavour - to the extent possible within the law - to ensure that its reports and activities are made public, so that the Solomon Islands community can be assured that the Office is working to safeguard its interests in its dealings with government and administrators.

2.0 Executive Summary

Education related complaints are the largest proportion of all complaints made annually to my office and consume a large amount of my office's resources. It is critically important that the administrative actions, practices and procedures of education authorities be as fair, reasonable, efficient and effective as possible.

While education related complaints were usually about employment and human resources matters, they often highlighted thematic and recurring systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities.

An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in this report are as follows.

Agency non-responsiveness

Agency non-responsiveness has been an ongoing problem for the Ombudsman's Office since its inception.

However, the problem continues to the present-day and bedevils the office's ability to fulfil its mandate and improve public administration in Solomon Islands. Education-related complaints demonstrate very high levels of non-responsiveness by education authorities to Ombudsman Office inquiries and communications. To address this ongoing problem and avoid my office having to take formal legal action, I have begun an Ombudsman Focal Point initiative that involves designated officers within agencies taking a lead role in answering Ombudsman inquiries. I have also recommended that:



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- Education authorities and officials respond in a prompt and timely manner to Ombudsman investigative inquiries as a matter of basic courtesy and professional responsibility and as a demonstration of their commitment to good administration in Solomon Islands; and
- Senior leadership within education authorities support the Ombudsman Focal Point initiative as a way of improving complaints handling and, wherever possible, implement Ombudsman formal recommendations.

Ineffective Communications

In the course of investigating complaints Ombudsman often observed a lack of effective or robust administrative systems and for managing communications, including inadequate processes for recording and responding to written communications and limited access to the procedural manuals and policy instructions necessary for effective administrative action. This led to delay and inaction, and poor quality decision-making as officials failed to properly apply procedure or give effect to policy because of a lack of access to relevant documentation or insufficient understanding and training.

Solomon Islands' geography imposes logistical factors that make effective communication difficult, particularly for provincial education authorities and their employees in remote and hard to access areas. Despite this, there is still room for improvement. I have recommended that:

- Senior leadership should ensure that effective communications are a key agency priority and are supported by suitable policies and procedures;
- Administrative manuals that provide guidance to staff on applying an agency's legislation, policies and procedures, must be accessible, available and current;
- Key initiatives, programs, policies and procedures must be communicated clearly and promptly to staff, including the provision of training where appropriate and practicable; and
- Regular monitoring and review of agency actions – especially decision-making – should occur to ensure they are consistent with agency legislation, policy and procedures. Where they are not, staff should be further trained where appropriate and practicable.

Inadequate Records Management

A lack of accurate, accessible and comprehensible records undermines effective and efficient



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public administration in Solomon Islands, adversely affecting the lives of Solomon Islands citizens. Education authorities often did not have in place adequate document management systems for maintaining accurate, comprehensive and accessible records, leading to lost or misplaced files and documents. These small errors can have a profound impact on and serious consequences for people and inhibit transparent administration.

Good record keeping depends on executive leadership committing to rigorous standards and a firm and consistent approach to proper maintenance, storage and management of files and documents. I have recommended that:

- Senior leadership should make it part of an agency culture that professional and efficient record management practices underpin the administrative actions of the agency; and
- To the extent practicable, agency staff must be trained and supported in good record management practices that accurately record information.

Deficient Human Resources and Payroll Systems

Complaints from teachers expressing concerns about payment and non-payment of salaries and allowances, delayed promotions and appointments, unexplained or unreasonable demotions and suspensions, and problems with probation and postings were a common feature of education complaints. Teachers were generally dissatisfied with, and had little confidence in, teaching human resources and payroll administration.

The sheer number of complains about human resources and payroll issues suggests there are significant systemic problems with education authorities' ability to properly administer, estimate and budget for teachers' salaries, or maintain good standards of decision-making in relation to allowances, promotions, appointment, suspensions, terminations, probationary and postings processes. I have recommended that:

- Senior education leadership should demonstrate commitment to ongoing improvement and compliance with merits based procedures, and undertake the regular review and oversight of, HR and payroll administration.
- Education authorities should try to simplify processes where appropriate and applicable, and provide further training, guidance and support for staff.

Unfair and Unreasonable Delay



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My office received a large number of complaints about unreasonable delay, suggesting a systemic failure of education authorities to promptly deal with their responsibilities. While delay can sometimes occur for reasons outside the control of an administrative official and is sometimes unavoidable, potential delays can be minimised by agencies applying proper procedures in a timely manner, engaging in good planning, and regularly monitoring the processes. I have recommended that:

- Senior education leadership should undertake strong oversight and monitoring role to facilitate prompt follow-up and remedial action as a way of preventing unnecessary and avoidable delay.

Unfair or Unreasonable Decision-making

Many complaints to the Ombudsman's Office involved justified claims that agency officials had acted unfairly or unreasonably. Often decision-makers failed to have regard to all the relevant facts and circumstances, or did not appear to properly understand the policy or guidelines that they were purporting to implement. I have recommended that:

- Senior education leadership should, to the extent that budget funding permits, facilitate staff training in principles of good administrative decision-making, with a particular focus on the application of policy and guidelines when making administrative decisions.

Failure to Provide Reasons

It is a generally accepted principle of good administration that decision-makers and officials should always try to explain to people the basis or reasons for their actions. This can help people adversely affected by decisions understand why the action or decision was taken, and if aggrieved by it, to put their concerns to the decision-maker or to consider any other available review and appeal options. I have recommended that:

- Whenever possible and practicable, education officials should, as a matter of good administrative practice, provide reasons for their actions and decisions to those adversely affected.

Conclusions

Our investigation of education-related complaints suggests that education authorities, like all public authorities, encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic



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or recurrent issues that need to be addressed. While some problems cannot be avoided, many can be prevented by strong leadership and good management.

Education authorities, like other public agencies, can take positive steps to reform and improve. Senior leadership should be proactive in reviewing and monitoring organisational and staff performance, and be willing to listen to complaints and allegations. These provide opportunities for review and change. Senior leadership must not be reluctant to take a critical look at their agency's performance, or be unwilling to take corrective action whenever necessary.

It is only with honest and critical self-appraisal, a willingness to consider complaints and external reports, ongoing quality assurance monitoring and review, a demonstrated commitment to ongoing improvement and a readiness to implement remedial recommendations or corrective measures, that public administration will become more effective and efficient and enhance the lives of the people of Solomon Island

PART 1 : -- INTRODUCTION

I decided, on my own motion, to initiate an investigation of complaints about the Ministry of Education and Human Resources Development ("MEHRD") and provincial education authorities because education-related complaints are the largest proportion of all complaints made annually to my office. Between 2005 and 2009 we received 564 education related complaints, or 41.2% of all complaints to my office (see Attachment 1).

In the course of investigating these complaints, my staff identified a number of thematic trends and recurring systemic issues. I felt it was appropriate for my office try to provide corrective recommendations to address the systemic problems that these individual complaints have highlighted.

My reasons for doing this were varied.

I was mindful when commencing this investigation that the future development and prosperity of Solomon Islands will depend in a large part on the quality of the education it provides to its children - its future national leaders. As such I believe it is critically important that the administrative actions, practices and procedures of education authorities be fair and reasonable and as efficient and effective as possible, so that the available education resources in Solomon Islands can have the widest beneficial impact.

Additionally, most of the education-related complaints my office received were from teachers about employment or human resources issues relating to their terms and conditions of service,



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such as salaries and allowances, promotions and demotions, appointments and suspensions, probation and postings and trainees. While these complaints were within my jurisdiction, I felt the majority could have been dealt with by the relevant education authorities without the need for my office's involvement, freeing my office's resources to be applied to other problem areas in administration that affect Solomon Islanders.

Generally speaking, where teachers have grievances, it is preferable that they first try to resolve them with the relevant authority by way of the procedures laid out in chapter 11.5 of the Teachers Service Handbook (TSH). Further, many of the issues the complaints raised could be addressed by those bodies with responsibility for human resources issues, such as the Teaching Service Handbook and Teaching Service Commission Regulations.

That said, while the complaints were generally about employment and human resources matters, they often raised important issues in education administration about the standard of record keeping and document management, the adequacy of communications, and the quality of individual administrative decision-making.

I accept that some of these problems may be unavoidable in a Solomon Islands context and beyond the ability of my office to correct through recommendations of an administrative nature - for example, the ability of the provincial education authorities to improve communications is likely to be limited by a lack of good access to communications media and adverse logistical considerations more than it is by matters relating to education administration.

On the other hand, we also identified issues that I felt are capable of being resolved through corrective administrative measures. For example, decisions that seemed unfair or unreasonable, lengthy delays in taking action, non-compliance with relevant procedures, the unequal treatment of people who were in similar situations, and a lack of clear policy or procedural guidance in some areas of education administration are all matters that often arise because of deficiencies in the administrative actions, practices and procedures of the various education authorities.

More importantly, many can be usefully reviewed and addressed through administrative improvements within the education authorities in question, and I hope that my recommendations are favourably considered and implemented. If so, I hope that my report will both have administrative value for education authorities while leading to practical improvements that assist Solomon Islands as a whole.

PART 2 SYSTEMIC ISSUES

PART 2.1 DEFECTIVE OR FLAWED AGENCY PROCESSES, SYSTEMS AND



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CULTURES

An individual complaint does not always give rise to a systemic or thematic issue - errors, mistakes and deficiencies can be one-off or unique events. However, often they can point to broader problems or recurring weakness within administration that can have an affect beyond a single individual's case. This part of my report outlines the systemic and thematic issues my office has observed in education-related complaints using case studies to outline the issue in question as well as the corrective recommendations we suggested in the particular case.

