



**CORRUPTION WORKING GROUP
MEETING**

MINUTES

**Thursday 7th October 2021
1.00pm Nauru time**

1. **Welcome:** - Corruption WG Chair – Ronald Talasasa – Director Public Prosecution Republic of Nauru.

2. **Present/Apologies:**

Chair welcomed on board Ms Elma Rizzu Hilly, a legal officer and also the coordinator of the Anti-Corruption Unit within the Office of the Director of Public Prosecutions.

Present:

- ii. Elma Rizzu Hilly – Solomon Islands
- iv. Sarla Hallock - Australia
- v. Sasae Walter – PILON Secretariat
- iv. Rosy Fogatia - PILON Secretariat

Apologies:

Rachel Olutimayin – DPP Solomon Islands

3. **Minutes from previous WG Meeting 3rd September 2021**

The motion was moved by Australia and seconded by Solomon Islands.

The reference in the minutes on page 2 3 (ii) a proposed webinar on Prosecuting Corruption using digital evidence is a joint activity between the Corruption & Cybercrime WGs. The same will be discussed in this agenda on item 4(2).

The correction is that it's a joint activity between the Corruption & Cybercrime WG and not SGBV WG.

4. **Matters for Discussion:**

1. Success and Positive Stories

Solomon Islands –

ERH shared an update of the cases that they're dealing with. Recently, the Police charged a member of the constituent's development officer, for corruption, after an assessment was done as part of an investigation conducted by the Police. It's on official corruption by a **public servant for the misuse** of over 50k for payments of project materials that were specifically for constituency funded housing projects. The

officer used this funding for his own purpose and building his own personal house. This is their most recent case they've dealt with.

She also mentioned an **embezzlement** case that involves an early childhood teacher who mistakenly received around 3million D into her account She used over 1m and was acquitted at a no case to answer stage. Now the DPP office is appealing this decision, and the challenges cited in these cases, is that the understanding of the elements that needed to be proven, it appears that there's a lack of understanding on the elements that needed to be proven according to the DPP office.

Another matter is in relation to a pyramid scheme case. The case is still ongoing in court. One of the directors of this Pyramid Scheme pleaded guilty, and this is a success story. The challenge is that the documentary evidence is very hard and technical. The matter went well and its at a closing stage.

Another case the Anti-corruption Commission was established in 2018. It's still at its infancy stage, but have already received complaints and the prosecutors continues to prosecute these cases.

An update on the Phillip Bobongi case, it's now at the confiscation order stage, and the date set for the application is in progress.

Australia

SH shared a **fraud** prevention initiative being developed by a Commonwealth Fraud Prevention Centre at the Australia Attorney Generals Department. The Fraud Centre developed a Disaster Relief & Recovery Counter Fraud Toolkit. This Toolkit is developed for Australian Government entities involved in delivering emergencies response and recovery support measures. The purpose of the toolkit is to encourage entities to turn their minds to counter fraud measures in the development and design process.

The Australian Government provided covid relief payments such as the job keeper payment and the centre used this toolkit to provide advice to the Department of Treasury and Australian Taxation Office to build counter fraud measures into the job keeper payment.

The Fraud Team has been identified that emergency response policy programmes are often rolled out very quickly and they identified a need to proactively engage in these entities who are likely to roll out the support measures. At the design and development stage of the policy, the Toolkit has provided over a thousand stakeholders and it features a range of counter measures and solutions that can be deployed when delivering support measures. The feedback from stakeholders have been very useful particularly the counter fraud teams within those relevant entities have found that it has helped them to proactively approach the policy in development teams on useful tips at that counter fraud stage.

SH wanted to share this because this is an example of an initiative that is aimed at having counter measures in place in order to reduce the fraud and corruption related offences.

The chair asked on "How Long does it take a case to be finally disposed of?"

SH responded that she will come back with an answer on this question.

Samoa – PILON Secretariat

SW shared **Bribery** and the Samoa Electoral Act 1963.

Recently in Samoa there has been confusion arising over allegations complicated by the assertion that gifts given during election campaigns are not bribery but payments that are required in customs. This has been the common defence raised in court in election bribery cases.

The potential for confusion was based on whether monetary payments are bribes or acceptable customary practice, magnified during elections because voters sell their votes and expect something in return from candidates. The problems of bribery lead Parliament in 1995 to amend the Electoral Act 1963 purposely to reduce the floodgate of bribery petitions. In 2005, Parliament again amended the Electoral Act 1963 intentionally to specify certain customary payments as not considered bribery. The same Act was amended in 2013 and 2018 respectively.

The description of Bribery in these cases in Samoa is very interesting. An amendment was made to the Act specifying that the traditional presentation by a Member or Candidate for Parliament will not be considered as treating, bribery or an illegal or corrupt activity or practice if it is made within the period commencing with the 180th day and ending with the 90th day from expiry of the then Parliament at 5 years.

The information to be shared is that, it appears in this interpretation that you can present a traditional gift (*giving of money, food, gifts etc*) within a specified period, and its not bribery, but if done within 90 days before election, then its bribery.

Nauru

RT shared one case on **Abuse of Office**, that is still being prosecuted, the difficulty is that an interpreter who speaks Guangdong is needed and because of the restrictions of Covid, the Office was unable to bring an interpreter over. It involves an abuse of office, held by an inspector who inspects restaurants and then was engaged in this activity.

What is happening now in Nauru is the strengthening of the process of licencing of businesses and licencing of drivers.

If caught without a driver's license, you are fined and if not paid up by 7 days, you will go to court and the court will add another cost. The TEMAS system help to deal with traffic offences quickly.

For business licences, licenses are required to be updated to prevent businesses from being closed.

He also shared a **fraud** case uncovered during an audit of state-owned enterprises. The main witness is from Fiji and when his contract ends, he returned to Fiji. When he was asked to return to Nauru to testify, he refused. Arrangements for legal assistance was suggested but was also refused. There are some challenges, when you have witnesses who are here in Nauru temporarily, and when the case is called, the witness has left and refuses to return.

There's a series of sexual offenses and attempted murder cases in Nauru, and in one case a group of doctors were planning to leave, and because of COVID and travel

restrictions, and they couldn't delay their travel any further. The difficulties of getting witnesses over and having them present over virtual links led the Office to file a notice of motion in the Supreme Court under a relevant provision in the Criminal Procedure Act with supporting affidavits in the court, and the court approved it. They were able to call all the doctors to testify, even before the case started and was listed for trial. All the evidences were recorded before they left, and when the matter was listed for trial, that record was ready as evidence when the trial runs.

2. Update of Framework for Prosecuting Corruption Booklet.

The Booklet has been uploaded onto the website on the Digital Library. We will notify members when the hardcopy has been sent out.

3. Workplan 2022

A workplan will be circulated to members on the proposed trainings on prosecutors and police investigators on mutual assistance to obtain evidence and prosecuting corruption using digital evidence. This is a Corruption & Cybercrime joint activity.

5. **Next Meeting:** To be confirmed.

6. **Meeting Closed:** 2.00pm

Minutes for 7 October 2021 endorsed on 4 March 2022