

THE FOURTEENTH REPORT OF THE COMMISSION FOR STANDARDS IN PUBLIC LIFE

1 AUGUST 2017 – 31 JANUARY 2018

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SECTION ONE – INTRODUCTION

1. The Commission for Standards in Public Life (the "Commission") was established as an institution supporting democracy under the Cayman Islands Constitution Order 2009 (the "Constitution"). Its introduction reinforced the need to have regard to ethics and transparency as important elements of a democratic society and the necessary protection of the rights and freedoms of the people in the Cayman Islands.

2. With its mandate as set out in section 117(9) Cayman Islands Constitution Order 2009, the first Commission was appointed in January 2010. The first Commission was very ably chaired by Mrs. Karin Thompson, MBE, whose accomplishments, among other things, included the introduction of The Standards in Public Life Law, 2014 (the "Law").

3. The first Commission's 4-year term ended in January 2014. The outgoing Commission, however, kindly agreed to remain in the post until February 2014.

4. The Commission is mandated under section 117(9)(g) of the Constitution to report to the Legislative Assembly (the "LA") at regular intervals and at least every six months.

5. The Reports of the first Commission, i.e. numbers 1 through 8, detail the various tasks undertaken by the first Commission and its accomplishments in each respect. The Reports are available on the Commission's website.

6. The current Commission was appointed on 1 February 2015 for a period of four years.

7. The Reports of the current Commission, i.e. numbers 9 through 13, detail the various tasks undertaken by this Commission and its accomplishments in each respect. The Reports are available on the Commission's website.

8. In this report the Commission will outline the progress made and the key issues arising from the work completed by the Commission over the period 1 August 2017 – 31 January 2018.

9. During the current reporting period the Members have:
   a. tabled the Commission's Twelfth Report which is now available on the Commission's website;
   b. finalised and submitted the Commission's Thirteenth Report;
   c. arranged a meeting between the Honourable Premier and the Chairman to discuss the drafting instructions for the Regulations and the proposed commencement date for the Law and the Standards in Public Life (Amendment) Law, 2016 (the "Amendment Law");
   d. liaised with the Central Procurement Office ("CPO") regarding a commencement date for the Procurement Law (2016) and the drafting of the Regulations. The Commission further inquired on the current procurement process and the legislation it currently abides by until such time as the Procurement Law and Regulations come into effect;
   e. received a response from its follow-ups with the Minister of Finance and Economic Development on the Government's views on how the Commission will participate in the development of procurement moving forward in order to discharge its constitutional remit;
   f. liaised with the Clerk of the LA to arrange a meeting for Commission members to review the current Register of Interests ("ROI") at the LA, to be followed by a meeting with the ROI Committee;
   g. finalised its review of the Public Authorities Law, 2016 and issued a letter to the Deputy Governor's Office which provided the Commission's comments on this legislation;
   h. finalised its review of the draft 2017 Ministerial Code of Conduct (the "Code"), in comparison with the 2013 draft version, and submitted its comments to the Cabinet Secretary;
   i. followed up with the Ministry of Human Resources, Immigration & Community Affairs regarding the Commission's concerns surrounding the Gender Equality Tribunal's (the "Tribunal") findings on the matter *Atherley et al v H.M. Prison Service*; and
   j. liaised with the Acting Director of Special Projects in the Cabinet Office to inquire as to whether there was any interest in Members of the LA meeting with the Commission.

SECTION TWO – MEETINGS AND ADMINISTRATIVE MATTERS OF THE COMMISSION

10. The reporting period for this Report commenced on 1 August 2017. Since that time, the Commission held general meetings on 2 November 2017, 5 December 2017 and 30 January 2018.

11. The Minutes of the Meetings of the Commission reflect the matters discussed by the Commission. Copies of the Minutes of Meetings of the Commission are available on the Commission's website once approved.

12. The Commission's Twelfth Report was tabled and is available on the website. The Commission's Thirteenth Report was finalised and will be laid in the LA during its February sitting. It will then be released to the public and uploaded to the Commission's website.

13. The Commission met with the newly appointed Ombudsman on 5 December 2017 to introduce themselves and to discuss their respective roles and remits, and ways in which they may work together in the future.

14. The Commission met with a team from the Office of the Auditor General ("OAG") on 5 December 2017, at their request. The purpose of the meeting was for the OAG to gather information for their current performance audit on 'Fighting corruption in the Cayman Islands'. The Commission noted its main concern is that it currently has no powers because the Law and Regulations have not been brought into effect. Consequently, the Commission cannot receive declarations of interest from persons in public life.