ISSUE 1 "ONE-WAY TRAFFIC" – AGENCY NON-RESPONSIVENESS

For the relevant provincial education authorities often proved fruitless. We rarely received replies to our inquiries about individual complaints. The lack of responsiveness by public officials to inquiries made by my office's attempts to resolve many education-related complaints by contacting the MEHRD office is a serious concern. Unfortunately, it has been a recurring theme since the office's inception, and has been a common feature of my office's interactions with all public authorities at all levels¹.

The Ombudsman's constitutional mandate is to inquire into the conduct of administrators, improve administrative practices and procedures, and try to eliminate arbitrary or unfair administrative decisions.

The failure of administrative officials to respond to our inquiries not only "*defies the most elementary rule of courtesy*"², it frustrates the efforts of my office and shows a disregard for fair, transparent and accountable education administration by "*encouraging a belief ...that corruption works better*"³ and that the "*authority of the Ombudsman, a constitutional institution, can always be ignored with impunity.*"⁴

It is important that officials understand their legal obligations to assist the Ombudsman's Office

¹ In its first ever Special Report to Parliament [No 5 of 1997], the Ombudsman noted that the Commissioner of Lands had an "*uncooperative attitude*" and that both the Commissioner and the Minister of Lands "*did not bother to respond.*"

² Justice Lungole-Awich in *Maesimae v Trade Disputes Panel* [1998] SBHC 51.

³ Justice Lungole-Awich in *Pacific Architects Ltd v Commissioner of Lands* [1997] SBHC 10

⁴ *ibid*



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in its investigations and to give effect to my formal recommendations. The Permanent Secretary's Handbook explicitly highlights the role of the Ombudsman's office⁵ and the High Court has stated that "...*public servants in particular, have a duty not to undermine authority of governmental institutions and departments. Recommendations of the Ombudsman made under Section 16 are a serious matter which should be acted upon unless there is exceptionally good reason not to...*"⁶.

Public officers also need to be mindful that I have a number of formal powers that I can use to compel officials and departments to provide information, attend an interview or allow my officers to enter and inspect their premises⁷. Non-compliance with the exercise of my formal powers is an offence under section 20 of the *Ombudsman Act*, in respect of which a penalty of up to 12 months imprisonment and/or a fine of SBD\$200 can be imposed.

Prompt responses will help avoid unnecessary formalities by ensuring complaints are handled more effectively and efficiently. In general terms, any complaint investigation involves hearing both sides of the story. For government authorities, it is an opportunity to comment upon the allegations set out in a complaint. It is open for an authority to reject the allegations contained in a complaint and defend their actions if they consider they were good and valid. The best way to do this is for the relevant official or authority to explain to my office the basis of the actions taken - for example by setting out the reasons the action in question was taken or the disputed decision was made.

Responding to a complaint investigation allows my office to make a considered, comprehensive and final decision on the matter, having regard to the information and evidence provided by both parties to the complaint. Where responses from government bodies and authorities are provided in a timely manner, my office can more quickly and efficiently deal with the complaint and resolve any issues that have arisen.

When government authorities act responsively to help the Ombudsman to promptly resolve

⁵ Chapter 7.40 The Permanent Secretary's Handbook(2006)

⁶ *ibid*

⁷ For example, under sections 11, 12 and 14 of the *Ombudsman Act* I can compel a person to provide me with information or documents, attend an interview or allow me access to their premises to carry out an investigation or inspection.



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matters raised in complaints it speaks highly of government and officials recognizing the authority of my office as an independent constitutional body and fosters positive views among the public about the willingness of government bodies and authorities to act in the interest of the people of Solomon Islands by addressing and dealing with bad administrative practices. Further, and as was noted by the High Court above, it helps to prevent graft and corruption within administration.

In short, responsive administrators and officials contribute to creating a government that is fair, transparent and accountable in its dealings with its citizens. While I prefer to work cooperatively and constructively with agencies and authorities whenever possible, I do not consider I can continue to maintain such an approach in without some positive changes to the culture of the Solomon Islands public service demonstrated by a willingness of senior leadership to promote these values within their areas of responsibility.

To this end I recently launched an Ombudsman Focal Point Officer initiative, which involves designated “Focal Point Officers” within agencies helping to manage complaints handling and timely agency responses to my office. While I have been pleased by the interest and commitment recently shown to this initiative by public officials, I caution that in the event of ongoing non-responsiveness in the future I will consider taking a more strict and formal approach.

Recommendation 1

Education authorities and officials should respond in a prompt and timely manner to Ombudsman investigative inquiries.

Recommendation 2:

Senior education leadership should support the Ombudsman Focal Point initiative as a way of ensuring prompt and timely replies to Ombudsman investigative inquiries.

Recommendation 3:

Senior education leadership should, whenever possible, give serious consideration to the implementation of formal Ombudsman recommendations.

ISSUE 2 “UI NO GAREM PLAN” - INEFFECTIVE COMMUNICATIONS

In the course of investigating complaints, from time to time Ombudsman staff have visited education authorities. We often observed a lack of effective administrative systems, including



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systems for managing communications. It is critical for good public administration that authorities promote effective internal and external communications by having robust systems and processes. Common problems areas we identified included inadequate correspondence processes for recording and responding to written communications and limited access to the procedural manuals and policy instructions necessary for effective administration.

These factors invariably led to delay and inaction and when action was taken, decision-making was often of a poor quality as officials failed to properly apply procedure or give effect to policy because of a lack of access to relevant documentation or insufficient understanding and training. Indeed, the problem of agency non-responsiveness to Ombudsman inquiries can likely be attributed, at least in part, to inadequate correspondence and communication handling systems that resulted in Ombudsman correspondence not being effectively registered, allocated and actioned by appropriate officials.

At the outset, I acknowledge that Solomon Islands' geography imposes logistical factors that make effective communication difficult, particularly for provincial education authorities and their employees in remote and hard to access areas. However, with this in mind, I still think there is room for improvement. The following two case studies show how poor internal communications between education authorities and teachers can cause administrative problems. They also list the corrective measures we thought might be useful.

Case Study 1: Letters of Offer of Appointment

A long-serving teacher in a province claimed that he was not receiving his salaries at the correct level. The teacher had held various senior posts at several schools over the past five years – including those of a Head Teacher and a Deputy Principal – and had been advised by letter dated January 2008 that he would be receiving a Level 8.1 salary. Prior to this letter he was being paid at salary Level 6. The teacher expected his salary to increase according to the letter of appointment, but a year later, he remained on the same Level 6 salary.

My office wrote two letters to the Director of the Teaching Service in May and June 2009 seeking an explanation as to the allegations contained in the complaint, but received no reply. In the absence of any response from the Teaching Service Office, we were unable to determine how the problem arose or remedy the problem.

In our view, the Teaching Service should clearly set out in their Letters of Offer of Appointment the correct salary level for the relevant position and then ensure that teachers are paid at the promised salary. Care needs to be taken that letters of this kind do not raise expectations leading to later disappointment. If the Teaching Service becomes aware that a letter is mistaken, it should apologize for any distress its error has caused. If a letter is not mistaken, then the Teaching



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Service should investigate why the salary is not being paid at the level promised, and contact the teacher to explain and clarify the situation.

Case Study 2: Demotion after re-leveling exercise

During the government's re-leveling exercise in mid-2007, a teacher on the level 5 salary scale noticed that his pay was reduced to the Level 4.20 scale. His expectation was, like all teachers, that the re-leveling exercise would result in a pay rise following the nation-wide teachers strike. The teacher complained to us that the exercise had had a negative effect on his circumstances.

He followed up with his Church education authority but did not receive an appropriate response. He was eventually advised that he would have to be posted to another school in order for him to resume his previous pay level. The teacher complained to us that he had been unfairly treated and he had done nothing to warrant a salary reduction.

This was one of a number of similar complaints received by my office involving teachers expecting to be paid at the salary level stated in their letter of offer of appointment. In each case the teachers were disappointed that they were paid a lower salary than that to which they were

Case Study 3: Teachers- in- Training

An untrained teacher, or Teacher-In-Training, complained to us when his salary was ceased soon after he began full-time training at the Solomon Islands College of Higher Education (SICHE). He consulted his education officer about his problem and was told that he had not applied for training using the correct procedures.

The teacher was confused and disappointed with this response, telling us that he started his studies on the recommendation of his education authority. He felt his situation was unfair - he had been given incorrect and misleading advice, on which he had relied, and been subsequently punished for it.

We received a number of similar complaints from Teachers-In-Training about their salaries having been ceased upon them beginning studies. A common theme was their frustration with the MEHRD's position. We understand that the MEHRD's view was that the actions were properly taken because the teachers in question were not undertaking their training at SICHE's Panatina Campus. If they had been, their salaries would not have been affected.

We have concerns about this position. Many complainants told us that they had already qualified as teachers and were doing technical courses in particular fields or further specialised training in specified subject areas that had been recommended to them by their education authorities. The



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teachers' frustrations with their situations seemed justified to us on the basis that they had been given mixed messages by their authorities causing confusion, disappointment and financial loss.

We concluded that the Teachers Service Handbook does not adequately explain how the Teachers-In-Training scheme is meant to operate. We felt that this was a deficiency that could be readily rectified by amendments that clearly stipulate the purpose and scope of the scheme, associated procedures and relevant salary entitlements.

