

Our ref: 2008-112078

20 August 2008

Dr Kathleen Dermody
Secretary
Senate Committee on Foreign Affairs, Defence and Trade
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600




Dear Dr Dermody

I am writing to you regarding the Standing Committee's *Inquiry into the economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific*.

Please find attached our submission, which is provided in response to a general call for submissions made by Senator Mark Bishop, Chairman of the Standing Committee, on 24 June 2008.

Yours Sincerely,



Prof. John McMillan
Commonwealth Ombudsman

Attachments:

- A. Submission
- B. Proceedings of the Law Enforcement and Complaint Handling Seminar Port Moresby, September 2007.

**Submission by the
Commonwealth Ombudsman
to the**

**Senate Standing Committee on Foreign
Affairs, Defence and Trade**

***Inquiry into the economic and security challenges facing
Papua New Guinea and the island states of the Southwest Pacific***

The Commonwealth Ombudsman is pleased to contribute to the *Inquiry into the economic and security challenges facing Papua New Guinea and the island states of the Southwest Pacific* by the Senate Standing Committee on Foreign Affairs, Defence and Trade.

Ombudsmen in Papua New Guinea and the island states of the Southwest Pacific have an integral part to play in improving public administration in their countries. The impact of that work extends to delivering better quality public services in growth-critical areas such as health, education and the provision of public infrastructure, and to overcoming some of the key hurdles to business investment and economic growth, including political instability and internal conflict.

This submission aims to describe the involvement of this office in international development activities supporting Ombudsmen in our region under two AusAID funded programs: the Papua New Guinea Australia Ombudsman Twinning Program and the Pacific Governance Support Program.

The agreement for a "Commonwealth Ombudsman - PNG Ombudsman Commission Twinning Program" was signed in January 2006. Provided by AusAID for an initial three years, funding under this program enables officers to undertake work placements, generally around three months in length, as well as facilitating short term provision of expert advice and workshops. The program is subject to six-monthly reporting and regular independent reviews.

Similarly, the Commonwealth Ombudsman is funded under the terms of a Pacific Governance Support Program agreement, signed in April 2006 to undertake placements and network building activities to the benefit of Pacific Island Countries. Six Pacific Island Countries with Ombudsmen (Samoa, Solomon Islands, Tonga, Vanuatu, Papua New Guinea and the Cook Islands) are currently active in this network. Under the terms of a second PGSP agreement, the office consulted widely in 2007/08 on ways to extend complaint handling services to Small Island States without Ombudsmen.

As a result of this work, a new Pacific Ombudsman Alliance is expected to be formed over the next twelve months, enhancing the sustainability of these arrangements by putting in place a formal Board structure to improve Pacific leadership of Ombudsman support initiatives over a ten-year time frame.

Pacific Ombudsmen have benefited from these programs both through their impact on fostering systemic improvements in work practices, and through the facilitation of greater contacts between them and their offices.

Among the successes of these programs, two examples are illustrative of the ways in which our support is assisting to improve complaint handling processes within Ombudsmen offices, and improve the way Ombudsmen officers relate to the

agencies that fall within their jurisdiction. In the first example, support provided by my office has assisted the Ombudsman Commission of Papua New Guinea to improve its liaison with key law and justice sector agencies for the more efficient resolution of complaints. The placement to my office in 2006 of the (late) Senior Investigator John Hevie, commenced a process which culminated in June 2007 in the signing of a Memorandum of Understanding between the Papua New Guinea Ombudsman Commission (PNGOC) and the Royal Papua New Guinea Police Constabulary (RPNGC). The agreement will help to improve the internal administration of complaints within the Police Constabulary, as well as setting out protocols for more cooperative relationships between the two agencies where independent complaint investigation is required.

Further support by my office is assisting to forge a similar agreement with the Papua New Guinea Defence Force (PNGDF), with a very successful Law Enforcement and Disciplined Services Complaint Handling Seminar held in Port Moresby in September 2007 (see attached report), which included the heads of the PNGDF, RPNGC and PNG Corrective Services as well as the Australian High Commissioner in Port Moresby, the Commonwealth Ombudsman, the Inspector General of the Australian Defence Force, as well as Detective Superintendent Steve Hulbert of the AFP, and many other senior PNG public sector representatives. Senior members of the PNGDF, accompanied by John ToGuata of the PNGOC conducted a follow-up visit to the ADF in Canberra in November 2007, and the PNGOC continues to focus on this strategic area of operations.

