



PARLIAMENT OF THE COOK ISLANDS

Public Accounts Committee

16 June 2017

Honourable Speaker
Office of the Speaker of Parliament
Parliament of the Cook Islands
Nikao, Rarotonga
COOK ISLANDS

Honourable Speaker

RE: PARLIAMENT PAPER NO. 106: PAC REPORT 4-2017

Pursuant to the Terms of Reference of the Public Accounts Committee, I have the honour to present the Committees Report on the Evidence Session with the BTIB Board Chairman regarding the:

Follow-up on investigation into misappropriation of funds at the Business Trade Investment Board (BTIB) in 2013.

I have the honour, Madam Speaker, to be your obedient servant,

A handwritten signature in black ink, appearing to read 'Mona Ioane'.

Hon. Mona Ioane
Chairman
Public Accounts Committee

PARLIAMENT OF THE COOK ISLANDS
Paper No. 106



Public Accounts Committee

Report on Evidence Session: Friday 12 May 2017

Follow-up on investigation into misappropriation of funds at the Business Trade Investment Board (BTIB) in 2013.

PAC Report No. 4-2017
18 May 2017

Public Accounts Committee Members

Chairman	Hon Mona Ioane, MP Member for Vaipae-Tautu Deputy Speaker of Parliament
Deputy Chairman	Mr James Beer, MP Member for Murienua
Members	Mr Tekii Lazaro, MP Member for Pukapuka-Nassau Mrs Ngamau Munokoa, MP Member for Nikao-Panama Mr Tai Tura, MP Member for Mauke Mr Tangata Vavia, MP Member for Mitiaro

Committee Staff

Committee Clerk	Mr Tangata Vainerere Executive Director Pacific Legislatures for Population and Governance
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Parliament Leadership

Speaker	Mrs Niki Rattle
Clerk	Mr John Tangi
Deputy Clerk	Mrs Helen Maunga

Public Accounts Committee

Report on Evidence Session

Friday 12 May 2017

*Follow-up on the investigation into misappropriation
of funds at the Business Trade Investment Board
(BTIB) in 2013.*

PAC Report No. 4-2017

Presented by

Hon Mona Ioane, MP

Laid on the Table of Parliament on 19 June 2017

Table of Contents

SUMMARY OF RECOMMENDATIONS	5
CHAIRMAN'S FOREWORD	6
PAC NOTES AND RECOMMENDATIONS	8
BTIB Board Resolutions	8
Legal Advice by Crown Law	9
Financial Management Regulations ignored.....	9
CHAIRMAN'S ACKNOWLEDGEMENT	11
APPENDICES	12
Appendix One: BTIB Exhibit 1 - Minutes of BTIB Board Meeting	12

SUMMARY OF RECOMMENDATIONS

The following is a list of all the recommendations made by the Public Accounts Committee in respect of the Evidence Session conducted by the Committee on Friday 12 May 2017 with the Chairman of the Business Trade Investment Board Mr John Tumutoa and BTIB CEO Mr Teariki Vakalalabure. This summary of recommendations is not intended to stand alone and should be read in conjunction with the PAC NOTES AND RECOMMENDATIONS section of this report which contains the rationales for these recommendations.

Recommendation 1

The Committee recommends that the Audit Office be more specific about its future recommendations on the actions required of entities under investigation on the matter of referral of criminal acts to the Police.

Recommendation 2

The Committee recommends that the Audit Office review its investigation procedures to ensure that this example of a breakdown in communicating Crown Law legal opinions by the CIAO to any entity under investigation is not repeated.

Recommendation 3

The Committee recommends that (as also stated in Recommendation 2 of the Parliament Paper 104 - PAC Report No. 2-2017) Government bring to Parliament an amendment to the PERCA Act 1995/96 that will empower the Audit Office to refer to Police matters of misappropriation of public funds in a Government Ministry, Statutory Body or State Owned Enterprise where prima facie evidence of misappropriation is confirmed by the Solicitor General.

CHAIRMAN'S FOREWORD

This is the 4th report of the Public Accounts Committee (PAC) of the Parliament of the Cook Islands. The report was tabled in the 48th session of Parliament during the Parliament Sitting on 19 June 2017 as Paper No. 106 (PAC Report 4-2017, 18 May 2017).

This report outlines the outcomes of the evidence session conducted by the Committee on Friday 12 May 2017 as follow up to earlier deliberations on the Special Review Report by the Cook Islands Audit Office (CIAO) on mismanagement of funds at the Business Trade Investment Board (BTIB) - Parliament Paper No. 43, 27 May 2015.