From a systemic perspective, the three cases above suggested that education authorities had failed to effectively plan, accurately communicate, monitor implementation action, or take remedial action when aware of problems. The important lessons to be learnt from these cases is that education authorities need to clearly communicate messages and positions and explain policy and procedures, particularly where they may have an adverse impact. Furthermore, when teachers raise concerns with authorities, they need to be kept informed of any action is proposed to be taken and of any relevant outcomes.

Despite the communication difficulties that geographical and logistical impediments in Solomon Islands can cause, authorities must endeavour to ensure that effective communications occur as best as is possible as a matter of both basic courtesy and good administration.

Recommendation 4

Senior education leadership to ensure that effective communications are a key agency priority and are supported by suitable policies and procedures.

Recommendation 5

Administrative manuals that provide guidance to staff on applying an agency's legislation, policies and procedures, must be accessible, available and current.

Recommendation 6

Key initiatives, programs, and policies and procedures must be communicated clearly and promptly to staff, including the provision of training where appropriate and practicable.



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Accurate, accessible and comprehensible records underpin effective and efficient public administration. Lapses, weaknesses and failures in records management can lead to administrative errors that can adversely affect the lives of Solomon Islands citizens. Typical examples of these failings include lost or misplaced files and documents. These small errors can have a profound impact on and serious consequences for people. For my office, it meant it was difficult to determine what actions had been taken by an authority and why. Among other things, this makes it difficult for the authority to demonstrate that its actions were justified. In my view, good record keeping and document management can only be achieved where there is a strong executive commitment within an authority to upholding rigorous standards. Executive leadership needs to take a firm and consistent approach and make the proper maintenance, storage and management of files and documents a key agency priority and outcome – particularly in relation to administrative decisions that affect the lives and families of members of the public. Case study 4 illustrates these points.

Case Study 4: Failure to pay an allowance

In 2008 we received a complaint from a teacher who had been teaching a composite class composed of students from classes 2, 3 and 4. She was also looking after an extension school's administration, and this school was located some distance from the 'mother' school. The teacher sent two submissions to the Teaching Service Office in 2008 and 2009 which included a Personal Occurrence Report (POR) outlining the extra work she was doing. Despite this, the teacher did not receive any allowance for the additional work she performed.

We wrote to the authority seeking clarification on why the teacher had not been paid, but did not receive a reply. After considering the complaint and the information we had before us, we thought it was only fair that a person should be properly paid or compensated for the work he or she has done and is doing. In the absence of any reply to our inquiries we were unable to determine why the allowance had not been paid to her.

This case highlighted the need for teaching authority officials to have in place administrative processes that ensure people get paid for the work they do. It seems unfair and reasonable that no action had been taken on the two submissions that had been sent to the Teaching Service Office. This was not a case involving mere delay, but rather an instance of complete inactivity that disadvantaged the teacher concerned.

At a systemic level, it was troubling that the Teaching Service Office could not give us any documentation showing it had acted on the teacher's submissions. It confirmed our general impression that education authorities often do not have in place adequate document management



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systems for maintaining accurate, comprehensive and accessible records. During the course of investigating complaints my staff were regularly unable to identify any systems for recording incoming or outgoing mail or for registering files and managing documents, or locate current copies of the General Orders or Financial Instructions.

In short, there were few identifiable processes for effectively managing the day to day work of the authorities and their staff. This also suggested that executive and senior level leadership had not ensured adequate administrative systems, including monitoring or oversight processes to identify and correct particular instances where staff had failed to properly discharge their administrative responsibilities **Case studies 5 and 6** illustrate how these kinds of systemic problems can impact on individuals.

Case Study 5: Delayed transfer action and lack of access to procedural information.

A young male teacher was suspended from his duties due to an allegation that he was involved in a relationship with a student. The teacher regularly contacted his education authority about the outcome of the investigation into the allegations, but was advised that a decision on his case was the responsibility of the Teaching Service Commission (TSC). The teacher travelled to Honiara to wait for a decision, but it was not forthcoming. He again checked with the MEHRD and was advised that his file had "gone missing", and that this had led to a 9 month delay in resolving the allegations. The teacher complained that the delay was unfair and prejudicial. We formed the view that some administrative practices and processes within the TSC needed to be reviewed. We were concerned that important documentation relating to a serious allegation had gone astray. It appeared to us that the procedures for recording incoming mail and documents were deficient. We were also concerned that the complainant had not been kept informed of progress in the investigation of the allegations, nor had he been easily able to identify who was responsible for handling his case. We felt that in order to address these matters, the TSC should improve its document handling procedures and processes. We also thought it should try to deal with these kinds of allegations as promptly as possible, particularly given their seriousness and their capacity to cause prejudice to either of the parties involved.

Case Study 6: Prolonged suspension and inadequate document management

A teacher transferred to another education authority because of personal and medical reasons relating to her sick child. Prior to her transfer her education officer was reluctant to let her go



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but did not tell her this. She was accepted by her new education authority and settled into her new school. After working for 11 months her pay was ceased. She was told by her new authority that it was because she had not been properly released by her previous authority. The teacher complained to us that her many attempts to have her previous authority release her had failed despite assurances that a release letter would be given to her and the MEHRD. We felt that it is important that both teachers and education authorities adhere to the procedures and processes set out in the Teachers Service Handbook (TSH) to avoid the problems the complainant faced. However we also felt it important that teachers have ready access to the TSH so that they can make themselves aware of all relevant requirements. It is difficult to attribute responsibility to a teacher for this kind of situation in circumstances where they are unable to find the necessary information to enable an efficient transfer process. We also thought that the previous authority had been unreasonable in not finalising a release letter to facilitate her transfer. This caused unnecessary and avoidable disruption to the teacher her family her new school and her new education authority. We felt that the previous education officer should have taken a pragmatic and reasonable approach and prepared a release letter as soon as practicable.

Teachers expressed a high level of dissatisfaction with, and had little confidence in, TSO human resources and payroll administration. As a result, their morale is low. Should this state of affairs continue, it may have seriously adverse effects on the quality of teaching services within Solomon Islands. Accordingly, it is important that the quality of administration be upgraded and improved as a priority. The following two case studies – **Case Study 7 and 8** are typical of the many hundreds of HR and payroll complaints we received.

Recommendation 7:

Regular monitoring and review of agency actions – especially decision-making – should occur to ensure they are consistent with agency legislation, policy and procedures. Where they are not, staff should be further trained where appropriate and practicable.

Recommendation 8

Senior leaders must make it part of an agency culture that professional and efficient record management practices underpin the administrative actions of the agency.

Recommendation 9



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To the extent practicable, agency staff must be trained and supported in good record management practices that accurately record information

ISSUE 4 “WEA NAO SELENI BLONG MI” – DEFICIENT HR AND PAYROLL SYSTEMS

As noted in my report’s introduction, a recurring feature of education-related complaints to my office was that they invariably involved concerns about payment and non-payment of salaries and allowances, delayed promotions and appointments, unexplained or unreasonable demotions and suspensions, and problems with probation and postings.

In the course of investigating complaints, authorities often told us that they could not take action on teachers’ complaints and queries about their concerns because personnel files had been misplaced, processing forms had been misfiled, and human resources staff had limited access to relevant handbooks and procedural guidance. Teachers also complained that TSO staff members were rarely available to discuss their concerns with them. Teachers claimed they often had to wait unattended for long times and when they eventually got to see staff, little if anything was done within the TSO to process outstanding paperwork or address outstanding issues.

Teachers expressed a high level of dissatisfaction with, and had little confidence in, TSO human resources and payroll administration. As a result, their morale is low. Should this state of affairs continue, it may have seriously adverse effects on the quality of teaching services within Solomon Islands. Accordingly, it is important that the quality of administration be upgraded and improved as a priority. The following two case studies – **Case Study 7 and 8** are typical of the many hundreds of HR and payroll complaints we received.

The sheer number of complains we received about human resources and payroll issues suggests there is a significant systemic inability within the education administration to properly administer, estimate and budget for teachers’ salaries. Apart from salaries issues, education authorities routinely were unable to maintain good standards of decision-making in relation to allowances, promotions, appointment, suspensions, terminations, probationary and postings processes

In drawing this conclusion I was mindful of Information Sheet #8, published by the Public Service Improvement Program (PSIP). The information sheet deals with complaints about slow public service recruitment procedures, which lead the PSIP to review recruitment and transfer processes that were introduced in 2006. The review variously found that the new appointments process introduced in 2006 had been widely taken up with good compliance with processes and forms, but that two ministries had not seen the new Recruitment Manual. There was less



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familiarity with the new procedures in the provinces. It also found that the new confirmations, acting appointments and promotions processes introduced in 2007 were likewise being widely taken up, but with lower levels of compliance.

Notwithstanding this progress, the review identified a number of weaknesses including lengthy delays, unfilled vacancies, backlogs in probation decision-making, an absence of performance appraisal, evaluation and monitoring systems, and the need for a stronger commitment to merits-based recruitment and selection

The review determined there were a number of causes for recurrent delays. Two notable factors were complexity and access to senior management. It noted that the current systems were expensive and time consuming. With regard to merits-based selection, it found that many ministry staff members were unfamiliar with the notion and not committed to it, there was some political interference in decision-making and resistance within ministries to centralized auditing and monitoring. The information sheet suggests that, as a corrective measure, ministries could use the newly introduced Aurion software system⁸ to better manage assessment and confirmation processes for probationers and to monitor and limit the length of acting appointments and the receipt of allowances. It also suggests small improvements to current HR systems so that useful management reports could be produced.

