



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

**ON THE FORMER MINISTER OF
EDUCATION HON BOB LOUGHMAN MP
AND HIS INTERFERENCE WITH THE VITE
2015 SELECTION PROCESS**

Date: 30th of December 2016



REPUBLIC OF VANUATU

15003/2016/04

PREAMBLE

Trust in the LORD with all your heart and do not lean on your own understanding. In all your ways acknowledge Him, and He will make your paths straight: Proverbs 3:5-6

SUMMARY

The Leadership Code Act [CAP.240] provides that a leader must: comply with the law, comply with the principles of Article 66 of the Constitution, comply with the duties set out in the Act and in any law affecting the leader (the former Minister), and must not influence persons carrying out their lawful duty. (Section 13).

Outline of events (see further page 4)

On 16th of January 2015, Mr Bob Loughman, present MP for Tanna and former Minister of Education sent a letter to Mr Jack Daniel Matariki, Principal of the VITE instructing him to enrol a list of students for the year 2015-2017 teacher trainee intake to VITE.

Findings (see further page 9)

The Ombudsman finds that by his actions the former Minister of Education breached the VITE Act [CAP.275], the Leadership Code Act [CAP.240] and the Constitution.

Recommendations (see further page 12)

The Ombudsman recommends that the Public Prosecutions Department prosecute Mr Bob Loughman for breach of the laws mentioned above.

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1 JURISDICTION

1.1 The Constitution, the Ombudsman Act [CAP.252] and the Leadership Code Act [CAP.240] allow the Ombudsman to enquire into the conduct of government, related bodies, and Leaders. This includes Hon. Bob Loughman, former Minister of Education. The Ombudsman can also enquire into defects in laws or administrative practices, including the conduct of leaders as defined in article 66 and 67 of the Constitution. This also includes the conduct of government Ministers and bodies or agencies.

1.2 Section 34 of the Leadership Code Act (LCA) also allows the Ombudsman to investigate and report on the conduct of a leader (other than the President), if the Ombudsman receives a complaint from a person that a leader has breached the LCA or if the Ombudsman has formed the view on reasonable grounds that a leader may have breached the LCA.

1.3 The enquiry was conducted and this report was compiled by the Leadership Code Investigation section of the Office of the Ombudsman.

2 PURPOSE, SCOPE AND METHOD OF INVESTIGATION

2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution, the Ombudsman Act and the Leadership Code Act.

2.2 The scope of investigation is to establish the facts and provide an overview of the administrative process and selection procedure for the intake of students to be enrolled at the Vanuatu Institute of Teacher Education aka "VITE" and to determine whether former Minister Bob Loughman was entrusted with powers under the Vanuatu Teaching Services Act No. 38 of 2013 and the VITE Act [CAP.275] to direct public officials responsible for VITE to enrol any person at VITE after the selection process has been completed by the body responsible for selecting new students to VITE.

2.3 This Office collects information and documents by informal request, summons, letters, interviews and research when it carries out an investigation.

3 RELEVANT LAWS

Relevant parts of the following laws are reproduced in (Appendix 1) namely: the Constitution, the Leadership Code Act [CAP.240] and the Vanuatu Institute of Teacher Education Act [CAP.275].

4. OUTLINE OF EVENTS

4.0.1 Background

Summary Of Facts In Brief:

- On 14th November 2014 Mr Bob Loughman as then Minister of Education submitted a list of 2 students to the Principal of VITE on behalf of then Minister of Finance and Economic Management (Mr Maki Stanley Simelum), to be included in the teacher trainee intake to VITE for 2015.

- On 16th of January 2015, Mr Bob Loughman sent a letter to Mr Jack Daniel Matariki, Principal of the VITE instructing him to enrol 17 students for the year 2015-2017 teacher trainee intake to VITE.
 - Mr Loughman's letter of 16th January 2015 stated:

"This is a cohort list of last year which according to my assessment and judgment must be enrolled as new 2015-2017 VITE intakes."
 - Mr Loughman's letter of 16th January 2015 said that his assessment of the 17 students/teacher trainees was based on disadvantaged communities and families, geography of the island and keen interest of the candidates to undertake studies at VITE.
 - The former minister failed to state whether or not the candidates' marks were suitable enough to earn them a place to study at the VITE.
 - Mr Bob Loughman's letter of 16th January 2015 to the VITE Principal concluded with the statement that:

"By copy of this letter, the Director General [of Education] and respective Directors are informed of my final decision."
- 4.0.2 The Vanuatu Institute of Teacher Education (VITE) was established under the Vanuatu Institute of Teacher Education Act [CAP.275]. The Act commenced on 25 February 2002.
- 4.0.3 Section 2 of the VITE Act states that the VITE is "a body corporate with perpetual succession" with "a common seal" and is "capable of suing and being sued".
- 4.0.4 Administratively and functionally therefore the VITE is an independent legal body from the government and from the Ministry of Education.
- 4.0.5 Section 22 subsection (1) of the VITE Act states that the Principal is to be appointed by the Teaching Service Commission on the recommendation of the Council of the VITE. Subsection (2) provides that:
- "The Principal is responsible for the day to day administration and management of the Institute in accordance with the policies and directions of the Council, and the requirements of this Act."
Effectively the VITE Principal is the chief executive officer of the VITE and is answerable to the VITE Council only and to no one else.
- 4.1 The Daily Post newspaper Issue of 5th of February 2015, contained a letter by a Mr Desmond Donald to the Editor of the newspaper alleging that Hon Bob Loughman, in his capacity as then Minister of Education acted in breach of the Leadership Code Act and in breach of the governing principles administrative and selection policies of the during the selection process for intake of new students for the 2015 academic year.