15. Due to the passage of Hurricanes Irma and Maria which significantly impacted Turks & Caicos (seat of the Chairman and Secretary for the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies, "CCAICACB") and Dominica (member of Executive Committee) there was no meeting held in September and October 2017. Due to other commitments, the Chairman was unable to attend the meeting via video

conferencing in November 2017, while the meeting in January 2018 was postponed due to a family emergency of the Chairman of the CCAICACB and has not yet been rescheduled.

SECTION THREE – STANDARDS IN PUBLIC LIFE LEGISLATION

16. As indicated in the previous reporting period, a Cabinet Paper was prepared to seek permission to have the Regulations drafted. The Commission continued to follow up with the Office of the Premier to arrange a meeting between the Honourable Premier and the Chairman to discuss the Commission's keenness to move forward with implementation of the legislation and regulations.

17. Accordingly, on 11 January 2018 the Chairman met with the Honourable Premier to express the Commission's eagerness in securing a commencement date for the Law and the Amendment Law, and to move forward with submitting the drafting instructions for the Regulations, to Cabinet, for approval.

18. The Secretariat will follow up with the Office of the Premier, over the next reporting period, regarding the status of the Cabinet Paper seeking approval for the drafting instructions for the Regulations.

SECTION FOUR – PROCUREMENT

19. As indicated in the previous reporting period, the Commission issued follow up correspondence to the Minister of Finance and Economic Development on 4 July 2017 regarding an update on the commencement date for the Procurement Law, 2016 and the drafting of the accompanying Regulations. Following receipt of an acknowledgment of the Commission's letter, the Commission followed up with the Honourable Minister for a response.

20. On 4 December 2017 the Commission received a substantive reply which noted the following points with regards to the drafting of the Regulations and a commencement date for the Procurement Law, 2016:
    a. "draft Regulations were finalized in September 2017 and presented to Caucus in October 2017; and
    b. as a result of feedback received, several areas of the draft Regulations are currently being reviewed and input sought from relevant stakeholders prior to consideration by Cabinet; and
    c. with respect to a Commencement date for the Procurement Law, 2016 it is envisaged that it will be brought into force at the earliest possible date in 2018."

21. The Commission discussed the Honourable Minister's correspondence and considered that concerns remain regarding the Commission's constitutional mandate to review the procedures for awarding public contracts. The Commission will consider the Honourable Minister's response in its entirety and formulate a response during the next reporting period.

SECTION FIVE – REGISTER OF INTERESTS

22. As indicated in the previous reporting period, the Commission agreed to schedule a meeting with the Clerk of the LA to inspect the current ROI. After considerable delay in obtaining an appointment, a meeting was arranged for 10 January 2018 for members to meet with the ROI Committee and inspect the ROI concurrently. Much to the Commission's disappointment, however, the full complement of the ROI Committee was not present with the result that the meeting did not take place as scheduled. The Commission was later informed that whilst some ROI Committee Members availed themselves as planned, the Chairman of the ROI Committee was engaged in another meeting which ran later than expected. The Commission received and accepted apologies. The Secretariat will continue to liaise with the Clerk of the LA to reschedule the said meeting during the next reporting period.

SECTION SIX – APPOINTMENT OF BOARD MEMBERS

23. As per s.117(9)(e) of the Constitution, the Commission continues to discuss the need for engagement and training of all board members and intends to liaise with the Office of the Deputy Governor to determine how best this can be facilitated.

24. As indicated in the last reporting session, in response to its correspondence of 5 July 2017, the Commission received a letter from the Deputy Governor dated 17 July 2017, explaining the reasoning behind the inconsistency of the Public Authorities Law, as compared to the Law and the Amendment Law, specifically why the definition of "public authorities" slightly differs in the Public Authorities Law. The Deputy Governor noted two main points in the said correspondence concerning the inconsistency between the two pieces of legislation.

    The points are as follows:

    a. the Public Authorities Law, 2016 "was developed to improve the Governance of our Statutory Authorities & Government owned Companies (SAGC's), these entities are not part of the Civil Service." and
    b. "It is against this background that the definition of Public Authorities differs from the definition in the Standards in Public Life Law (SPLL). In that the Law does not apply to the civil service and focuses on the Governing Boards and staff of the SAGC's."

25. The Commission discussed the above correspondence and agreed it is satisfied with the Deputy Governor's explanation as to why the definition of "public authorities" differs between the two pieces of legislation. In accordance, the Commission has no further queries or concerns regarding the Public Authorities Law, 2016 at this juncture.

SECTION SEVEN – CODES OF CONDUCT

26. As previously reported Members reviewed the most recent draft Code (noted in paragraph 9. h. above), in unison with the CIG related documents, and agreed to issue a letter to the Cabinet Secretary to provide the Commission's comments on the Code. Accordingly, the Commission issued a letter to the Cabinet Secretary dated 28 October 2017 providing its feedback on the Code. To date, the Commission has not received a response and will continue to follow up with the Cabinet Secretary on this matter.