Case Study 7: Delay in Payment of Salary

In 2004 a teacher was appointed to teach at a particular school. A Personal Occurrence Report (POR) was completed to enable payment of the teacher's salary over the period 2004-05. However, the teacher complained to us that the Teaching Service Office (TSO) had done nothing on it by March 2007, despite the CEO having had advised the TSO by letter in March 2006 that the teacher's salary needed to be paid.

We received no reply to our inquiries and were unable to form a clear view of the situation. However, on the basis of the information we had before us, we felt that completed POR forms for the following year should be forwarded to the TSO by early enough each current year for the TSO to process the forms and arrange for payment on the first pay period in the new year.

⁸ The Aurion software package that has been installed by the Ministry of finance and Treasury to run the public service payroll system.



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Further, where it becomes apparent that an ongoing problem has led to lengthy delays in the payment of salaries, the TSO should prioritize the cases for prompt action and formulate a strategy or for dealing with the causes of the delay(s)

Case Study 8: Uncertainty in Payment of Travel Allowance

A teacher employed by an education authority from a distant province claimed that the travelling allowance given to him and his family in 2008 was inadequate to meet the costs of his travel home which involved fares for both a sea passage and motor vehicle hire. The teacher had had to borrow money from relatives at home to pay for his travel expenses back to his school. He submitted receipts for the travel costs but these had not been refunded by the relevant authority.

We understand that funds for travelling allowances are budgeted for by the MEHRD and allocated to relevant authorities. It was not clear why there were insufficient funds to pay the teachers' travel allowances. We also noted that the Teachers Service Handbook (TSH) does not contain a clear guidance on whether the usual amount given to teachers on annual leave (SBD\$1000) is intended to cover the costs of boat and vehicle transport or is separate to travel costs.

We felt that MEHRD should review the TSH and clarify whether travelling allowances should cover the actual cost of transport home and back. In an absence of any response from the MEHRD we felt the MEHRD should expedite payment of the travel allowance to cover the complainant's reasonable travel costs

I endorse the review and the remedial recommendations it has suggested. In my view, education authorities must prioritize the implementation of corrective measures to address the deficiencies in payroll systems and human resources management. A failure to do so is likely to continue to limit the effectiveness and efficiency of teaching administration in the future, leading to ongoing distraction and confusion for teaches and, possibly, a reduction in the quality of the teaching that Solomon Islanders' deserve. I make the following recommendations.

Recommendation 10:

Senior education leadership should demonstrate commitment to ongoing improvement and compliance with merits-based procedures, and undertake the regular review and oversight of



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Recommendation 11:

Education authorities should try to simplify processes where appropriate and applicable, and provide further training, guidance and support for staff.

PART 2.2 THEMATIC ISSUES IN SPECIFIC ACTIONS OR DECISIONS

Part 2.1 of my report covers problems with education administration that arise out of defective or flawed processes, systems or agency cultural values. In discussing these problems I have noted that lengthy delays were a common consequence. In this part of my report, I discuss how specific actions and decisions that are flawed or erroneous can be so widespread that they illustrate a thematic problem that should be rectified.

ISSUE 5 “BAE IU KAM BAK TOMORO” - UNFAIR AND UNREASONABLE DELAY

Case Study 9: Prolonged probation

A qualified primary teacher complained to us in 2009 that she was still under probation and her position had not been confirmed, despite her having been assessed in 2006. She complained that others who were assessed at the same time had already had their positions confirmed. She claimed that she had followed up with her responsible education officer on numerous occasions, but that her concerns appeared to “...have fallen on deaf ears”.

After assessing her complaint, we considered that she had a valid concern about the lengthy delay in actioning her confirmation. We wrote a letter to the responsible education officer in May 2009, but as at March 2010, had not received a response. We formed the view that a teacher who has been assessed should have his or her status confirmed, preferably within 12 months and no later than within 18 months. Our view was premised on our understanding of Chapter 8(2)(i) of the Teachers Service Handbook, which provides that “Probationers should be inspected during their first year of teaching. If inspection does not occur within the first year, the Education Authority should assess the teacher and make recommendation for confirmation within six months of the second year.” In our view, this requirement should always be promptly and consistently applied by relevant authorities.



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Case study 9 was one of a large number of like complaints and is a clear illustration of unreasonable delay showing a systemic failure of education authorities to demonstrate good standards of administrative action by failing to promptly deal with their responsibilities. It is reasonable that once teachers have been assessed as suitable, their positions should be confirmed and salary levels upgraded promptly. Were Chapter 8(2)(i) of the TSH being applied this way, my office would see a rapid and marked reduction in complaints. However, ongoing delays in processing probationers on the part of authorities mean it remains a recurring issue.

We understand that Provincial Inspectors (seconded officers within provincial education authorities) conduct inspections and prepare inspection reports. The Inspectorate Division in the MEHRD then processes the reports, sending them to the TSC. We accept that the inspections process can be made difficult by Solomon Islands' geography, lack of transport infrastructure and communication options outside of Honiara. We also accept that it can often take a long time and much effort for correspondence to pass between provincial centers and Chief Education Officers, and that in many cases it involve expensive and lengthy travel in small boats as well as prolonged staff absences from the office.

However, while delay can sometimes occur for reasons outside the control of an administrative official and is sometimes unavoidable, potential delays can be minimised by agencies applying proper procedures in a timely manner, engaging in good planning, and regularly monitoring the processes. In case study 9 above, we thought that the delay in dealing with the teacher's case was unreasonable and unwarranted. The teacher had followed her concerns and the lack of responsive action by the responsible officer was unjustified. At a systemic level, we thought that the potential for delays was compounded by a lack of management oversight.

Recommendation 12

Senior education leadership should undertake strong oversight and monitoring role to facilitate prompt follow-up and remedial action as a way of preventing unnecessary and avoidable delay.

ISSUE 6 "HEMI NO FAIR NOMOA" - UNFAIR OR UNREASONABLE DECISION-MAKING

While undue delay can be sometimes be unavoidable, and attributed to matters beyond the control of administrators, more often than not it can be reduced or prevented by closer attention to timeframes, conscientious decisions to tackle 'hard cases' and regular monitoring of progress. On the other hand, unfair or unreasonable decision-making can be more easily avoided – it is rarely caused by factors outside the control, reach or capacity of an agency.



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Many complaints to my office appeared at first instance to involve agency officials failing to act fairly or reasonably. A fair and reasonable decision is one that does not exceed the authority under which it is made, and where the decision-maker has had careful regard to relevant facts and circumstances. The following case study illustrates the negative impact of unfair or unreasonable decision-making.

In this case we felt that the teacher was subjected to a very harsh punishment because staff within the education authority had not properly applied the relevant policy. We also felt that the policy was deficient and could have been more detailed in relation to the circumstances when a period of absence by a teacher justified the complete cessation of salary, rather than withholding a portion of a teacher's salary.

Case Study 10: Wrongful Cessation of Salary

A teacher had his salary completely ceased by his education authority in November 2007 on the basis of a report alleging that he had been absent from his post and not performing his duties. The teacher had contacted the Chief Education Officer (CEO) of the authority to raise his concerns and explain that he had been absent only for a few days and that this did not justify the complete cessation of his salary. He complained to my office that nothing had been done since he had approached the CEO. We contacted the authority but received no response.

In the absence of any reply from the authority my office had regard to Chapter 11.4.4 of the Teachers Service Handbook (TSHB), which states:

“The Authority will act on the Absence report, including withholding salary for the days absent.”

We accepted that this required the authority to take action on an absence report, and enabled the authority to sanction an absentee teacher by withholding some of their salary. However, we did not consider that it authorised the complete cessation of a teacher's salary beyond the days for which the teacher was absent.

We thought that, when making a decision on an absence report, authority officials need to act consistently with their powers. Accordingly, in this case, on receipt of an absence report the authority should have carefully read and considered its contents before taking action. If the



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authority felt that the reasons for the absence were genuine and understandable, there might be a case for not withholding the teacher's salary for the days absent. However, if the reasons for the absence were considered to not be genuine, then salary should be deducted only for those days the teacher was absent. In a case where an authority considers that different disciplinary action would be appropriate, such as termination, the authority should notify the teacher and give them an opportunity to comment before taking that action. We felt that, on the basis of the information before us, it was unreasonable for the authority to have completely ceased the teacher's salary. As such, we concluded that the decision was not a measured, fair or reasonable exercise of power.

To prevent similar situations from arising in the future, teaching authorities should ensure their staff are properly trained so that they can understand relevant policies and procedures and their implement them. Furthermore, relevant policies and procedures themselves must be both sufficiently clear and detailed so that staff can readily understand them and apply them.

The making of a harsh or unreasonable decision is not always evidence of a systemic problem within administration – it could be a single isolated example of a miscarriage of power. However, in this case my office considered that there was a systemic aspect to the problem in that the decision was reached probably because the staff of the education authority lacked both the knowledge and ability to properly interpret and apply the relevant policy guidelines. Case studies 11 and 12 below are further examples of unreasonable decision-making. In case study 11, we felt that the problem could have been avoided by better communications and reporting arrangements between the MEHRD and education authorities. There was also an issue as to the adequacy of the Teachers Service Handbook, in that we could not locate any section in it that deals with demotion. This became important. As far as we could determine,

Case Study 11: Unreasonable demotion for inappropriate or irrelevant reasons

A teacher had been promoted to Level 7 in May 2003 and had held the Deputy Principal's post up to September 2007 when he was demoted, without explanation, to Level 5. The teacher approached his relevant Chief Education Officer about his situation and was advised that the reason for his demotion was that the school is only funded for three Level 7 teachers and one Level 8 teacher. On the other hand, we were told by the teacher that each year school enrolments are increasing, and that because of this there was no need for a reduction in the staffing establishment levels in this particular case. We wrote to the authority seeking clarification on why the teacher had been demoted, but did not receive a reply. After considering the complaint and the advice given to the complainant, we considered that the teacher had not been fairly treated. In our view, the reasons for the demotion did not seem to



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correspond with the facts of the matter. We were concerned that the advice that the school was funded for Levels 7 and 8 teachers did not properly explain why the teacher was demoted from Level 7 to Level 5. We also thought that the number of enrolments was not a valid reason for demoting a teacher and that consideration should have been given to posting him at the same level to another school.