In attendance was Mr John Tumutoa, Chairman of the Board of the BTIB as the key witness. He was accompanied by Mr Teariki Vakalalabure, CEO of BTIB.

Background

The appearance of Mr Tumutoa before the Committee was triggered by the Committee's findings during its deliberations on the mismanagement of funds by the former Finance and Administration Manager at BTIB, as reported in the Parliament Paper 104 - PAC Report 2-2017 dated 18 May 2017.

The Committee recalled that in the Audit Report, the Audit Office made a number of recommendations including the two highlighted below:

- Recommendation 15.2 (addressed to the then CEO of BTIB) *"Consider referring the matters highlighted in this report to the police for further investigation."*
- Recommendation 15.10 (addressed to the Board of the BTIB) *"Consider referring the matters highlighted in this report to the police for further investigation."*

The Committee Process

The Committee's attention was drawn to a letter to the Director of Audit, Mr Allen Parker, dated 6th November 2014 bearing the signature of the BTIB Board Chairman, which was annexed to Parliament Paper No. 43 dated 12 June 2015, in which the Chairman informed Mr Parker of four resolutions made by the BTIB Board regarding the review.

In the first resolution, the Board approved the recommendation by the Audit Office for BTIB Management to improve and strengthen its office procedures. The Board in its fourth resolution

About the PAC

The PAC was established by Parliament through Motion No. 3 as notified by Order Paper 17 on 14 December 2015:

"To be the financial oversight of Parliament and to report on the Budget and Public Accounts, and also to examine reports of the Auditor General and any such report and to undertake any financial matters deemed necessary and to report all findings to Parliament."

gave assurances that a competent, reliable and professional person will be employed to the role of Finance Manager of BTIB to strengthen its office performance.

The Committee concurred with these resolutions by the Board. However, in its second resolution, the Board noted that all funds misused by the staff concerned have been repaid in full. The Board also felt the public knowledge of the termination of the said staff from BTIB with her misuse of public funds was sufficient penalty for her actions. The Committee raised concerns on this view.

Further, in its third resolution, the Board felt that Police prosecution on the part of the Board was not necessary. However, should the Audit Office and Crown Law wish to proceed with legal action that is their choice. This also a view the Committee was concerned about. Therefore, the Committee required the BTIB Chairman to fully explain the rationality and validity of Resolution 3 and the intricate dialogue and reasoning that led to the adoption by the Board of this particular resolution, hence the convening of this evidence session.

Please refer to the PAC NOTES AND RECOMMENDATIONS section of this report for a summary of the proceedings of the evidence session.

Hansard reports on PAC Evidence Sessions are available on request to the Committee Clerk.



MR MONA IOANE, MP
CHAIRMAN

PAC NOTES AND RECOMMENDATIONS

BTIB Board Resolutions

1. Responding to the question why the Board did not act on the Audit Office Recommendation 15.10 to refer the matter to the Police for further investigation, the Chairman responded that the Board decided not to initiate prosecution of the staff concerned for a number of reasons.
2. First and foremost she is a Cook Islander, a young graduate in economics but she was put in a different field of work in BTIB with respect to accounting services. And she hasn't had 100 percent performance quality for this type of work.
3. Secondly, the staff concerned admitted right throughout this investigation that she has misused the funds of BTIB and certainly that would have been the most important reason why the Board did not go further in prosecuting this former staff because the Board believed that if the Board did so, it will have a damaging effect on her future career development.
4. The Board also believed that the ongoing humiliation the former staff suffered through the media and her colleagues was reason enough for the Board not to proceed with prosecuting.
5. And finally the former staff member's father was very helpful to come up and pay all the bills that she used in misusing the public funds.
6. Those are the key reasons why the Board did not proceed to prosecute the former staff member. Hopefully she will learn from her mistakes and not repeat such behaviour again.
7. The Chairman also mentioned in the letter to the Audit Office (on 6 November 2014) that should the Audit Office and Crown Law wish to proceed with legal action that is their decision.
8. On the question of whether the Board may have erred in taking a soft stance on the former staff member and setting dangerous precedents for other staff by not referring the matter to Police, the Chairman responded, "No."
9. The CEO also pointed out that the recommendation by the Audit Office was that the Board consider referring the matter to police for further investigation, not prosecution. So the Board did consider and decided otherwise and opted to leave the matter of referral to the Audit Office and Crown Law.