SECTION EIGHT – CONFLICTS OF INTEREST

27. Pertaining to the findings of the Tribunal on the matter *Atherley et al v H.M. Prison Service* (noted in paragraph 9. i. above) a follow up correspondence was sent to the Chief Officer of Human Resources, Immigration & Community Affairs on 28 November 2017 who in turn confirmed that the matter has been referred to the Internal Audit Unit. It is expected that the Internal Audit Unit report will be available in February 2018. The Commission looks forward to receiving a copy of the said Internal Audit report and providing any feedback if necessary.

SECTION NINE – EDUCATION AND PUBLIC RELATIONS

28. The Commission did not issue any statements or press releases during this reporting period.

29. The Commission agreed to distribute copies of its recently published informational brochure series to each organisation in the public service, during the next reporting period. The brochures will be available on the Cayman Islands Government's *theHUB* intranet site and Commission website. The series provides an overview of the primary features/foundational concepts of the Law and Amendment Law including ethical behaviour, conflicts of interest and general information on the Commission.

SECTION TEN – COMPLAINTS

30. During this reporting period no complaints have been submitted to the Commission.

SECTION ELEVEN – MOVING FORWARD

31. Over the next reporting period the Commission intends to continue to liaise with the Office of the Honourable Premier to secure a commencement date for the Law and Amendment Law and as well as the accompanying Regulations.

32. In addition the Commission will also:
    a. further consider the Minister of Finance and Economic Development's response of 4 December 2017, concerning the Procurement Legislation, and, if necessary, formulate a response;
    b. continue to follow up with the Clerk of the LA to set up a meeting with the ROI Committee and to review the current ROI concurrently;
    c. follow up with the invitation for all MLAs to meet with the Commission;
    d. continue to follow up with the Cabinet Secretary on a response to its comments concerning the most recent draft of the Code;
    e. review the Internal Audit Unit's report on the matter *Atherley et al v H.M. Prison Service* when it becomes available in February 2018;
    f. distribute the Commission's informational brochure series to each organisation in the public service; and
    g. continue to participate in any public relations opportunities, as well as in local and regional cooperation efforts where possible.

For more information on the Commission for Standards in Public Life please visit www.standardsinpubliclifecommission.ky, e-mail info@standardsinpubliclifecommission.ky, or call 244-3685.

Dated this 21st day of March 2018.

Rosie Whittaker-Myles (Chairman)

Sheenah Hislop (Member)

Pastor Shian O'Connor (Member)

SECTION TWELVE – APPENDIX

Appendix – Members Biographies

Mrs. Rosie Whittaker-Myles (Chairman) is an attorney-at-law in private practice. She is a former partner in Charles Adams Ritchie & Duckworth's litigation team and has over 17 years' experience in civil and commercial litigation. Her wide range of expertise includes personal injury, employment, immigration, compulsory acquisition of land, trusts, wills, probate, (both contentious and non-contentious) and family law matters. She is a past Council Member for the Caymanian Bar Association. Mrs. Whittaker-Myles served as Chairperson of the Adoption Board and provided pro bono services for adoptions in the Cayman Islands for more than 13 years. She is a Legal Befriender, providing pro bono legal advice on all areas of Cayman Islands law.

Ms. Sheenah Hislop attended University in the United States and obtained her Bachelors of Science in Accounting in 1992. She returned to the Island to join the firm KPMG (formerly Peat, Marwick Mitchell). She pursued, and was successful, at obtaining the Certified Public Accountant designation. Continuing on in her career with KPMG, she is currently a Partner in their Alternative Investments Practice. Ms. Hislop is a Member of the American Institute of Certified Public Accountants, the Illinois CPA Society & Foundation, the Arizona State Board of Accountancy and serves as Chairman of the Cayman Islands Air Transport Licensing Authority. She is also an active member of the St. Ignatius Parish.

Pastor Shian O'Connor joined the Cayman Islands Conference in July of 2000. He was appointed Pastor for the Kings and West Bay Seventh-day Adventist Churches. He served the West Bay congregation for seven years and the Kings congregation for twelve. He also served the Maranatha and Ebenezer Churches for two years. Pastor O'Connor served the Cayman Islands Conference as Departmental Director in the areas of Personal Ministries, Education, Family Life Ministries, Men's Ministries, and Public Affairs and Religious Liberty, before he was elected President in January 2012. Pastor O'Connor was a member of the Cayman Islands Constitution Modernisation Committee as well as a member of the Constitutional Negotiation Team. He graduated from the Cayman Islands Law School with a Bachelors of Law Degree with Honours in 2005.