Appendix B.1 of the TSHBK which deals with student number and the basis for establishment lists is silent on demotion. That is, we could find no policy basis underpinning the decision to demote the teacher because of issues with enrolments and establishment levels.

Case study 12 also highlighted the need for authority officials to act fairly and reasonably when making decisions that can adversely affect a person. While case study 11 dealt with the need for decision-makers to ensure their actions are authorised by legislation or policy, case study 12 emphasises another aspect of fair and reasonable decision-making – namely that a decision-maker must have regard to relevant facts rather than irrelevant factors that might distract or mislead, resulting in an erroneous exercise of power.

In this regard, chapter 4.7 of the TSHBK deals with termination of employment. Paragraph 4.7.1 provides that an education authority can terminate the employment of a teacher on 5 grounds, including: expiry of contract; breach of contract; underperformance; wilful disregard of terms and conditions; or misconduct. It does not provide for termination of a contract for reasons of enrolment and establishment levels.

Case Study 12: Unfair decision not explained or justified

A teacher had been teaching at a particular primary school since 1998. He had signed a three-year contract in January 2007 which was due to expire in December 2009. However his contract was terminated in June 2009 and he was replaced by a teacher who had been seconded from a nearby high school. The teacher contacted the Senior Education Officer of the relevant provincial authority and was advised that his contract had been terminated due to low enrolments that year.

We received no reply to our inquiries and were unable to form a clear opinion on this matter. However it seemed to us that the complainant had been unfairly treated. In our view the number of school enrolments was not something in the relevant contract of employment that permitted termination.

We understood that usually a teacher and an education authority can terminate a contract of employment by the giving of three months notice. We had no evidence that the teaching authority had given any notice to the teacher prior to terminating his contract. Further the low level of enrolments did



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not appear to us to be a valid reason for terminating the contract because the teaching position was later filled by another person. In these circumstances we felt that the relevant authority should have waited until the teacher's contract had expired and then considered its position. If the authority then wanted to recruit another teacher it could have done so. One aspect of this case was that it appeared that the complainant had considerable experience teaching but had not yet obtained any formal teaching qualification. We thought that this was a factor that should have been addressed. For example the relevant authority could have recommended that the complainant go to the Solomon Islands College of Higher Education ("SICHE") to obtain formal qualifications.

In this regard, chapter 4.7 of the TSHBK deals with termination of employment. Paragraph 4.7.1 provides that an education authority can terminate the employment of a teacher on 5 grounds, including: expiry of contract; breach of contract; underperformance; wilful disregard of terms and conditions; or misconduct. It does not provide for termination of a contract for reasons of enrolment and establishment levels.

Recommendation 13

Senior education leadership should, to the extent that budget funding permits, facilitate staff training in principles of good administrative decision-making, with a particular focus on the application of policy and guidelines when making administrative decisions .

ISSUE 7 "MI NO SAVE TING TING BLO' IU" – FAILURE TO PROVIDE REASONS

A further aspect of fair and reasonable decision-making, as well as of adequate and appropriate communications, is that decision-makers and public officials should always try to explain to people the basis or reasons for their actions. Case study 13 below, illustrates the importance of this principle.

Case study 13: Unfair decision not explained or justified

A teacher was continuing to teach in a secondary school up to July 2008 before learning that his salary had been ceased from December 2007 by the Teaching Service Office on the basis of a verbal directive from the Senior Education Officer (SEO). The reason for the cessation of salary was that he had been absent from duty for one week. The teacher complained that he had only been absent for that week because he had been invigilating a Form V examination and had been authorised by the SEO. The teacher advised this Office that he and his school principal had been



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to see the TSO seeking to have the cessation revoked and his salary reinstated. However, nothing was done. His complaint to this Office was that it was unfair for his salary to be ceased when his absence was authorised.

We received no reply to our inquiries and were unable to determine how the problem arose. Despite this, we felt that, to avoid inconvenience and errors, the TSO should not lightly act on verbal directives from SEO's. We further considered that any cessation or withholding of salaries should only be done by TSO where a request has been submitted in writing by the Chief Education Officer.

In this case we did not receive an explanation or reasons for the action taken against the teacher. We could only conclude that the decision appeared to be harsh, unfair and unreasonable, and did not meet accepted standards of good administrative decision-making.

As noted under *Issue 1 – “One Way Traffic”* earlier in this report, prompt responses to my office give authorities an opportunity to comment upon the allegations set out in a complaint. An authority may reject the allegations and defend their actions as correct and preferable by explaining the basis for the actions taken. It is generally accepted that a good administrative decision will be based on evidence that is capable of supporting the decision made. Equally importantly, it should be supported by written reasons that outline the matters relied upon by the decision-maker to reach that decision. A decision-maker who follows a verbal directive will often find it difficult to follow these principles. Decisions of this kind rarely satisfy accepted principles of records management with the result that they can easily appear unjustifiable or wrongly made. To prevent similar recurrences, education decision-makers should endeavour to provide reasons for their decision to the affected person. This will enable him or her to more readily understand why the decision was taken, and if aggrieved by it, to put their concerns to the decision-maker or to consider any other available review and appeal options. We seldom observed natural justice being provided, and teachers being given an opportunity to comment before adverse action was taken or prejudicial decisions made.

This is particularly important. Chapter 11.5.1 of the TSHBK sets out a complaint handling procedure and provides that any teacher can complain in writing to his or her education authority if the teacher thinks he or she has been unfairly treated. A failure to provide reasons can render an appeal and review process pointless if the person affected by the decision does not know why it was made. We felt that this was one reason that teachers were unable to successfully pursue their concerns with their education authorities – they were unaware of the reasons for the decision and were thus, unable to clarify the situation.



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Recommendation 14

Whenever possible and practicable, education officials should, as a matter of good administrative practice, provide reasons for their actions and decisions to those adversely affected.

PART 3 CONCLUSIONS AND RECOMMENDATIONS

Our investigation of education-related complaints suggests that education authorities, like all public authorities, encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that need to be addressed. Administrative perfection is an aspiration, but not a realistic practical goal and while some problems cannot be avoided, many can be prevented by strong leadership and good management.

Education authorities, like other public agencies, can take positive steps to reform and improve. Senior leadership should not wait for problems to arise, but be proactive in reviewing and monitoring organisational and staff performance. They must also be willing to listen to complaints and allegations. While these may contain unwelcome messages or painful truths, they also provide opportunities review and change. Senior leadership must not be reluctant to turn a critical eye upon their agencies' performance, and must demonstrate a corresponding willingness to take appropriate corrective action as necessary. Importantly, senior leadership and management should have regard to the administrative problems within their agencies (and other agencies wherever possible) and try to learn from their experiences.

It is only with honest and critical self-appraisal, a willingness to consider complaints and external reports, ongoing quality assurance monitoring and review, a demonstrated commitment to ongoing improvement and a readiness to implement remedial recommendations or corrective measures, will public administration become more effective and efficient, and enhance the lives of the people of Solomon Islands.

A summary list of my recommendations is set out below, for consideration by relevant education officials.

Recommendation 1:

Education authorities and officials should respond in a prompt and timely manner to Ombudsman investigative inquiries.



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Recommendation 2:

Senior education leadership should support the Ombudsman Focal Point initiative as a way of ensuring prompt and timely replies to Ombudsman investigative inquiries.

Recommendation 3:

Senior education leadership should, whenever and wherever possible, give serious consideration to the implementation of formal Ombudsman recommendations.

Recommendation 4:

Senior education leadership should ensure that effective communications are a key agency priority and are supported by suitable policies and procedures.

Recommendation 5:

Key initiatives, programs, policies and procedures must be communicated clearly and promptly to staff, including the provision of training where appropriate and practicable.

Recommendation 6:

Regular monitoring and review of agency actions – especially decision-making – should occur to ensure they are consistent with agency legislation, policy and procedures. Where they are not, staff should be further trained where appropriate and practicable.

Recommendation 7:

Senior leadership must make it part of an agency culture that professional and efficient record management practices underpin the administrative actions of the agency.

Recommendation 8:

To the extent practicable, agency staff must be trained and supported in good record management practices that accurately record information.

Recommendation 9:

Senior education leadership should demonstrate commitment to ongoing improvement and compliance with merits based procedures, and undertake the regular review and oversight of HR and payroll administration.

Recommendation 10:

Education authorities should try to simplify processes where appropriate and applicable, and provide further training, guidance and support for staff.



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Recommendation 11:

Senior education leadership should undertake strong oversight and monitoring role to facilitate prompt follow-up and remedial action as a way of preventing unnecessary and avoidable delay.

Recommendation 12:

Senior education leadership should, to the extent that budget funding permits, facilitate staff training in principles of good administrative decision-making, with a particular focus on the application of policy and guidelines when making administrative decisions .

Recommendation 13:

Whenever possible and practicable, education officials should, as a matter of good administrative practice, provide reasons for their actions and decisions to those adversely affected.

PART 4 NATURAL JUSTICE COMMENTS AND AGENCY RESPONSES

(i) Letter to Agencies – Natural Justice Comments.

