

**Paper by the Cayman Islands Commission for Standards in Public Life
for the
Third Annual Commonwealth Caribbean Association of Integrity Commissions
and Anti-Corruption Bodies Conference (CCAICACB)
The Jamaica Pegasus Hotel, Kingston, Jamaica
24 – 28 April 2017**

- **Brief introduction and background**

The Cayman Islands Constitution Order 2009 came into force on 6 November 2009, repealing and replacing the Cayman Islands (Constitution) Order 1972 as amended over the years. The Commission for Standards in Public Life (“the Commission”) was established as an Institution Supporting Democracy under the Cayman Islands Constitution Order 2009; a fulfilment of the 1999 White Paper requirements for the UK’s British Overseas Territories. It reinforced the need to have regard for 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.

The constitutional mandates for the Commission are set out in s.117(9) of the Cayman Islands Constitution Order 2009. These are:

- “(a) to assist in the setting of the highest standards of integrity and competence in public life in order to ensure the prevention of corruption or conflicts of interest;
- (b) to monitor standards of ethical conduct in the Legislative Assembly, the Cabinet, and on the part of public authorities and public officers;
- (c) to supervise the operation of registers of interest and to investigate breaches of established standards;
- (d) to review and establish procedures for awarding public contracts;
- (e) to review and establish procedures for appointing members to public authorities, and the terms of their appointment;
- (f) to recommend codes of conduct to prevent any Minister, public authority or public officer employing their power for any personal benefit or advantage, and to recommend legislation to provide appropriate sanctions;
- (g) to report to the Legislative Assembly at regular intervals, and at least every six months; and
- (h) to exercise such other functions as may be prescribed by a law enacted by the Legislature.”

The first Commission was appointed in January 2010. The members of this inaugural Commission served until February 2014. A major accomplishment of the first Commission was the introduction of the Standards in Public Life Law, 2014 (“the Law”) which was passed by the Legislative Assembly on 31 January 2014 and gazetted on 10 March 2014 (Supplement No. 3 published with Gazette No. 5).

- **Innovative work or initiatives implemented since 4 March 2016**

Enabling Legislation

The Standards in Public Life (Amendment) Law, 2016 (“the Amendment Law”) was passed by the Legislative Assembly on 6 May 2016 and gazetted on 20 June 2016 (Supplement No. 10 published with Gazette No. 13). Neither the Law nor the Amendment Law have yet been given commencement dates.

Regulations

Following the passage of the Amendment Law, the Commission undertook a review to recommend the content for the Standards in Public Life, Regulations (“the Regulations”) necessary to accompany the legislation. These recommendations were submitted to the Cayman Islands Government (“the CIG”) for consideration.

Prevention of Corruption and Conflicts of Interest/Monitoring Standards of Ethical Conduct

In recognition of its constitutional mandates “to assist in the setting of the highest standards of integrity and competence in public life in order to ensure the prevention of corruption or conflicts of interest”, and “to monitor standards of ethical conduct in the Legislative Assembly, the Cabinet, and on the part of public authorities and public officers” the Commission has developed additional informational brochures on these topics. Currently being printed, the pamphlets will be broadly distributed.

In addition, the Commission has begun considering various media reports and findings of Tribunals with a view to determine whether public officials are exercising proper applicability of best practices surrounding conflicts of interest by public officials, and in highlighting areas of concern to the relevant entities. The Commission recognises that when the Law and the Amendment Law are brought into effect, any existing uncertainties regarding the actions (as they relate to conflicts of interest) which persons subject to the Law and the Amendment Law must take to ensure compliance, will be removed.

Register of Interests

Currently the overarching legislation which governs the submission of declarations of interests for inclusion in the Register of Interests is the Register of Interests Law, 1996. Until the Law and the Amendment Law commence, the Commission has no power to enforce or regulate the Register of Interests as currently in force. However, the Commission continues to monitor compliance with, and issues surrounding, the Register of Interests for its own information and internal discussions in order to meet its constitutional mandate “to supervise the operation of registers of interest and to investigate breaches of established standards”.