- 4.2 After initial assessments, an own initiative enquiry into the allegations raised by Desmond Donald commenced on the 19th of February 2015.
- 4.3 On the 11th of March 2015 a letter of enquiry was sent to the Principal of VITE, Mr Jack Daniel Matariki requesting him to respond to questions asked in relation to the allegations raised by Desmond Donald (**Appendix 2**).
- 4.4 On the same date (11th March 2015) a letter of enquiry was sent to the former Minister of Education, Hon MP Bob Loughman and informed him about the allegations raised against him and also about an Ombudsman enquiry into the allegations (**Appendix 3**).
- 4.5 On the 9th of April 2015, Mr Bob Loughman responded to the Ombudsman office letter dated 11th of March 2015 (**Appendix 4**).
- 4.6 According to Mr Loughman's response, the allegations in the Ombudsman office letter to him of 11th March 2015 were no longer an issue as the VITE management decided to follow due selection processes and had made its final decision (**Appendix 5**).
- 4.7 The enquiry investigator spoke to the Principal of VITE Jack Daniel Matariki on the 20th of April 2015 briefing him about the allegations against former Minister of Education Bob Loughman and requested him to respond to the Ombudsman office letter dated 11th of March 2015.
- 4.8 On the 27th of May 2015, the Principal of VITE wrote to the Ombudsman office and provided his response to questions the Ombudsman office requested from him on the 11th of March 2015(**Appendix 6**).
- 4.9 Mr Jack Daniel Matariki, VITE Principal, (herein "Mr Matariki") in his response of 27th of May 2015 confirmed that the allegations against Hon Minister Bob Loughman were true. Mr Matariki stated the following:
 - 4.9.1 According to Mr Matariki, in the new Teaching Service Act No. 38 of 2013, the Minister of Education has no powers to post any teachers to any schools in the country such functions resting upon the Teaching Service Commission in accordance with the Teaching Service Act. (**Appendix 7**).
 - 4.9.2 Mr Matariki further stated that according to section 34 of the Teaching Service Act, all appointments to the Teaching Service must be made by the Commission and that the Minister and other members of Parliament, political advisors and those holding positions of authority in Political Parties must not seek to influence the Commission in relation to appointments to the Teaching Service or any other decisions under the Teaching Service Act (**Appendix 8**).
 - 4.9.3 Mr Matariki also stated that previously the Minister had powers under the former Teaching Service Act to deploy officers however recommendation had to be made by the Teaching Service Commission to the Minister for that to happen.
 - 4.9.4 Mr Matariki indicated that both the new Teaching Service Act and the Old Teaching Service Act limit the Minister's capacity to interfere or have a say or input into the VITE selection/ intake process.
 - 4.9.5 Mr Matariki informed the investigator that according to a letter of the Minister dated 16th of January 2015, former Minister Loughman stated "this is a cohort list of last year which to my assessment and judgement must be enrolled as new 2015-2017 VITE intake". Former Minister Loughman submitted a list of

- 19 students, 9 of whom were from Tafea province. The Former Minister continued on in his letter explaining the assessment was based on "disadvantaged communities and families, geography of island, keen interest of candidate". **(Appendix 9)**.
- 4.9.6 Mr Matariki confirmed that the Minister does not have the power to direct VITE officials to enrol which ever student or candidates he/ she wants at VITE. VITE is governed by its own Act, and its governing body is the Council, and only the Council has the power to direct VITE according to the VITE Act 2001 [CAP.275]. **(Appendix 10)**.
- 4.9.7 Mr Matariki clarified that the normal selection for VITE is through a selection process that is clear and transparent. **(Appendix 11)**.
- 4.9.8 Mr Matariki stressed that publishing of applications are done in May, indicating the opening and closing dates and VITE ensures that every means of communication is fully utilized so that everyone has the opportunity to apply. This includes airing it through radio, by way of emails and also on social media. **(Appendix 12)**.
- 4.9.9 Mr Matariki also informed the enquiry that the VITE selection was in line with the New Policy Direction for 2015 and future VITE student Intake sent to the Principal of VITE on the 1st of October 2013 by the Minister **(Appendix 13)**.
- 4.9.10 According to Mr Matariki, VITE ensured that each province had a candidate selected into the cohort or intake for 2015. During the selection process, each of the six provinces were given a quota allowing equal chances for every province to get their candidates into the training. **(Appendix 14)**.
- 4.9.11 The final selection list of selected students was published in the media, and sent by email to the Ministry of Education and to Principal Education Officers **(Appendix 15)**.
- 4.10 On Friday the 14th of November 2014, the VITE council made a presentation to the Minister and other directors in the Ministry of Education and Training on the selection process of VITE. **(Appendix 16)**.
- 4.11 On the 16th of January 2015, former Minister Bob Loughman sent a letter to, Mr Matariki, Principal of VITE instructing him to enrol 17 extra students for the year 2015-2017 intake of students to VITE. **(Appendix 17)**.
- 4.12 According to former Minister Bob Loughman's letter, he provided his list of students based on his own assessment and judgement. The former Minister concluded that his assessment was based on disadvantaged communities and families, geography of the island and keen interest of the candidate to undertake studies at VITE. The former minister failed to state whether or not the candidate's marks were suitable enough to earn them a place to study at VITE **(Appendix 18)**.
- 4.13 On Monday the 14th of September 2015, Mr Matariki Principal of VITE emailed the investigating officer of this case and confirmed that out of all the 19 names submitted by the former Minister, two students were selected by the VITE selection committee and both were from Tafea Province, the province of Hon Bob Loughman, former Minister of Education and present Member of Parliament **(Appendix 19)**.
- 4.14 Hon Bob Loughman became a Member of Parliament of the Republic of Vanuatu's tenth Legislature on the 19th of November 2012, hence was a leader by virtue of Article 67 of the Vanuatu Constitution. **(Appendix 20)**

5 RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

5.9 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, a working paper was provided prior to preparation of this public report to give the individuals mentioned in this report another opportunity to respond.