For Natural Justice Comments, I had to give copies of my Report to Agencies which were subject to the survey. I sent letters to respective Provincial Education Authorities with requests for comments from them.

- Letter to Chief Education Officer /Renbel – Handed safe hand to Mr. Adrian Tuhanuku [Provincial Secretary/Renbem (Ag)] on 09/08/11.
- Letter to Chief Education Officer /Makira – Handed safe hand to Mr. Henry Rata [Provincial Chief Education Officer/Makira in August 2011.
- Letters to the other eight Provincial Chief Education Officers; Central, Choiseul, Guadalcanal, Honiara, Isabel, Malaita, Temotu and Western were posted through the Express mail system of the Post Office in August 2011.

(ii) Agency Responses

Thirty days was given for the Agencies to respond. However, despite that time frame, none of the Provincial Chief Education Officers responded.



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PART 5: OMBUDSMAN'S CONCLUSION

I am very disappointed to note that the Provincial Education Chief Education Officers did not bother to respond to my letters. I posted the letter to all Provincial Education Directors through the Express mail system of the Post Office, except for Makira and Renbel which were handed to the Provincial Chief Education Officer, Mr. Henry Rata and Provincial Secretary, Mr. Tuhanku. After the expiry of the thirty days notice to respond and up until the time of production of this Report, not a single response was received from the Provincial Education Authorities.

PART 6: CERTIFICATION

This is to certify that this Investigation Report No: 02 of 2010 under cover of Special Report No: 05 of 2011 this is the Final Report on investigation into Systemic Issues arising in Education related complaints registered with my office.

Joe Poraiwai, Esq
Ombudsman of Solomon Islands.

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- **Annex. B** Letter to Chief Education Officer (Choiseul)
- **Annex. C** Letter to Chief Education Officer (Guadalcanal)
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APPENDIX. "1" (A)

**Pacific Architects Ltd v Commissioner of Lands [1997] SBHC 10; HC-CC 175 of 1995
(14 March 1997)**

Solomon Islands - Pacific Architects Ltd v Commissioner of Lands - Pacific Law
Materials

HIGH COURT OF THE SOLOMON ISLANDS

Civil Case No. 175 of 1995

PACIFIC ARCHITECTS LTD

v

COMMISSIONER OF LANDS

Before: Lungole-Awich, J

Hearing: Wednesday 26th February 1997 - Judgment: Friday 14th March 1997

Counsel: A Radclyffe for the Plaintiff - P Afeau for the Defendant

JUDGMENT

LUNGOLE-AWICH, J:

In January 1993, the plaintiff, Pacific Architects Limited, a company registered in Solomon Islands conceived a business plan to acquire land in Honiara and develop it by building residential houses. It was mindful to action its plan in legitimate and correct way. It enquired from the Commissioner of Lands about what would be required of it to obtain land. Acting upon



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the advice of the Commissioner the plaintiff obtained the necessary recommendation of the Ministry of Housing and Government Services. It applied to the Commissioner for allocation to it, of land parcel No 191-008 at Ngosi Honiara. With its application, the plaintiff forwarded the recommendation of the Ministry of Housing and Government Services and its own development proposal. The application was not successful, but the plaintiff was advised that it could appeal to the Minister responsible for land. It did and got the backing of the Minister who wrote a letter, exhibit A, to Land Tender Board. On 25.4.1994 the Commissioner, through its alter ego, wrote to the plaintiff, a letter, exhibit B, informing it that the Land Tender Board, in its meeting on the 25.4.1994 - 6.4.1994 (sic) had reconsidered the plaintiff's application and approved it. I set out the letter in full here:

"Exhibit B"

*Ministry of Lands and Housing
P O Box G38
Honiara
Solomon Islands
Your Ref.: Our Ref.: LAP5/H
Date: 25.4.94*

*The Manager
Pacific Architects Limited
P O Box 421
Honiara*

Dear Sir

LAND ALLOCATION PACIFIC ARCHITECT LIMITED - NGOSSI RIDGE

I am pleased to inform you that the Land Tender Board in its sitting on the 25/4/94 - 6/4/94 has re-considered your application and has approved your application for the site applied for at Ngossi as recommended by the Physical Planning Division.

The Board further suggested that the Houses built on the site will not be owned by the company but are to be sold.

*Please call in this office to sign an I To S Form.
Formal offer will be given upon completion of survey work and registration of subdivision.
Yours faithfully;
(Signed) N. Maelanga for: Commissioner of Lands
Ministry of Lands and Housing*



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The plaintiff signed the necessary form requesting survey of the land and drew up its business plans.

Later the plaintiff received a letter dated 2.3.1995, written for the Commissioner of Lands to the Manager of the Central Bank of Solomon Islands, and copied to the plaintiff. The letter informed the manager that the Minister had made direct allocation to several other applicants and the Commissioner decided to suspend allocation of the land. The plaintiff lodged complaint to the Ombudsman, and Ombudsman upheld his complaint. Despite that, the Commissioner has now decided to offer the land to the public on tender.

It is now known that the three to whom allocation has subsequently been made of the same parcel 191-008 are, the Central Bank of Solomon Islands, K.P.F Agency represented by a Mr. Sethuel Kelly and Fletcher Kwaimani, a business entity. Learned Honourable Attorney General, P. Afeau who represented the Commissioner of Lands informed the court that the last named was no longer interested in the land. Application letter or any other document of application by the Central Bank was not included in the case papers. K P E's application was by a letter dated 9.2.1994, exhibit C signed by Mr. Sethuel Kelly, but not addressed to anybody, although it was replied by Francis Orodani, Minister for Lands and Housing, on 21.2.1994, just 12 days after.

Submissions

Learned counsel Mr. Radclyffe for the plaintiff submitted that the plaintiff has "some right" that entitles it to allocation now. His reason was that the plaintiff has already acted on the letter of offer, by signing a form requesting survey and has drawn up some plans, it would be unfair not to proceed with allocation to the plaintiff. But Mr. Radclyffe told court that the plaintiff's claim was not grounded in contract. Counsel did not identify any principle of law upon which the claim is to be upheld and a declaration made in favour of the plaintiff, and did not refer to any statutory provision to back the claim. That sort of submission leaves court unassisted.

Honourable Attorney General seized the opportunity to point out that for a declaration of right to be made by court, a claim must be successful, and for a claim to succeed, the head of law in which the claim is grounded must be set out.

Decision

I totally agree with the Attorney General and I need not explain that further. For a moment I thought about a claim in contract although counsel for plaintiff told court that the plaintiff did not rely on contract. I considered whether the letter dated 25.4.1994, Exhibit B, written on behalf of the Commissioner could amount to firm offer leading to a contract, and which could be



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withdrawn only at the Commissioner's own peril. I concluded that there was no firm offer. The land had not been sufficiently identified, it was still to be surveyed, consideration or price had not been decided upon and requested from the plaintiff, and other terms that are usually imposed by the Commissioner had not been mentioned. A comparable case is *Storer -v- Manchester City Council* [1974] 1 WLR 1403. In that English case, a new city council refused to proceed with the sale of a dwelling and premises to a sitting tenant, the plaintiff. The sale had been arranged by the previous council. The plaintiff had signed the form sent to him by the council and only the date when lease would be regarded as having ceased and mortgage payments would commence was left open on the form. Court decided that intention to bind was there, filling in the date was a mere administrative formality; a firm offer was there. That decision was confirmed on appeal. In this case many details were lacking. A firm offer in the law of contract is an expression to another of terms upon which one is willing and intends to enter contract with another, as soon as the other accepts the expression. It is an expression of willingness with the intention to enter contract. If some further act of the one offering is still to come or necessary the offer is not yet firm and cannot lead to a contract. Academics have recently advanced the definition of an offer as an act whereby one person confers upon another the power to create contractual relations between them. See *Cases and Materials on Contract* Third Edition at pages 24-25, by R.E. McGarvie, C.L. Panman and P.J. Hooker. I do not think it is a useful definition because it does not make the meaning any clearer especially to ordinary people who come to court.

I also considered a claim by writ of certiorari, grounded in claim in Administrative Law. I decided it would be unfair to consider such a ground which was never raised by plaintiff's counsel so that the Attorney General would have considered it, and the matter fully addressed in court. Often attorneys general are not litigious. When sufficient notice is given, and the law upon which the claim is based is adequately identified, attorneys general consider settlement. In this case it would be unfair to include in the judgment a head of legal point such as opportunity to be heard when authorities considered allocation to the three subsequent applicants, because the defendant was not made aware of that ground. In any case, it was up to counsel for the plaintiff to raise that ground.

In the end I must dismiss the plaintiff's claim because counsel did not show that the claim is grounded in any principle of law or on statute. In the circumstances of the facts I shall excuse the plaintiff from paying costs to the defendant.

Comments

The circumstances which have led me to deny to Attorney General costs despite him having successfully defended the claim, requires comment. The plaintiff has shown here that it is a business that believes in doing its business legally and above board. It applied for land, following requirements and advices. In the end its application was successful. Then a surprise cancellation



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came. The circumstances of the cancellation are suspicious. Still the plaintiff pursued proper and legal procedure to raise its complaint which eventually was upheld by the Ombudsman. Despite all that the Commissioner of Lands does not take heed. What else which is not corruption is the plaintiff to do?