Procurement Legislation

The Procurement Bill was passed into law by the Legislative Assembly on 24 October 2016 and gazetted on 2 December 2016 (Supplement No. 4 published with Gazette No. 96), though it has not yet commenced. It seeks to further develop the framework for the procurement of goods

and services by the CIG. The Commission has provided input and expressed some concerns regarding the content of this legislation, including that consideration should be given to a statutory requirement for a member of the Commission to be appointed to the Public Procurement Committee (under Schedule 3 of the Law). This concern was expressed to address the absence of any direct role or responsibility of the Commission has in this legislation, notwithstanding its constitutional mandate “to review and establish procedures for awarding public contracts”. The Commission will continue to monitor the development of procurement related legislation, regulations, policies and procedures.

Appointment of Board Members

The Commission continues to be concerned that overarching training is not offered for members appointed to CIG boards. The Commission continues to explore ways to address and rectify this matter, whilst acknowledging that in addition to this type of broad training, specific/individualised training to address the work of individual Boards will also need to be offered.

Upon the commencement of the Law and Amendment Law, the Commission will again highlight the need for Government to ensure that appointments to boards are made in compliance with the provisions in Part 6 of the Law and the Amendment. These provisions seek to ensure the fulfilment of the constitutional mandate “to review and establish procedures for appointing members to public authorities, and the terms of their appointment”.

Ministerial Code of Conduct

As part of the fulfilment of its constitutional mandate “to recommend codes of conduct to prevent any Minister, public authority or public officer employing their power for any personal benefit or advantage and to recommend legislation to provide appropriate sanctions”, the Commission has continued to follow the development of a Ministerial Code of Conduct (“the Code”). The Code, being prepared by the Cabinet Office, seeks to provide guidance to persons who are elected as public officials and who serve in public office on expected and acceptable conduct. The Commission is in the process of reviewing the most recent draft with a view to providing its further input.

Reporting

Since attending the last CCAICACB conference, the Commission has submitted its Eleventh Report to the Legislative Assembly, covering the work of the Commission from 1 February 2016 to 31 July 2016. The Commission is currently finalising its Twelfth Report for submission to the Legislative Assembly which will detail the work of the Commission from 1 August 2016 to 31 January 2017. These reports are submitted in compliance with the Commission’s constitutional requirement “to report to the Legislative Assembly at regular intervals, and at least every six months”.

Education and Public Relations

The Commission's website has been redeveloped in order to enhance the education component of the Commission's work. In doing so the Commission has also redeveloped the educational pamphlet on the work and remit of the Commission and has developed educational pamphlets on conflicts of interest, ethics, and the Register of Interests.

Details of the work briefly outlined above, including those reports tabled in the Legislative Assembly can be found on our website www.standardsinpubliclifecommission.ky.

- **Main challenges faced in implementing the initiatives**
 - Ongoing delay in providing a commencement date for the Law and the Amendment Law.
 - Ongoing lack of support/response from public authorities.

- **Results of the innovation/activities/initiatives**
 - Passage of the Standards in Public Life Law, 2014.
 - Passage of the Standards in Public Life (Amendment) Law, 2016.
 - Redevelopment and Launch of the Commission's Website.
 - Redevelopment of the Commission's educational pamphlet.

- **Future Goals:**
 - Consider the development of any policies required to govern the handling of Declarations and the Register of Interests in accordance with the Law and the Amendment Law (once commenced).
 - Consider how best to ensure members of CIG boards are properly trained to avoid corruption and conflicts of interests.
 - Continue to participate in any public relations opportunities, as well as in local and regional cooperation efforts where possible.

- **Recommendations that could be shared**

Our recommendations as detailed in the Commission's 2015 submission to the CCAICACB remain:

 - Ensure the legislation is relevant to the particular jurisdiction in which it is to be implemented. The Legislation enacted in the Cayman Islands followed on from extensive research into the legislation of other jurisdictions and best practices.
 - Seek "buy-in" or support from the government as a whole, both politicians and senior civil servants. This can be achieved through education initiatives.
 - Allocate resources carefully to ensure support on an administrative level and for the purposes of investigations.

In addition, the Commission recommends the following:

- Ensure there is a strong education component i.e. website development, informational pamphlets widely distributed.
- Continue to seek to engage Ministers/Members of the Legislative Assembly and public officials even if the offers are not accepted.