5.10 Mr Bob Loughman Member of Parliament for Tanna Constituency in the 11th Legislature responded to the Working Paper in his letter dated 19th September 2016 (Appendix 21). His response, paraphrased, was –

- The overall education policy system rested with the Government of the day;
- As Minister he raised the issue in 2013 with the former VITE Principal of the need to amend the VITE Act to cater for selection of students from geographically difficult areas.
- Government was facing difficulties in posting teachers to geographically difficult areas;
- VITE in-service training unit was slow and costly in turning out qualified teachers;
- Problems of teacher shortages in the islands were received by the Government through Ministers and not through the VITE;
- The list he submitted to VITE was obtained from various Head teachers, School Chairmen and school councils. The purpose was not to tarnish the VITE management;
- At the time the teacher vacancies nationwide was 240. Also 2 VITE classrooms were unoccupied, and grants to VITE were increased by 5 million vatu;
- VITE received 20 million vatu grant but was graduating less than 100 teachers per year, while Vanuatu Institute of Technology with grant of only 10 million vatu was graduating 350 to 400 students per year;
- He acted in good faith without provincial or political favouritism. The candidates he submitted were not known to him personally.
- The 2 Tafea students selected in 2015 were assessed by the Academic Board before they were selected.
- The VITE Council may have acted contrary to section 9(a)(ii) of the VITE ACT, i.e. -

["9. Council to have regard to Government policy and other matters

"In the performance of its functions and in the exercise of its powers, the Council must:

(a) have regard to the Government's policy that:

"(ii) the education system in Vanuatu is to be firmly based on Ni-Vanuatu culture and beliefs; "]

- Allegation of breaching the Teaching Service Act was irrelevant;
- Allegation of breaching the Education Act, the Leadership Code and the Constitution were unfounded;
- The VITE selection intake of 2015 was *“short sighted because a student originating from a particular province but living in Vila or Luganville and hence would not accept to serve in a remote rural situation. Some officials both teachers and nurses do not want to serve in some islands due to local culture and in these cases, we need to train officers from that place so that they can serve in their place without fear.”*;
- Thank VITE management for recognizing the issue of geographical hardship or remote localities as a criteria of selection of students as referred to in point 4.10 of the working paper [and this report].
- As former Minister he acted within the parameters of the VITE Act.

6 FINDINGS.

6.0.1 After considering all the facts, response and issues set out in this report the Ombudsman makes the following findings:

- 6.1 Finding 1:
- (1) Powers and functions relevant to this report of the **Vanuatu Institute of Teacher Education** (“VITE”) under the VITE Act (CAP.275) are:
 - (a) The VITE is an independent body from the Ministry of Education and the government as it is a body corporate with perpetual succession and common seal, and capable of suing and being sued (VITE Act section 2(2));
 - (b) The VITE’s purpose is to educate and train primary and secondary school teachers (VITE Act section 3).
 - (2) Powers and functions relevant to this report of the **VITE Council** (“Council”), the VITE governing body, under the VITE Act section 7 are:
 - “(a) to oversee the efficient and effective management of the Institute and monitor its performance;
 - (b) to approve plans and policies for the Institute;
 - (c) to provide advice and support to the Principal;
 - (g) to establish committees to assist the Council;
 - (j) to monitor the academic results of students;”
 - (3) Powers and functions relevant to this report of the **VITE Academic Board** (“Board”) under the VITE Act sections 21) are:

- “(1) The Academic Board is responsible for:
- a) determining academic policy for the Institute and implementing that policy; and
 - b) ensuring high academic standards are maintained at the Institute.

- “(2) The Academic Board may make rules in writing about all or any of the following:
- a) the selection of students for programs at the Institute;
 - b) the assessment of students;
 - d) the levels of academic performance;
 - f) the establishment of committees, including disciplinary committees, to assist the Academic Board; ”

- (4) Powers and functions relevant to this report of **the Principal**, executive officer of VITE (VITE Act section 22) are:

“(1) The Principal is to be appointed by the Teaching Service Commission on the recommendation of the Council. The Council must conduct the selection process for the Principal in accordance with the requirements of section 25.

“(2) The Principal is responsible for the day to day administration and management of the Institute in accordance with the policies and directions of the Council, and the requirements of this Act.

“(3) Without limiting subsection (2), the Principal must ensure that all staff are performing satisfactorily, and the funds of the Institute are spent in accordance with the requirements of this Act and any other relevant Act. ”

- (5) Powers and responsibilities of the **Minister of Education** under the VITE Act are:

- (1) He is defined as the **“Minister”** responsible for education (VITE Act section 1);
- (2) He receives advice and assistance on teacher education and professional development from the VITE (VITE Act section 4(i));
- (3) He approves subject and course fees set by the Council (VITE Act section 7(f));
- (4) When carrying out its functions the Council must have regard to Government policy that the VITE is to be a bilingual (French-English) institute and that the Vanuatu education system is to be firmly based on Ni-Vanuatu culture and beliefs (VITE Act section 9(a));

- (5) The Council must develop and maintain co-operative relationships with industry, communities, other education providers and all government Ministries (VITE Act section 9(c));
- (6) The Minister appoints 5 members of the 8 member Council from nominations recommended by the Principal (VITE Act section 10);
- (7) The Minister may remove a member of the Council after consultation with the other members of the Council (VITE Act section 13);
- (8) The Council must furnish a yearly report about the VITE to the Minister, who must table it in Parliament as soon as possible (VITE Act section 29);
- (9) The Minister may make a written agreement with the VITE to transfer State assets to the VITE (VITE Act section 30);
- (10) The Minister may on the advice of the Council make regulations required or permitted under the Act (VITE Act section 31).