The success of the plaintiff's application, being only so far to the point that the Land Tender Board accepted his application, has not reached the stage where a claim in court can be successful. The Commissioner's refusal to accept the recommendation of the Ombudsman tends to encourage two destructive things. First it tends to encourage a belief on the part of upright business people that graft, that is, corruption works better. That may lead to perpetuating that vice. Secondly it establishes example that authority of the Ombudsman, a constitutional institution, can always be ignored with impunity. What is now left, it seems, is for the Ombudsman to report to parliament in terms of section 16 of the **Ombudsman (Further Provisions) Act, 1980**. I think that public servants in particular, have a duty not to undermine authority of governmental institutions and departments. Recommendations of the Ombudsman made under Section 16 is a serious matter which should be acted upon unless there is exceptionally good reason not to such as legal advice from the Attorney General that the Ombudsman's interpretation of the law on the subject matter is erroneous. Even so, the Ombudsman must be afforded the courtesy of Prompt reply and clear explanation

Dated this 14th day of March 1997

At the High Court, Honiara

APPENDIX. "1" (B)

Maesimae v Trade Disputes Panel [1998] SBHC 51; HC-CC 281 of 1997 (27 March 1998)

HIGH COURT OF SOLOMON ISLANDS

Civil Case No. 281 of 1997

MARK MAESIMAE

v

TRADE DISPUTE PANEL

High Court of Solomon Islands
Before: Lungole-Awich, J



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

Civil Case No. 281 of 1997

Hearing: 17th March 1998

Judgment: 27th March 1998

Counsel: S. Manetoali for the Applicant

JUDGMENT

(LUNGOLE-AWICH, J): Application for Mandamus: The facts in this case, Mark Maesimae and Trade Dispute Panel (the Panel), are very similar to those in another, George Kuper and the Trade Dispute Panel (HC-CC257/97). In both the applicants alleged that the respondent, Trade Dispute Panel, failed to deliver its decision in trade dispute case referred to it. In this case, the applicant, Mark Maesimae, claimed that he was unfairly dismissed by his employer, Sylvania Products Limited. He instructed a solicitor who had his case referred to the Panel to inquire into and make award or dismiss as the Panel would deem the results of its inquiry would warrant. The Panel heard the case on 11.12.1996, and reserved its decision to 18.12.1996. That was the start of a long and torturous effort to get the Panel to pronounce its decision, but up to the date of hearing this application, 17.3.1998, last week, the Panel had not pronounced its decision.

The Facts

Mr. Maesimae seemed to have been convinced that he would never get the Panel to pronounce its decision unless some other authority took up the matter; he made complaint to the Ombudsman who took up the complaint. The Ombudsman wrote more than 4 letters to the chairperson of the Panel, the earliest seemed to have been on 16.12.1996 and the latest on 22.10.1997. Regrettably, the well meant effort of the Ombudsman, did not produce any result, in fact the Panel did not even respond to the letters of the Ombudsman; that defies the most elementary rule of courtesy expected in the Public Service. Mr. Maesimae has now come to court seeking order for mandamus to issue. He applied for leave before Palmer J. on 13.11.97 and was granted. This application was then heard last week on 17.3.1998.

The Law

I would like to mention here that there should be no illusion that the panel is a court or that the chairman is a judicial officer. That has been decided long ago by the High Court in the case of *Peter Waetoli v Public Service Commission* 1988/89 SILR 25. Section 2 (7) of the Trade Dispute Act, No 3 of 1981, provides that the office of the chairman is a public office. In my view, the Panel itself is in the nature of a “public agency”, the term used in section 97(3) of the Constitution. The Panel’s decision is quasi judicial, but its non-action is administrative and in my



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view, the Ombudsman can inquire into the latter, but not the former.

I have already said in the case of Kuper, which judgment in I have just read, that there must be public duty which has not been carried out, for the court to consider ordering mandamus. In this case there is such a duty required of the Panel under section 6 of the Trade Dispute Act. Mr. Maesimae has filed affidavit stating failure of the Panel to carry out its duties. The Panel has not responded. There are affidavits of service which in my view confirm that case papers have been served on the Panel. If there is any suggestion of defect in service, the court condones the defects because from the case file, there is no doubt that the chairperson was made aware of this case and of the hearing date. The court must accept the facts as stated in the affidavit of Mr. Maesimae as the facts of the case. The Trade Dispute Panel has failed to carry out its public duty under section 6 of the Trade Dispute Act.

Mandamus Granted

For the above reasons, the court orders that order of mandamus issue, compelling Trade Dispute Panel to pronounce its decision in the trade dispute case of Mark Maesimae and Silvania Products Limited heard on 4th and 11th of December 1996, within 21 days of today's date. If the Panel fails, the chairperson will be required to attend court to answer personally, charge of contempt for which she may be personally penalised. She is the officer charged with the responsibility to convene the Panel and must bear responsibility. Costs of the application is awarded to Mr. Maesimae against the Panel. It is a pity that at this stage, the court should order costs paid by the Panel in a matter which has arisen because of neglect of duty by a public officer.

Delivered and Dated this 27th day of March 1998

Sam Lungole-Awich
JUDGE

APPENDIX. "2"- EDUCATION SYSTEMIC ISSUES

In the course of investigation into complaints, The Ombudsman through the investigation Unit has indicated that there are some systemic issues that have emerged from the Office's current workload.

To date, no specific action appears to have been taken on these issues beyond their identification, preliminary analysis and reporting. For example, Sections 4.1-4.3 and Chapter 8 of Special Report No. 1 of 2008 note that there are 3 major themes to education complaints:



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- Salaries cessation, underpayments, mis-payments and non-payment;
- Allowances relating to housing, travel and boarding schools;
- Probation decision-making.

Within these a number of themes have been identified including:

- Financial mismanagement;
- Lack of good records and file management;
- Lack of coordination due to devolved responsibilities;
- Deficient communications; and
- Inadequate decision-making.

There is scope for further effort in this area. The Ombudsman has indicated a preparedness to consider publishing a number of small and tightly focused reports on these matters of this kind. As these derive mostly from complaints received by the office, they should not be Own Motion reports, but rather relatively short complaints reports as provided for under s15(2) at first instance to the officer of the department or authority concerned and to the Prime Minister and to any relevant Minister. Depending on the response from those concerned, the Ombudsman might then report to Parliament under s 15(5) as he sees fit or appropriate.

Education complaints represent the single largest grouping of complaints to the OOSI. The nature of the complaints is such that it appears that a significant proportion could be usefully referred to the Auditor-General for action at first instance. Looking at the 3 thematic aspects above, complaints about salary payment issues appear to be more the province of the Auditor-General

Salary complaints mostly relate to the cessation of salaries, under payment or non-payment, which seems to reflect problems that go to financial management and accountability. The Aud-G appears best placed to comment on such matters, as the OOSI lacks the particular skills, expertise and resources to deal with accounting problems and financial transactions. There may be scope for some OOSI involvement in salary cessation complaints in relation to any purely administrative decision-making or processing. Non-payment of allowances also appears to be of a similar nature. Probationary decision-making appears to be more administrative than financial in character, and would remain a matter for the OOSI.

If the above analysis is correct, there is scope for the OOSI to enter into an arrangement with the Auditor-General whereby complaints that involve what appears to be financial misadministration will be referred to the Auditor-General for action at first instance. Matters involving



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administrative decision-making, such as decisions on probation, would be retained by the OOSI and dealt with in accordance with its usual practices.

Any referral arrangement between the Auditor-General and the OOSI could be the subject of a MOU. The MOU would be an objective and reportable outcome for the purposes of enhanced institutional liaison, a key business objective. It would demonstrate that the OOSI had formalized a relationship with a fellow accountability body. Any MOU might also provide the OOSI with an opportunity to engage with either or both the Department of Education or the PS Department.

To this end, it is proposed that the OOSI and the Auditor-General meet to discuss the issue. Before doing so, some more detailed analysis of the education caseload needs to be done, with issues refined and clarified.

Task List

1. Discuss with Ombudsman.
2. Compile list of complaints and collate all files.
3. Separate files into thematic groups.
4. Analyse thematic groups and confirm nature of complaint issues.
5. Prepare briefing paper for meeting with Auditor-General
6. Arrange meeting with Auditor-General

Auditor-General referred matters	OOSI retained matters
Salary payments and transactions- eg: incorrect payment (including non-payment)	Salary cessation decisions
Allowance payments and transactions	Allowance decisions
	Probation decisions

APPENDIX. 3 - Standard section 10 Letter issued to Authorities to be investigated

SOLOMON ISLANDS GOVERNMENT

OMBUDSMAN

OFFICE OF THE OMBUDSMAN

OF SOLOMON ISLANDS



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

PO Box 535	Tel: (677) 28625
Honiara	Fax: (677) 28626
Solomon Islands	
Email: j_poraka@yahoo.com.au	Email: ombudsman@solomon.com.sb

Our ref:

Your ref:

To: Whom it may Concern

Dear Sir

NOTIFICATION OF INTENTION TO CONDUCT AN OWN MOTION INVESTIGATION INTO THE PROVISION OF MUNICIPAL SERVICES AND UTILITIES WITHIN HONIARA CITY

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* ('the Ombudsman Act') to notify you of my intention to conduct an investigation, on my own motion, into the provision of municipal services and utilities to residents of Honiara.

Under section 5(1)(c) of the Ombudsman Act, I am able to investigate any action taken by any officer or authority in the exercise of the administrative functions of that officer or authority in any case in which I consider it desirable to do so of my own motion.

One of the functions of my office, as provided for by section 97(1)(b) of the Constitution of Solomon Islands, is to assist in the improvement of the practices and procedures of public bodies. My intention in conducting this own motion investigation is to examine and review the provision of municipal services and utilities to Honiara residents with a view to making remedial recommendations - where necessary - to improve relevant processes and practices. I hope that my investigation will result in recommendations that, if implemented, will have practical value for your organisation, and that their implementation will lead to improvements in service delivery to the benefit of Honiara residents.

