



# WASDOK

ISSUED FOR APRIL 2008 BY THE OMBUDSMAN COMMISSION

## OC STARTS INVESTIGATION INTO UNITECH

Two senior officers from the Complaints Administrative and Investigative Division (CAID) left last week for Lae in the Morobe province to begin investigation into allegations of mismanagement and irregularities against the senior management of the PNG University of Technology.

Mr. Francis Koaba, Team Leader for Team Nine and Mr. Rodney Tony, Senior Investigator also of Team 9 started probing into thirty (30) serious allegations raised by the National Aca-

demie Staff Association (NASA).

The probe which will take ten (10) days to complete began on Thursday 2nd May 2008 at the Taraka campus. This comes after NASA officially registered allegations of mismanagement and irregularities against the senior management with the Ombudsman Commission on April 13.

Dr Loko Anota who is currently caretaker president registered the allegations seventeen (17) of which were

raised during the height of the NASA crises on March 2007 and thirteen (13) fresh allegations the Commission's regional office in Lae had been working on.

It had been the wish of the association for an independent investigation into the allegations leveled against the management. Top on the list of issues is the University Council headed by Dr Philip Stagg to be investigated for mishandling the NASA crises and its role into administration of the University.

“ There is reason to believe that the council has unprofessionally handled the NASA issues because this issue has dragged on for far too long” Dr Anota said in his submission to the investigation team.

The University administration and NASA have commended OCPNG initiative to carry out investigation and commended the Commission for recognizing the importance of the matter and moving into effect the investigation.

### PERFORAMNCE MANAGEMENT REVIEW (PMR) PSYCHES UP OC

Members of the Commission (MOC) and senior managers attended a two day retreat at the Granville Motel to assess the 2008 first quarter performance management review (PMR). The retreat began on Monday 28 March and ended on Tuesday 29 March 2008.

The third day, Wednesday 30 April 2008, was devoted to budget issues in which there was full attendance of the PMR team. The conference was held at OCPNG head-

quarters at Deloitte Tower in downtown Port Moresby.

New projects for funding under the Law and Justice Sector Program (LJSP) went through a thorough brainstorming exercise where a selection of projects in their order of priorities were listed for MOC deliberation and approval before Project Formulation Document (PFD) were processed.

The order of the two day conference included presen-

tations by senior Divisional and Unit Managers. OC Regional Managers from Lae, Mount Hagen and Kokopo flew into Port Moresby to attend the conference.

Top on the list of agendas which most divisional managers observed was the implementation of the Comprehensive Management Review (CMR) conducted by Deloitte Management Consultants for implementation in 2007.

The conference concluded with greater appreciation of policy loopholes and a general consensus to implement the Comprehensive Management Review (CMR) without delay.

The conference is the first of a series in 2008 and will continue for the second, third and fourth quarters. It is anticipated that data collected for the PMR quarterly reviews will come in handy in the preparation of the 2008 Annual Report.



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## Chief launches corruption book

Corruption is everywhere and in every situation but as human beings we are capable of containing it. This was the message to a small group of audience who attended the launching of a publication on corruption at the National Research Institute (NRI) at Waigani by the Chief Ombudsman Ila Geno in April.

The Chief Ombudsman

also acknowledge contributions by different authors whose invaluable contributions became the threshold of the publications success.



Chief Ombudsman Ila Geno

Mr Geno brushed off suggestions that corruption was an imported concept brought into PNG with the modernization imperatives.

He said corruption has always been around and

part and parcel of our cultural upbringing and warned that this should not be used as an excuse to derail investigative processes involving people holding high profile positions.

Mr Geno made special reference to anti-corruption advocate Peter Donigi, whose ICAC concept was most welcome under present circumstances.



John ToGuata—Director Regions & External Relations

## ToGuata takes up new job with LJSP

The Commission will lose the services of Director, Regions and External Relation John ToGuata when he officially leaves on close of business Friday 10 May 2008 to take up his new advisory role with the LJSP Secretariat.