6.2 Finding 2:

The former Minister of Education Bob Loughman (“**the former Minister of Education**”) being a leader to whom the Leadership Code Act [CAP.240] applied, had no power or authority under the VITE Act [CAP.275] to instruct the VITE or its Council, or Board, or Principal or Selection Committee to include the combined additional lists of trainees (Simelum list and Loughman list) to the final list of applicants for the 2015 student trainee intake. (Refer to facts set out in “Summary of Facts in Brief” in paragraph 4.01 above “Outline of Events”. **Mr Loughman’s action was ultra vires the powers of the Minister of Education under the VITE Act [CAP.275].**

6.3 Finding 3:

The former Minister of Education’s actions in submitting the combined additional lists of trainees to the Principal of the VITE was:

- (i) **A breach of the powers of the VITE Council** in section 6(2) of the VITE Act “To provide advice and support to the Board and the Principal”;
- (ii) **A breach of the powers of the VITE Board** in sections 20 & 21 of the VITE Act to “Make rules for the selection of students to VITE programs”;
- (iii) **A breach of the powers of the VITE Principal** in section 22(2) of the VITE Act to be “responsible for the daily administration and management of the VITE in accordance with Council policy and direction”; and
- (iv) **A breach of the powers of the VITE Selection Committee** appointed by the Council pursuant to section

17(1) of the VITE Act “to assist the Council in the performance of its functions.”

- 6.4 Finding 4:** By breaching the VITE Act [CAP.275] as described in **Findings 2** and **Findings 3** above, the former Minister of Education has also breached section 13(1) (a) of the Leadership Code Act [CAP.240].
- 6.5 Finding 5:** By his actions as described above in paragraph “**4. Outline of Events**” as summarized in paragraph “**4.01 Summary of Facts in Brief**”, the former Minister of Education breached the provisions of Article 66 of the Constitution in that he:
- placed himself in a position in which the fair exercise of his public or official duties were or might be compromised;
 - demeaned the office and position of the Minister of Education;
 - allowed his integrity to be called into question; and
 - diminished respect for and confidence in the integrity of the office of the Minister of Education and the Government of the Republic of Vanuatu.

7. RECOMMENDATIONS

The Ombudsman recommends:

7.1 RECOMMENDATION 1:

That the Public Prosecutions Department prosecute Mr Bob Loughman, present Member of Parliament for Tanna and former Minister of Education in the Vanuatu Government for acting ultra vires the powers of the Minister of Education under the VITE Act [CAP.275] as found in Findings 2 above.

7.2 RECOMMENDATION 2

That the Public Prosecutions Department prosecute Mr Bob Loughman, present Member of Parliament for Tanna and former Minister of Education in the Vanuatu Government for – breach of the powers of the VITE Council, Board, Principal and Selection Committee as found in Findings 3 above.

7.3 RECOMMENDATION 3

That the Public Prosecutions Department prosecute Mr Bob Loughman, present Member of Parliament for Tanna and former Minister of Education in the Vanuatu Government for breach of the principles and obligations set out in Article 66 of the Constitution as described in Finding 5 above.

7.4 RECOMMENDATION 4

That the Public Prosecutions Department prosecute Mr Bob Loughman, present Member of Parliament for Tanna and former Minister of Education in the Vanuatu Government for the consequent breach of section 13(1)(a) of the Leadership Code Act [CAP.240] due to the breach of the VITE Act and Article 66 of the Constitution.

Dated 30 December 2016



Kalkot MATASKELEKELE
OMBUDSMAN OF THE REPUBLIC OF VANUATU

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CONDUCT OF LEADERS

- 66(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to—
- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
- 66(2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by sub article (1).

DEFINITION OF A LEADER

- 67 For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

LEADERSHIP CODE ACT [CAP 240]

13. Duties of leaders

(1) A leader must:

- (a) comply with and observe the law;
- (b) comply with and observe the fundamental principles of leadership contained in Article 66 of the Constitution;
- (c) comply with and observe the duties, obligations and responsibilities established by this Code or any other enactment that affects the leader; and
- (d) not influence or attempt to influence or exert pressure on or threaten or abuse persons carrying out their lawful duty.

22. Undue influence

(1) A leader must not exercise undue influence over, or in any other way bring pressure to bear on, a person who is:

- (a) another leader; or
 - (b) any other person holding public office;
- so as to influence, or attempt to influence, the person to act in a way that is:
- (c) in breach of this Code; or
 - (d) improper; or
 - (e) illegal; or
 - (f) against the requirements of the Act under which the person was appointed; or
 - (g) contrary in any other way to the requirement of the person's office or position.

(2) A leader must not influence or attempt to influence or exert pressure or threaten or abuse or interfere with persons carrying out statutory functions.

Appendix 1 – Page 2 of 2

VANUATU INSTITUTE OF TEACHER EDUCATION ACT [CAP 275]

21. Functions of Academic Board

(1) The Academic Board is responsible for:

- a) determining academic policy for the Institute and implementing that policy; and
- b) ensuring high academic standards are maintained at the Institute.

(2) The Academic Board may make rules in writing about all or any of the following:

- a) the selection of students for programs at the Institute;
- b) the assessment of students;
- c) the attendance of students, including leave of absence;
- d) the levels of academic performance;
- e) the certification of examination results;
- f) the establishment of committees, including disciplinary committees, to assist the Academic Board;
- g) awards for academic achievement;
- h) such other matters as are referred to it by the Council.

22. Principal

(1) The Principal is to be appointed by the Teaching Service Commission on the recommendation of the Council. The Council must conduct the selection process for the Principal in accordance with the requirements of section 25.

(1) The Principal is responsible for the day to day administration and management of the Institute in accordance with the policies and directions of the Council, and the requirements of this Act.

(2) Without limiting subsection (2), the Principal must ensure that all staff are performing satisfactorily, and the funds of the Institute are spent in accordance with the requirements of this Act and any other relevant Act.