At this stage, my investigation will involve an analysis of complaints to my office about organisations that provide services and utilities to Honiara residents, along with a survey of customers and clients of various service providers. Together, these will provide my office with an understanding of the concerns and problems experienced by Honiara residents.



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In accordance with sections 10 and 16 of the Ombudsman Act, I will provide you with a draft of my investigation report for your consideration and comment before I finalise my report. I thank you in advance for your understanding and cooperation.

Should you or a representative from your organisation wish to meet or discuss the above matters, please do not hesitate to contact me at my office to arrange a suitable time.

Yours faithfully

Joe Poraiwai
Ombudsman

APPENDIX 4

SECTION 9 LETTERS ISSUED TO PROVINCIAL EDUCATION AUTHORITIES

Annexure A to J are copies of letters issued to Provincial Education Authorities which were not responded to.

ANNEX. "A" – Letter to Chief Education Officer (Central)

Our ref: CN: 259/12/09

Date: 17th August 2011



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

Your ref:

The Chief Education Officer/Central,
Education Division,
Tulagi,
Central Province.

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

- (i) Agency non-responsiveness
- (ii) Ineffective communications
- (iii) Inadequate Records Management
- (iv) Deficient Human Resources and Payroll Systems
- (v) Unfair and Unreasonable Delay
- (vi) Unfair and Unreasonable Decision-making
- (vii) Failure to provide reasons

My investigation of education-related complaints suggests that education authorities like all public authorities encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that can easily be addressed. While some problems cannot be avoided, many can be prevented by strong leadership and good management.

Under section 97 of the *Constitution of Solomon Islands*, I can enquire into the conduct of any person in the exercise of his or her office or authority within my jurisdiction with the purpose of assisting in the improvement of the practices and procedures of public bodies and eliminating



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arbitrary and unfair decisions. Further, under section 5(1) (c) of the Ombudsman Act, I am able to investigate any action taken by any officer or authority exercising administrative functions where I consider it desirable to do so. Pursuant to section 10 of the same act, following my findings, where it appears to me that there may be grounds for any person, officer or authority to be adversely affected by the contents of my reports or recommendations, I am required to give that person, officer or authority an opportunity to comment and be heard before I forward the relevant report and recommendations to Parliament, a Minister or to an agency or authority.

I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of the Provincial Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Central

ANNEX. "B" – Letter to Chief Education Officer (Choiseul)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:

The Chief Education Officer/Choiseul
Education Division,
Taro,
Choiseul Province



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

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that person, officer or authority an opportunity to comment and be heard before I forward the relevant report and recommendations to Parliament, a Minister or to an agency or authority.

I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of Provincial Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Choiseul

ANNEX. "C" – Letter to Chief Education Officer (Guadalcanal)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:

The Chief Education Officer/Guadalcanal
Education Division,
Honiara,
Central Province.

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the



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Ombudsman Act') to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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Under section 97 of the *Constitution of Solomon Islands*, I can enquire into the conduct of any person in the exercise of his or her office or authority within my jurisdiction with the purpose of assisting in the improvement of the practices and procedures of public bodies and eliminating arbitrary and unfair decisions. Further, under section 5(1) (c) of the Ombudsman Act, I am able to investigate any action taken by any officer or authority exercising administrative functions where I consider it desirable to do so. Pursuant to section 10 of the same act, following my findings, where it appears to me that there may be grounds for any person, officer or authority to be adversely affected by the contents of my reports or recommendations, I am required to give that person, officer or authority an opportunity to comment and be heard before I forward the relevant report and recommendations to Parliament, a Minister or to an agency or authority.

I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of the Provincial



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Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Guadalcanal

ANNEX. "D" – Letter to Chief Education Officer (Honiara)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:

The Chief Education Officer/Honiara
Honiara City Council Education Division,
Honiara

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the



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relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

- (i) Agency non-responsiveness
- (ii) Ineffective communications
- (iii) Inadequate Records Management
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My investigation of education-related complaints suggests that education authorities, like all public authorities encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that can easily be addressed. While some problems cannot be avoided, many can be prevented by strong leadership and good management.

Under section 97 of the *Constitution of Solomon Islands*, I can enquire into the conduct of any person in the exercise of his or her office or authority within my jurisdiction with the purpose of assisting in the improvement of the practices and procedures of public bodies and eliminating arbitrary and unfair decisions. Further, under section 5(1) (c) of the Ombudsman Act, I am able to investigate any action taken by any officer or authority exercising administrative functions where I consider it desirable to do so. Pursuant to section 10 of the same act, following my findings, where it appears to me that there may be grounds for any person, officer or authority to be adversely affected by the contents of my reports or recommendations, I am required to give that person, officer or authority an opportunity to comment and be heard before I forward the relevant report and recommendations to Parliament, a Minister or to an agency or authority.

I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of the City Council Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters,



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please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: City Clerk, Honiara City Council

ANNEX. "E" – Letter to Chief Education Officer (Isabel)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:

The Chief Education Officer/Isabel
Education Division,
Buala,
Isabel Province

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* ('the Ombudsman Act') to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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- (ii) Ineffective communications
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My investigation of education-related complaints suggests that education authorities, like all public authorities encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that can easily be addressed. While some problems cannot be avoided, many can be prevented by strong leadership and good management.

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I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of the Provincial Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

**Joe Poraiwai, Esq
Ombudsman**

cc: Provincial Secretary/Isabel

ANNEX. "F" – Letter to Chief Education Officer (Makira)

Our ref: CN: 199/10/09

Date: 29th July 2011

Your ref:

The Chief Education Officer/Makira
Education Division,
Kira Kira
Makira Province.

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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(vii) Failure to provide reasons

(viii)

My investigation of education-related complaints suggests that education authorities, like all public authorities encounter problems in administration and decision-making. Some arise from simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that can easily be addressed. While some problems cannot be avoided, many can be prevented by strong leadership and good management.

Under section 97 of the *Constitution of Solomon Islands*, I can enquire into the conduct of any person in the exercise of his or her office or authority within my jurisdiction with the purpose of assisting in the improvement of the practices and procedures of public bodies and eliminating arbitrary and unfair decisions.

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I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of Ministry by 29th August 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

cc: Provincial Secretary/Makira

ANNEX. "G" – Letter to Chief Education Officer (Malaita)

Our ref: CN: 259/12/09	Date: 17th August 2011
Your ref:	

Provincial Secretary/Malaita
Auki,
Malaita Province.

Dear Sir,

INVESTIGATION REPORT NO: 3/10 – REPORT ON INVESTIGATION INTO MALAITA EDUCATION AUTHORITY CONCERNING NON-RESPONSIVENESS TO COMPLAINTS LODGED.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into Malaita Education Authority concerning Non-Responsiveness to complaints lodged.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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simple errors that can be easily remedied and corrected. Others point to larger systemic, thematic or recurrent issues that can easily be addressed.

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I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Malaita



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

ANNEX. "H" – Letter to Chief Education Officer (Renbel)

Our ref: CN: 259/12/09

Date: 29th July 2011

Your ref:

The Chief Education Officer/Renbel
Education Division,
Tingoa
Renbel Province.

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* ('the Ombudsman Act') to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Renbel

ANNEX. "I" – Letter to Chief Education Officer (Temotu)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

The Chief Education Officer/Temotu,
Education Division,
Lata,
Temotu Province

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* ('the Ombudsman Act') to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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to investigate any action taken by any officer or authority exercising administrative functions where I consider it desirable to do so. Pursuant to section 10 of the same act, following my findings, where it appears to me that there may be grounds for any person, officer or authority to be adversely affected by the contents of my reports or recommendations, I am required to give that person, officer or authority an opportunity to comment and be heard before I forward the relevant report and recommendations to Parliament, a Minister or to an agency or authority.

I submit here my draft Investigation Report into systemic issues arising in Education related complaints. The Report may contain matters capable of adversely affecting you or your staff; I seek any comment that you or your staff from within your Education administration may have. I would be grateful if you could provide a response in writing on behalf of the Provincial Education Authority by 17th September 2011.

I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly. Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Temotu

ANNEX. "J" – Letter to Chief Education Officer (Western)

Our ref: CN: 259/12/09

Date: 17th August 2011

Your ref:

The Chief Education Officer/Western,
Education Division,
Gizo,
Western Province.



OFFICE OF THE OMBUDSMAN OF SOLOMON ISLANDS

Dear Sir,

INVESTIGATION REPORT NO: 2/10 – REPORT OF MY INVESTIGATION INTO SYSTEMIC ISSUES ARISING IN EDUCATION RELATED COMPLAINTS.

I am writing pursuant to section 9 of the *Ombudsman (Further Provisions) Act 1980* (the Ombudsman Act) to draw your attention to my draft Report on Investigation into systemic issues arising in Education related complaints.

While education related complaints were usually about employment and human resource matters, they often highlighted thematic and systemic problems that my office should try to correct by making recommendations intended to bring about administrative improvements within the relevant authorities. An individual complaint can often point to broader problems or recurring weakness within administration that have effect beyond that individual's case. The key systemic issues identified in my investigation are:

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relevant report and recommendations to Parliament, a Minister or to an agency or authority.

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I will give any response that you choose to make careful consideration and if I determine it is appropriate to do so, amend my report accordingly.

Should you or a representative from your Administration wish to discuss the above matters, please do not hesitate to contact me at my office.

The Provincial Secretary is informed of this Report by a copy of this letter.

Yours faithfully

Joe Poraiwai, Esq
Ombudsman

cc: Provincial Secretary/Western