



OFFICE OF THE OMBUDSMAN

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**THE OMBUDSMAN'S REPORT ON
THE COMPLAINT BY**

'Iisapesi S. Likiliki

CASE NO. CPR16/29

**Whether the decision and actions of Ministry of Education
& Training were fair and reasonable in providing the
appropriate recognition and remuneration to the
complainant for carrying out the duties of a higher post**

27th January 2017

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6. I assigned the investigation to my Investigation Team who undertook the investigation and corresponded between the complainant and the Ministry.
7. The team requested, received and reviewed documents from the Ministry relating to the complaint.

THE OMBUDSMAN'S ROLE

8. Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to investigate the administrative acts, decision, omissions and recommendations of an officer of an organization in his capacity as an officer of that organization. This applies to the Ministry which is an organization under the Act. (Section 18(1) and (2) of the *Ombudsman Act 2001*).
9. My investigation is not an appeal process neither is it a judicial hearing. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the act or decision and the procedure followed by the Ministry. I then form an opinion as to whether the act or decision was one the Ministry could reasonably make or that the procedures followed by Ministry was properly followed.
10. My role is to consider the administrative conduct and decisions of the Ministry and to form an independent opinion on whether that conduct was fair and reasonable.

THE TRANSFER TO HA'ALAUFULI

11. The complainant held the post of Senior Assistant Teacher Diplomat (SATD) and was told verbally to be transferred from GPS Tu'anekivale to GPS Ha'alaufuli in 2012 and was led to believe she will be appointed and remunerated as Deputy Principal Grade III. She was never remunerated for being the Acting Deputy Principal Grade III.
12. The transfer was part of the annual rotation by the Ministry of its teaching staff. It was broadcasted on national radio. The complainant was told that the Deputy Principal Grade III post will be made hers, and that she will be remunerated accordingly. Even though there was no official documentation, she accepted and carried out the tasks and responsibilities of the higher post although she received no compensation. She discussed her situation many times with Education officers in charge of Education in Vava'u without success. She also made numerous calls to the Ministry Headquarters in Nuku'alofa but again without success. She wrote letters but did not receive a response.

ACTING DEPUTY PRINCIPAL GRADE III

13. The complainant in fact had carried out duties and responsibilities of the Deputy Principal post because there was a vacancy and because she was told that she would be

remunerated and appointed to the post. The Ministry benefited from her performing the role without remunerating the complainant and failed to respond to her regarding her many queries regarding her position and remuneration.

THE COMPLAINT

14. The complainant lodged her complaint on the 1st of June 2016. She wanted the Ministry to be responsible and responsive to her complaints. She wanted her work at the higher post since 2012 to be recognized and remunerated.

15. In July 2016, I referred the matter to the Ministry for a response.

MINISTRY'S RESPONSE SEPTEMBER 2016

16. In September 2016, we were advised by the Ministry that the complainant's complaint was valid and would be addressed during its One-Off-Staffing exercise. She would receive two-years of acting allowance (back-pay) and she would be appointed to the post of Deputy Principal Grade III. This was relayed to the complainant and was gratefully received.

17. The Ministry is to be commended for quickly admitting that the complaint had merit and for taking immediate action, not only to resolve this complaint but to address similar complaints in the Ministry by the One-Off-Staffing Exercise.

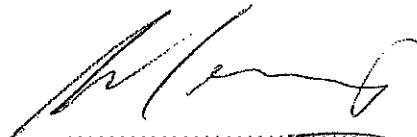
18. The proposed remedies were to be in effect by October 1, 2016

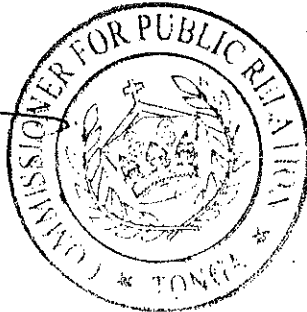
RECOMMENDATIONS

19.
 1. That 'Ilisapesi Likiliki receive 2 years of acting allowance back-pay.
 2. That 'Ilisapesi Likiliki be promoted to the post of Deputy Principal Grade III.
 3. That the Ministry adhere to Policy and Instructions on promotion and acting.
 4. That the Ministry document its decisions and records are securely kept.
 5. That the Ministry develops and maintains an effective communication strategy with its employees
 6. That the Ministry report back to me within 2 months of the date this Report is finalised by providing updates on the recommendations set out above.

MINISTRY'S RESPONSE JANUARY 2017

20. On the 6th December 2016, I delivered my Provisional Report to the Ministry setting out my findings, opinions and recommendations. On the 20th of January 2017 I received a letter from the Ministry accepting the recommendations of this Report. A copy of this letter is attached to this Report (section 18(5) of the Ombudsman Act 2001).
21. I again commend the Minister of Education and Training for taking positive action to resolve this complaint and for the One-Off-Staffing exercise to address similar issues for other Ministry Staff.


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'Aisea H. Taumoepeau, SC
Ombudsman of Tonga





MINISTRY OF EDUCATION & TRAINING

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(Please address all replies to the Chief Executive Officer for Education and Training, Mr. Claude Tupou)

Ref: QL32

20 January, 2017

Mr. Aisea H. Taumobeau, SC
The Ombudsman
Office of the Ombudsman
Retirement Fund Building
NUKU'ALOFA

Dear Sir,

Subject: Provisional Report under the Ombudsman's Act – Complaint from Mrs. Ilisapesi S. Likiliki against Ministry of Education and Training.

I am writing with reference to your letter dated 6 December, 2016 (Ref: AHT, 275/2016 CPR/A.5 concerning the above-stated subject.

In this regard, I have been instructed by the CEO for Education and Training (CEO) to convey that the Ministry has no objection to your Provisional Report.

Further to the above, the Ministry confirms that Mrs. Likiliki has been promoted to the position of Deputy Principal Grade 3, GPS Ha'alaufuli with effect from 28 June, 2016.

The back-pay of 2 years of acting allowance is also work in progress, and the Ministry is working closely with the Ministry of Finance to have this paid off as soon as possible. It is the wish of the latter that all acting appointments are well justified before payment is made, and that the Ministry has sufficient savings to implement the back pay. The CEO re-assured today that the Ministry is obligated to have it paid off.

The development and maintenance of an effective communication strategy is work in progress, and improvement of internal communication is one of the CEO's priorities.

We wish to thank you for your continuous advice and support to improve the services of the Ministry for the betterment of all.

Wishing you a blessed and successful new year.

Yours sincerely,

Lucy Moala-Mafi
FOR Chief Executive Officer for Education and Training