**Office of the Ombudsman
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Our Ref: 1694/15003/L95/vto

(Please quote this reference in all
correspondence)

11 March 2015

Mr Jack Daniel
The Principal
Vanuatu Institute of Teachers Education
Port Vila

Dear Sir,

**ALLEGED INTERFERENCE WITH SELECTION PROCESS OF VITE STUDENTS
BY MINISTER OF EDUCATION**

This Office is now conducting an investigation into the above – mentioned matter. It is alleged that:

- Towards the end of 2014, VITE came to finalise its intake for 2015. A merit based, clear and transparent criteria to select the 2015 intake was followed by representatives for VITE and that the Minister was being made aware about this selection criteria or policy which was presented to him. Despite knowing about this, the Minister sent a letter containing the names of the 17 candidates to VITE (4 from Maewo, 2 from Emau, 2 from Santo, 6 from Tanna and 3 from Erromango) four months after the deadline of VITE application for 2015. Part of the letter reads "I am now approving the above following seventeen names to be included as the new VITE 2015 intake". The 17 candidates did not go through the VITE process of selection in 2014 and his alleged action is clearly by-passing the VITE selection criteria. It is also alleged that the candidates are in some way related to the Minister or are family representatives of members of the Minister's political party.

As you are the Principal of VITE, you have a right to reply to this complaint. Please provide your response before 4.30pm on the 25th of March 2015.

To assist this office in this enquiry, we request that you forward the following documents and information along with your response:

1. What is your response to this allegation?
2. Does the Minister of Education have the powers to interfere with the selection process of VITE or any Educational Institutions in Vanuatu? If yes, provide us with an explanation.
3. What was the reason for submitting the names of the 17 candidates after the deadline for submitting applications to VITE?
4. Does the Minister have the powers to direct VITE officials to enrol which ever students or candidates he wants at VITE?

Ombudsman Haus, Rue Pasteur PMB 9081, Port Vila, Republic of Vanuatu
Tel: +678 27200 Fax: +678 27140 Email: ombudsman@vanuatu.gov.vu

5. What is the normal selection process for VITE students? Is the selection procedure inline with the Ministry's selection policy.
6. Please provide a copy of the letter sent by the Minister instructing you to enrol the 17 candidates at VITE for the 2015 academic year.
7. Please provide us a copy of the minutes of the selection panel meetings to approve the names of the applicants who are to be enrolled at VITE for the 2015 academic year.
8. Any other documents or information that you consider relevant to this matter.

If you do not respond to this request, this Office can issue a Notice compelling you to come to the Office to give evidence and to provide the required information and documentation, however we prefer to work co-operatively wherever possible.

We would like to take this opportunity to remind you that under the Ombudsman Act, inquiries by the Ombudsman are confidential until a public report is made. You are legally obliged to comply with this confidentiality requirement. This means that you are not permitted to discuss this investigation, this letter, or any other information that comes from or is given to the Office of the Ombudsman, except with your lawyer or anyone with whom it is necessary to communicate in order to provide the information and documents requested. There are penalties for breaking this law.

Please contact us if you have any questions. Thank you for your assistance in this matter

Yours sincerely

Alain Wai MOLGOS
Director of Leadership Code Investigations
For: Kalkot MATASKELEKELE
OMBUDSMAN



**Office of the Ombudsman
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Our Ref: 1695/15003/L95/bl

(Please quote this reference in all
correspondence)

11 March 2015

Honourable Bob Loughman
Minister of Education
Ministry of Education
Port Vila

Dear Minister

**YOUR ALLEGED INTERFERENCE WITH SELECTION PROCESS OF VITE
STUDENTS**

This is to inform you that this Office is conducting an inquiry into the above matter. We intend to start an enquiry into the matter. It is alleged that:

- Towards the end of 2014, VITE came to finalise its intake for 2015. A merit based, clear and transparent criteria to select the 2015 intake was followed by representatives of VITE and that you were being made aware about this selection criteria or policy which was presented to you. Despite knowing about this, you sent a letter containing the names of 17 candidates to VITE. (4 from Maewo, 2 from Ermau, 2 from Santo, 6 from Tanna and 3 from Erromango) four months after the deadline of VITE application for 2015. Part of your letter reads, 'I am now approving the above following seventeen names to be included as the new VITE 2015 intake'. The 17 candidates did not go through the VITE process of selection in 2014 and your alleged action is clearly by-passing the VITE selection criteria. It is also alleged that the candidates are in some way related to you or are family representatives of the members of your political party.

As you are the person complained of and also responsible Minister of Education, you have a right to reply to this complaint. Please provide your response **before 4.30pm on the 25th of March 2015**.

To assist this office in this enquiry, we request that you forward the following documents and information along with your response:

1. Why did you have to interfere with the selection process of candidates for VITE?
2. Does the Minister of Education have the powers to interfere with the selection process of VITE or any Educational Institutions in Vanuatu? If yes, please provide us with an explanation.
3. What was the reason for submitting the names of the 17 candidates after the deadline for submitting applications to VITE?

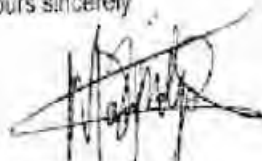
4. Do you have the powers to direct VITE officials to enrol which ever students or candidates you want at VITE?
5. Please confirm to us how you know the 17 people and if they are related to you or affiliated to your political party.
6. What is the normal selection process for VITE students? A copy of the Ministry's selection policy would be appreciated.
7. Any other documents or information that you consider relevant to this matter.

If you do not respond to this request, this Office can issue a Notice compelling you to come to the Office to give evidence and to provide the required information and documentation, however we prefer to work co-operatively wherever possible.