Mr ToGuata, from Rabaul in the East New Britain province has served the Commission in the last eight years in senior management positions and has the caliber of expertise and experience in the disciplinary force, particularly in the Police Force and the Law and Order Sector.

He is not new to the law and order sector and takes with him a wealth of experience which will be useful in his new advisory role and in enhancing the law and order programs under the LJS Secretariat.

## EYE WITHIN



Over the recent past the BPNG has liberalized Foreign Exchange Controls so much so that they have demolished the Exchange Control Department at the Central Bank.

The liberalization of Exchange Controls makes it much easier now to remit funds overseas, particularly by Papua New Guineans.

This has the potential to add a new dimension and a further degree of difficulty to investigations by the OCPNG. Funds si-

phoned off from the State can now be remitted overseas more readily than previously was the case.

This makes it harder for the OCPNG to identify them for use in investigations etc.

Has the Commission thought about what this means to its operations? Has the Commission thought about how it can improve the way it does its business to cope with these developments successfully.

The current Twinning Arrangement (funded by LJSP) serves to assist only part of the OCPNG's operations (i.e. CAID) although it has assisted with some quality assurance in the development of the WASDOCKCMS.

Getting back to the FEC issue it seems that some thought should be focusing on what it means for the OCPNG.

*Editorial*

APRIL 2008

WASDOK

## PACIFIC OMBUDSMAN NETWORK NEWS UPDATE

### The expanding Ombudsman role: What fits? What doesn't?

Extracts from a presentation to Australia Pacific Ombudsman Region Meeting Melbourne 27 March 2008 by John McMillan, Commonwealth Ombudsman

#### *Expansion — demonstrating the relevance and adaptability of the Ombudsman model*

The Ombudsman offices in Australia have been expanding their range of functions such as auditing agency records, conducting training seminars for government officers, publishing guides to good decision making and complaints handling, whistleblowers protection, review of witness protection, legislative reviews, applying a human rights focus to government oversight, reviewing child abuse incidents and reportable deaths, acquiring an industry Ombudsman role (example, energy and water), and establishing a regional support network for Ombudsman offices.

#### *Expansion-key to growth*

A perennial concern of Ombudsman offices is their meager funding, especially as contrasted to the growth in size and functions of the government agencies the Ombudsman oversees. History indicates that Ombudsman offices do not get extra funding and support from government by bleating about their restricted funding. On the other hand, recent developments illustrate that Ombudsman offices will be given extra funding by government if they can demonstrate their ability and effectiveness in discharging new functions.

Indeed, a strong theme in contemporary budgetary policy around Australia is that government agencies face annual deficiency dividends that can reduce their core funding, but this can be countered by acquiring a new function that attracts additional funding.

#### *Getting the right model—the key to Ombudsman success*

Through growth the expansion are important, it is equally important that Ombudsman offices do not take on inappropriate functions. Equally, the discharge of new functions should be adapted to align with the essential principles of the Ombudsman model.

This is important to the long term stability of Ombudsman offices. A major reason why Ombudsman offices have been so successful over more than thirty years in Australia in expanding and maintaining their relevance and effectiveness is that they have been careful to ensure that they have maintained a strong focus on adhering to Ombudsman essentials. By contrast, many other oversight bodies have gone through considerable turmoil and restructuring over the last three decades as they have struggled to identify their role in government.

#### **CASE STUDIES—Auditing**

Compliance auditing of agency records is now a substantial function. Many Ombudsman offices have developed the auditing function in other ways. Ombudsman offices have undertaken audits of freedom of information administration, child support assessment decisions, notification of visa decisions, complaint handling in agencies, and payment of administrative compensation under the scheme for compensation for Defective Departmental Administration.

Auditing is fast becoming an important accompaniment to complaint handling and own motion investigations. It is significant that it is now seen as an appropriate Ombudsman role.