Recommendation 1

The Committee recommends that the Audit Office be more specific about its future recommendations on the actions required of entities under investigation on the matter of referral of criminal acts to the Police.

Legal Advice by Crown Law

10. The Committee noted that the Solicitor General advised the Audit Office on 30 September 2014 that there was prima facie (accepted as correct) evidence that the former BTIB staff member has (knowingly) acted dishonestly and that the Audit Office has correctly identified the various sections of the Crimes Act that cover her behaviour.
11. The Solicitor General also noted in her email communication to the Audit Office that there was a pattern of dishonesty that couldn't be explained away as genuine honest mistakes so as to give the former BTIB staff member the benefit of the doubt.
12. Based on the evidence provided by the Audit Office to Crown Law, the Solicitor General in her legal advice recommended that the matter be referred to the Commissioner of Police for investigation.
13. When queried why the Board did not act on the Solicitor General's advice, the Chairman responded that he did not receive the advice by Crown Law and the Board was not aware of that legal advice.
14. The Committee was very much concerned with this response as it has indicated a break in communication between the Audit Office and the BTIB Board.
15. On the question of whether the Board made its decision not to refer the matter to the Police was done with a view to protecting the reputation of the staff member concerned, the BTIB Chair answered, "No". The Committee was not satisfied with this response but let the matter rest.

Recommendation 2

The Committee recommends that the Audit Office review its investigation procedures to ensure that this example of a breakdown in communicating Crown Law legal opinions by the CIAO to any entity under investigation is not repeated.

Financial Management Regulations ignored

16. The Board Chairman accepted the fact that at the time of the incidents there were existing Policies and Procedures in the CIGFPPM on how public funds were to be managed by staff in Government Agencies and State Owned Enterprises but unfortunately those rules as in this case were not followed and BTIB learned some good and important lessons from the investigation.
17. In hindsight, the former CEO should have applied closer supervision in regards to the work of the former Finance and Administration Manager.

18. As a result of the Audit Office review, many changes were introduced into BTIB management processes and staff are more aware of the need to adhere to the financial policies and procedures in place.

19. The Board has also employed appropriately qualified staff with the required level of competence to fill the senior management roles in BTIB.

Recommendation 3

The Committee recommends (as also stated in Recommendation 2 of the Parliament Paper No. 104 - PAC Report No. 2-2017) that Government bring to Parliament an amendment to the PERCA Act 1995/96 that will empower the Audit Office to refer to Police matters of misappropriation of public funds in a Government Ministry, Statutory Body or State Owned Enterprise where prima facie evidence of misappropriation is confirmed by the Solicitor General.



MR MONA IOANE, MP
CHAIRMAN

CHAIRMAN'S ACKNOWLEDGEMENT

1. Chairman of the Board of the Business Trade Investment Board, Mr John Tumutoa, and the BTIB Chief Executive Officer, Mr Teariki Vakalalabure, for their cooperation in taking the time to appear before the Committee and for supplying the various documents to the Committee.
2. Committee members, Mr James Beer MP (Deputy Chairman), Mr Tekii Lazaro MP, Mrs Ngamau Munokoa MP, Mr Tai Tura MP and Mr Tangata Vavia MP for the collaborative and non-partisan way in which they have worked together.
3. Parliament Executive Team of Speaker Mrs Niki Rattle, Clerk Mr John Tangi and Deputy Clerk Mrs Helen Maunga for their solid support of the Committees work.
4. Head of Hansard Mr Isaac Solomona, Corporate Services Head Mrs Ina Pierre, Hansard Staff and the rest of the Parliamentary Services Staff for all the technical and administrative support provided to the Committee.
5. Committee Clerk, Mr Tangata Vainerere, for his guidance, technical support and production of the Committee's report to Parliament.
6. Media agencies who were represented at the hearing, including Cook Islands News, Cook Islands Television and Te Kave Korero Programme as well as members of the general public who were present at the hearing.
7. Director of the Audit Office, Mr Allen Parker, for the supply of the Audit Report and the presentations made to the Committee on Wednesday 10 May 2017.
8. UNDP Pacific Office for its ongoing funding support to the Committee.
9. Consultant Rob Oakeshott for empowering the Committee and the Secretariat with his immense technical knowledge and vast Committee experience.

APPENDICES

Appendix One: BTIB Exhibit 1 - Minutes of BTIB Board Meeting