We would like to take this opportunity to remind you that under the Ombudsman Act, inquiries by the Ombudsman are confidential until a public report is made. You are legally obliged to comply with this confidentiality requirement. This means that you are not permitted to discuss this investigation, this letter, or any other information that comes from or is given to the Office of the Ombudsman, except with your lawyer or anyone with whom it is necessary to communicate in order to provide the information and documents requested. There are penalties for breaking this law.

Please contact us if you have any questions. Thank you for your assistance in this matter.

Yours sincerely



Alain Wai MORGOS
Director of Leadership Code Investigations
For: Kalkot MATASKELEKELE
OMBUDSMAN

Appendix 4 – Page 1 of 1

GOUVERNEMENT
DE LA REPUBLIQUE
DE VANUATU

MINISTRE DE L'EDUCATION
MINISTÈRE DE L'EDUCATION

Sac De Courier Privé 028
Tel : 22309
Fax : 23289
Port Vila, Vanuatu



GOVERNMENT
OF THE REPUBLIC
OF VANUATU

MINISTER OF EDUCATION
MINISTRY OF EDUCATION

Private Mail Bag 028
Tel 22309
Fax 23289
Port Vila, Vanuatu

OFFICE OF THE MINISTER

Date: 9th April 2015

Mr Kaioti Matas/Kalakele
Ombudsman
Office of the Ombudsman
Port Vila

Dear Ombudsman,

Seen/Noted Ombud N/A 16.04.15.

Your letter ref: 1695/15003/L95/bi dated 11th March 2015 in relation to alleged interferences in the selection process of VITE students is acknowledged. First and foremost, I wish to apologize for not responding on the date requested due to cyclone PAW.

I have read all the points raised and wish to confirm that this matter is no longer an issue as the VITE management decided to follow due selection processes and have made its final decision.

Thank you for your understanding.

Yours Sincerely,

Hon. Bob Lougheed (MP)
Minister for Education & Training



Cc: Director General

GOUVERNEMENT
DE LA REPUBLIQUE
DE VANUATU

MINISTRE DE L'EDUCATION
MINISTRE DE L'EDUCATION

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GOVERNMENT
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MINISTRY OF EDUCATION

Private Mail Bag 028
Tel 22309
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Port Vila, Vanuatu

OFFICE OF THE MINISTER

Date: 9th April 2015

Mr. Kaikei MatasKalakele
Ombudsman
Office of the Ombudsman
Port Vila

Dear Ombudsman,

Seen/Noted Ombud W/MS 16.04.15.

Your letter ref: 1695/15003/L95/bi dated 11th March 2015 in relation to alleged interference in the selection process of VITE students is acknowledged. First and foremost, I wish to apologise for not responding on the date requested due to cyclops PAM.

I have read all the points raised and wish to confirm that this matter is no longer an issue as the VITE management decided to follow due selection processes and have made its final decision.

Thank you for your understanding.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'Bob Loughman'.

Hon Bob Loughman (MP)
Minister for Education & Training



Cc: Director General

Institut de Formation des
Enseignants du Vanuatu

Sac Postal Réserve 9076,
Port Vila, Vanuatu
Tel: (678) 23099
Fax: (678) 27530



Vanuatu Institute of
Teacher Education

Private Mail Bag 9076,
Port Vila, Vanuatu
Tel: (678) 23099
Fax: (678) 27530

Wednesday 27th May, 2015

Mr Alain Wai MOLGOS
Director of Leadership Code Investigations
Ombudsman Office
PMB 9081
Port Vila,
Vanuatu

Dear Mr Alain,

Re: Alleged Interference with Selection Process of VITE Students By Minister of Education

Principal VITE do acknowledge receiving your letter dated 11 March 2015 on the above subject. I also acknowledge that about a few weeks after that letter, one of your officers from the Ombudsman Office came to my office to follow on the letter, and I confirm that I will send my response to the letter later. I apologize for the delay in responding to the letter, because of various circumstances arising at VITE. However, I wish to inform your office that VITE also upholds the principles of good governance, and makes every effort to ensure that is the case every time, especially when VITE is in the business of training teachers as future leaders in our nation.

Find below my response to each of your points in the letter:

1. I confirm that the allegations are true
2. In the new act, of the Teaching Service Commission (which came into force in 17th March 2014), the Minister does not have the power to post teachers to any school within the country. This is one of the functions of the Teaching Service Commission under the Teaching Service Act 2013 (see Section 40 of the Act). Furthermore under section 24 it clearly says that all appointments to the Teaching Service are to be made by the Commission and that the Minister and other members of parliament, political advisors and those holding positions of authority in political parties must not seek to influence the Commission in relation to appointments to the Teaching Service or any other decisions under this Act either directly or through another person. Contravention of that is a breach of the Leadership Code.

In the old The Teaching Service Act [Cap 171] gave the Minister the power to deploy officers. So in the old Act, the Teaching Service Commission did not have much power. They would provide the names to the Minister and it was the Minister that did the deploying.

The Act (new or old), does not give any provision that provides the power to the Minister to interfere or have a say or input into VITE selection/intake process.