Similarly, during a placement to the Office of the Vanuatu Ombudsman in September 2006, a Commonwealth Ombudsman Investigation Officer made a significant contribution to the way the Vanuatu Ombudsman liaises with other government agencies. By reviewing all of that office's letter templates and Investigators' Manual, our Investigation Officer was able to implement, at no cost to the organisation, simple and immediate changes, which improved its communications with other agencies and with members of the public. Through such measures, we are sharing with our overseas colleagues the insights we have gained through the review of our own work practices. My office is also assisting Pacific Ombudsmen in their efforts to focus complaint handling processes on resolution of complaints, and the reduction of case backlogs.

Several lessons from these experiences of working with Ombudsmen in our region may have wider policy implications as discussed below.

We recognise that while an Ombudsman's role allows for the consideration of a range of views, the independence of an Ombudsman must be paramount for the office to succeed in building the trust of the people in their institutions of state. We are careful therefore to support, but not supplant, independent investigation capacity. We offer advice on the process of case-handling, support junior officers as they develop their skills of investigation and problem-solving, and offer collegiate support to other Ombudsmen in what can be socially isolating roles. We do not seek to 'step into the shoes' of other Ombudsmen nor to carry out the responsibilities of local investigators to resolve specific cases.

My office has in place a range of policies and guidelines that aim to ensure we create an approachable, collegiate environment for our overseas peers, so that they may contact us directly at any time for advice on a case or management issue. In practical terms this means that we often deliver support on an ad-hoc and informal basis, and we are fortunate that our funding agreements provide this flexibility. Although the wages of two-full time staff working in our International Program are covered from our

three AusAID funding agreements, we do not seek full cost-recovery for the occasional involvement of our staff in this program.

Our experiences have highlighted the potential benefits of collaborating with other government agencies engaged in the Pacific. One special feature of our approach is the inclusion of other Australian and New Zealand Ombudsman offices, widening the pool of expertise available to Pacific Ombudsmen through staff exchanges and visits. This has been particularly important in consolidating positive and mutually respectful ties at a senior level between Australian and Pacific officials, as well as raising the profile of their offices in their own country. Furthermore, by keeping other Australian government agencies involved in the Pacific Governance Support Program informed by email of our activities, we have been able to raise the profile of Ombudsmen in the Pacific and highlight opportunities for other agencies to collaborate with Ombudsmen in the countries in which they work. These collaborations seek to leverage more cooperative working relationships between Ombudsmen and the agencies with whom they work, and thus can significantly enhance Ombudsmen's effectiveness, and their impact on the quality of governance in the region.

We have witnessed the usefulness of a genuinely regional approach based on facilitating dialogue between public sector specialists in Pacific Island Countries. By promoting an ongoing dialogue between Pacific Island Ombudsmen we have been able to open up a number of new opportunities to extend complaint handling services, and to link up with other governance initiatives through the agencies of the UNDP Pacific Centre and the Pacific Island Forum.

This office is mindful of the necessarily long-term nature of our efforts to support and build relationships with Pacific Ombudsmen, and so to contribute to a positive chain of improvements in the security, economic growth and effective administration of the region which directly serves Australian interests.

Ombudsmen are uniquely placed in their societies to support the development of more effective and accountable state institutions. As well as resolving specific, individual complaints, Ombudsmen play a critical role in identifying systemic weaknesses in policies and processes and recommending reforms to public administration. Their recommendations often lead to significant security, welfare and financial benefits for the communities in which they operate. Moreover, effective complaint handling can defuse tensions (for example over the allocation of public resources, or perceived social discrimination against members of particular social groups) before these escalate to violent conflict. By providing a 'safety valve' for citizens with grievances against the government, and by raising public confidence in the independence of investigations into administrative deficiencies, Ombudsman institutions play a crucial role in building legitimacy in and support for the institutions of state.

While they are steadily increasing their profile and impact, Ombudsmen in the Pacific themselves recognize and express a need to further develop the capacity of their organizations to meet the specific administrative challenges of their jurisdictions in ways responsive to national cultural and political development dynamics. My office therefore looks forward to continuing to work with AusAID and other key government agencies to support Ombudsmen in Papua New Guinea and the Southwest Pacific for many years to come.