#### *Review of decisions as well as processes*

Ombudsman investigations have customarily focused on the way in which decisions are made, and less on the merits of the decisions under investigation. So long as a decision maker acts correctly, considers all relevant matters, and reaches a decision that is reasonably open to be made, the Ombudsman will not ordinarily be critical of the decision reached. The Ombudsman can conclude that an administrative action or decision was 'unreasonable, unjust, oppressive or improperly discriminatory' but that is for exceptional cases.

The restraint by Ombudsmen is borne of many factors, including the limited resources of the office to examine all decisions comprehensively, the limited power of the Ombudsman to make a recommendation, and deference by the Ombudsman to review tribunals, which can substitute a new decision if not satisfied on all the evidence that the decision under the review is correct or preferable.

#### *Extended Jurisdiction*

The jurisdiction of a government Ombudsman is classically focused on the administrative actions of executive agencies. First, an explicit jurisdiction to investigate complaints against government service providers.

Second, the Postal Industry Ombudsman role can deal with complaints against both Australia Post and private postal operators that register with the scheme.

Thirdly, an interesting jurisdictional challenge arises in the Immigration Ombudsman role of preparing a report on each person held in immigration detention for more

than two years. The Ombudsman does not have jurisdiction to investigate action taken by a Minister. Interestingly, the new Minister for Immigration recently announced that he would consult with the Ombudsman on how to proceed with all 61 long term detention cases.

#### *Advocacy Role*

A cardinal feature of the Ombudsman model is that the Ombudsman is independent, objective and even-handed. The Ombudsman is not an advocate or agent of the complainant or the agency. At most, the Ombudsman is an advocate for good administration and for practical and effective resolution of the problems that people encounter with government.

#### *Joint Ombudsman/agency investigations*

Independence is the defining principle of an Ombudsman's office. That independence is most apparent when the Ombudsman issues a public report that is strongly critical of government agency action.

A new direction taken in recent years is preparedness to participate in a joint investigation with an agency, leading to a joint report. Two examples are a joint Ombudsman and Australia Federal Police report on police watch house operations (holding cells) and joint Ombudsman and Defence report on the redress of grievance system for dealing with internal defence complaints.

This is an exceptional course to take, but can be justified on the basis that it is an effective way of pooling the wisdom of both agencies—the knowledge that police and defence have of their own systems with Ombudsman's perspective.

## New Appointments

### *MOC Decision on administrative matters*

The Commission at its meeting on Tuesday 6 May 2008 made the following administrative Decisions:

1. Appointed Mr. Augustine Grimbari as the Human Resource Development Officer.
2. Appointed Mr. Victor Milli as the Acting Director Regions and External Relations unitl such time the substantive appointment is made.
3. Appointed Mr. Philip Morris as Acting Team Leader Team 1 Leadership while Mr. Victor Milli is acting Director R&ER.

The position of Director R&ER will be advertised externally for two weeks from when the advertisement is provided to the print media. HR Manager will be working on the advertisements notice to go out soon.

Congratulations to Mr. Grimbari on his appointment and all officers are asked to give their support to both Messrs. Milli and Morris in ensuring that the business of the Commission continues to flow.

**Allan Barilae**  
Acting Secretary

## NEW PUBLICATIONS

332.109953/BAN	<i>'Money and Banking in Papua New Guinea'</i> by Bank of Papua New Guinea
016.3621969792 NAT	<i>'HIV and AIDS in Papua New Guinea', 1987—2005 Bibliography</i> No. 8 Compiled by Barbra Sivusia-Joyce, National Research Institute
333.73'0953 NAT	<i>Land Administration, Land Dispute Settlement, and Customary Land Development.</i> A report prepared by the NLDT Committee on Land Administration, Land Dispute And Customary Development
340.5295 NEW	<i>Covering Currents : Custom and human rights in the Pacific</i>
342.73 DON	<i>Delegation of governmental power to private parties : a comparative perspective</i> by Catherine M Donnelly

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