3. According to the letter of the minister dated 16th January 2015, the minister says "This is a cohort list of last year which to my assessment and judgement must be enrolled as new 2015-2017 VITE intake". The letter stated that his (ministers) assessment is based on "disadvantaged communities and families, geography of island, keen interest of the candidate" (see Attachment #1)
4. The minister does not have the power to direct VITE officials to enrol which ever student or candidates he/she wants at VITE. VITE is governed by its own Act, and the governing body is the Council, and only the Council has the power to direct VITE (VITE Act 2001, CAP275)
5. The normal selection for VITE is through a selection process that is very clear and transparent. (see Attachment #2)
 - a. Publishing of the applications are done in May, indicating the opening date and the closing dates. VITE ensures that every means of communication is fully utilized so that everyone has the opportunity to apply. This includes the radio, emails, and social media (see Attachment #3)

- b. The VITE selection is in-line with the "New Policy Direction for 2014 and future VITE student Intake", send to the Principal of VITE on 01st October 2013 by the minister (see Attachment #4).
 - c. VITE made sure that each province had a candidate selected into the cohort for 2015. During the selection process, each of the six provinces were a given a quota allowing equal chances for every provinces to get their candidates into the training (see the final selection list attached, Attachment #5).
 - d. The final selection list was published in the media, and send by email to the ministry and to PEOs (see Attachment #6).
 - e. The VITE Council even made an effort on Friday 14th November 2014, to do a presentation to the minister and other directors in the MoET on the selection process of VITE (see Attachment #7)
6. The ministers letter send to the principal on the 16th January 2015, Attachment #1.
 7. Letter of the Selection Committee of the approval of the names of candidates selected in the normal process, and that of the ministers list (Attachment #8).
 8. Other documents submitted include email correspondences to various people in the MoET.

Yours sincerely,



Jack Daniel MATAPKI
Directeur/Principal

GOUVERNEMENT
DE LA REPUBLIQUE
DE VANUATU

MINISTRE DE L'EDUCATION
ET DE LA FORMATION

Sac De Courier Privé 028
Port Vila, Vanuatu
Tel : 22309



GOVERNMENT
OF THE REPUBLIC
OF VANUATU

MINISTRY OF EDUCATION AND
TRAINING

Private Mail Bag 028
Port Vila, Vanuatu
Tel : 22309



OFFICE OF THE MINISTER

16th January 2015

URGENT

Jack Daniels MATARIKI
Principal
Vanuatu Institute of Teacher Education
PORT VILA

Dear Mr. Matariki,

Subject: **2015 Intake- VITE**

I am writing to you with respect to the above subject matter.

This is a cohort list of last year which according to my assessment and judgment **must be enrolled as new 2015-2017 VITE intakes**. My assessment is based on disadvantage communities and families, geography of island, keen interest of the candidate.

The proposed additional new 2015 student intakes are:

Maewo

- 1) Gilda KOULON- Yr. 13
- 2) Josian SALVAN- Yr. 13
- 3) Nomita BANI- Yr. 13
- 4) Hanson ARU- 15 Years experienced contracted teacher

Ermau

- 5) Robin SIMON- Year 12 from Onesua Presbyterian College/ experienced as temporary teacher
- 6) Carla JOHN- Year 12/experienced as temporary teacher

Santo

- 7) Georgina NIEL- Yr. 14 Leaver from Lycee LAB, currently studying at AUPEL UREF. She intend to be a Junior Secondary Teacher to teach language
- 8) Annick LULU- Yr. 12 at Hog Harbor Secondary School

Tanna

- 9) Iata RAWAS- Untrained Teacher at Latua PS for 8 years
- 10) Lucy KALATEI- Yr. 13 Leaver from Lycee LAB, temporary teacher at Isangel College for 2 year.
- 11) Mr. Robson Moses
- 12) Ms. Lucy Willie
- 13) Mrs. Aline Koie
- 14) Ms Nancy KOHEA


Erromango

- 15) Alfred Uwo NATGO
- 16) George Nowai DAVIVA
- 17) Lillian Yahwo NIMALI

I am now approving the above following Seventeen (17) names to be included as the new 2015 VITE new intakes as a special case. By copy of this letter, the Director General and respective Directors are informed of my final decision.

Thank you for your understanding and cooperation in this matter.

Yours Sincerely,


Hon. Bob DOUGHMAN [MP]
Minister of Education and Training



Cc: 1st Political Advisor (MOET)
Director General of Education and Training
Director, Education Services
Chairman - VITE

Appendix 19 – Page 1 of 1

Re: Regarding the Ombudsman's Inquiry into Minister Bob Loughman's Alleged Interference With the Selection Processes of VITE

Jack Matariki (j.matariki@pfev.edu.vu)

Sent: Monday, 24 September 2015 1:29 PM

To: [REDACTED]

Importance: High

Attachments: Final Shortlist 2015 Intake.doc (27 KB); Selection Committee Response.doc (157 KB)

Find attached

- "Selection Committee Response to Minister's List" letter from selection committee regarding the minister's list, the processes taken and how many were eligible
 - "Final Shortlist 2015 Intake", the final list approved by the Selection Committee send to the principal, and the names of the two from the minister's list who were eligible and made it to the final list (highlighted in yellow in both documents, and copied below)

16	KOLI	Alicia	P	TAFEA	E	34633046530779	ISANGEL
25	NOWAI	George	M	TAFEA	SL	7782054	ISANGEL

Thank you very much.

Jack

Original Message

From: [REDACTED]

To: Matariki

Sent: Thursday, September 10, 2015 9:40 AM

Subject: Regarding the Ombudsman's Inquiry into Minister Bob Loughman's Alleged Interference With the Selection Processes of VITE

Dear Sir,

The purpose of this email series is inform you about the above matter. Our office is finalizing its inquiry into the above matter and it will be appreciated if you can provide us with one additional document or data if necessary. A copy of the letter from the Selection Panel approving the lists of candidates for the 2015 academic year intake at VITE, and confirm to us if any of the people listed in the Minister's list of 10th of January 2016 were enrolled at VITE after the final selection was being approved on the 9th of November 2015.

I would really appreciate your prompt response in this regard.

Best Regards

[REDACTED]
 Investigator
 Leadership Code Investigation
 Ombudsman's Office

CC: [REDACTED]
 [REDACTED]

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TENTH PARLIAMENT OF THE REPUBLIC OF VANUATU



THE OATH ACT (CAP 37)

OATH FOR MEMBERS OF PARLIAMENT

I, Lougimam Bob, having been elected a **Member of Parliament**, do swear that I will bear true faith and allegiance to the Republic of Vanuatu, will uphold the Constitution and the Law and will conscientiously and impartially discharge the responsibilities to the people of the Republic of Vanuatu upon which I am about to enter.

So help me God.

Sworn at Parliament

This 19th day of NOVEMBER 2012

BEFORE ME

A handwritten signature in black ink, appearing to read 'Vincent Lunabek'.

A handwritten signature in black ink, appearing to be a stylized 'V' or similar mark.
MEMBER FOR PARLIAMENT

VINCENT LUNABEK
CHIEF JUSTICE



Appendix 21 – Page 1 of 2

Mr Kalkot Mataskelekele
Ombudsman
Office of the Ombudsman
Private Mail Bag 9081
Port Vila



Date: 19th September 2016

Dear Ombudsman,

Your letter reference no. 2845/15003/L95/bl dated 8th August 2016 in relation to alleged interference with the selection process of VITE 2015 selection process is acknowledged. The letter was delivered to me and received on the 18th of August 2016. I requested that I shall respond to these allegations only after our meeting in Santo as I was busy organizing such a meeting. Thank you for allowing such a request.

I have read these allegations with interests and wish to respond by providing some factual considerations that led to making my determinations.

- The overall policy formulation of the Education system rests with the Government of the day,
- During the graduation ceremonies in 2013, As Minister, I raised the need to revisit the VITE Act with the former Principal to cater for geographical difficulties of schools and identify a mechanism to encourage students from those areas to enroll at the Institute so that only them can make a difference,
- Geographical locations of some schools are not very attractive to most teachers and the Government was facing serious problems posting teachers to such schools. The local tradition applicable to such areas does play some significant considerations and furthermore the local participation in the administration of schools also have some bearings,
- The In-service training unit under the VITE was not meeting its objectives and it was taking very long period of time and very costly before one can attain necessary qualifications. The need to establish a better mechanism was evident. The first lot of students that were enrolled when the program begun some 5 or 6 years ago will complete and graduate in 2018 provided the speed up the process,
- Allegations of teachers shortages around the islands are directed to the Government through the office of the serving Minister of the day and not to the VITE administrations nor its Council,
- The list submitted for special cohort were received from various Head teachers, School Chairman, Chairman of school community councils and the list was not intended to tarnish the good work of the VITE management but a special group to pilot whether or not the intended policy could be achievable and be financially cost effective,
- At a time of making such decision, vacancies in all schools nation-wide stood at two hundred and forty (240), two class rooms were not occupied at VITE and the grants payable to them was raised by five million Vatu (5Mvt),
- By comparison with VITE was receiving 20 Mvt and graduating less than 100 students while VIT (Vanuatu Institute of Technology) was graduating 350 to 400 students with a grant of 10 Mvt.

Appendix 21 – Page 2 of 2

In conclusion, I wish to confirm that my decision was done in GOOD FAITH without any Provincial or Political favoritisms. None of the candidates were either known to me nor were they my relatives.

It is alleged that out of the 17 students, two (2) selected were from Tafea province however, these two were selected after undertaking tests and passing such tests to warrant their placements like any other students. I conclude that the Academic Board as specified under section 21 (1) & (2) of VITE Act (CAP 275) was satisfied that they have attained the required standard and were eligible for a place. My letter of 9th April 2015 was clear in that sense. Likewise, the Council may have acted contrary to section 9 (a) (ii) of the VITE Act.

Allegations of breaching the Teaching Service Act is irrelevant as section 34 deals with teachers in service as compared to teacher trainees who if they do not complete the course could never be a teacher.

Similarly, allegations of breaching the Education Act, Leadership Code and the Constitution were unfounded.

The VITE ensuring the each province had a candidate selected into the 2015 cohort is short sighted because a student originating from a particular province but living in Vila or Luganville and hence would not accept to serve in a remote rural situation. Some officials both teachers and nurses do not want to serve in some islands due to local culture and in these cases, we need to train officers from that place so that they can serve in their place without fear.

On its presentation as stated under point 4.10, the VITE management agreed with the former Minister's proposal on geographical hardship and awarded one (1) point for students coming from remote localities and I thank them for agreeing to that matter.

Lastly but not the least, I am of the view that as Minister, I was acting within the parameters of the VITE Act (CAP 275) as the Council was expected to act in accordance with section 9 of the VITE Act.

Please be informed that I shall make myself available to get this sorted in due course.

Yours Sincerely,



Bob Loughman (MP)

Member for Tanna

Further Notes on Appendices

- I. ¹¹Appendix 6 is Mr Jack Matariki whole response
- II. Appendix 7 is listed as first paragraph of #2 in Mr Matariki's response
- III. Appendix 8 is listed as second paragraph of # 2 in Mr Matariki's response
- IV. Appendix 10 is listed as #3 in Mr Matariki's response
- V. Appendix 11 is listed as # 4 in Mr Matariki's response
- VI. Appendix 12 is listed as #5 in Mr Matariki's response
- VII. Appendix 13 is listed as part b of #5 in Mr Matariki's response
- VIII. Appendix 14 is listed as part c of # 5 in Mr Matariki's response
- IX. Appendix 15 is listed as part d of # 5 in Mr Matariki's response
- X. Appendix 16 is listed as part e of # 5 in Mr Matariki's response
- XI. Appendix 9 is Minister Bob Loughman's letter to Mr Matariki dated 16th January 2015.
- XII. Appendix 17 is Minister Bob Loughmans instruction to enroll 17 students in the Ministers letter dated 16th of January 2015
- XIII. Appendix 18 is Minister Bob Loughman's assessment on why the 17 students need to be enrolled based on his assessment in his letter to Mr Matariki dated 16th of January 2015.
- XIV. Appendix 19 is Mr Matariki's emailed response to the Investigating Officer