

MINUTES
#6 MEETING OF THE COMMISSION FOR STANDARDS IN PUBLIC LIFE
6 SEPTEMBER 2010
CONFERENCE ROOM
COMMISSIONS SECRETARIAT

PRESENT:	Karin M. Thompson	Chair
	Pastor Winston Rose	Member
	Nyda Mae Flatley	Member
	Hedley Robinson	Member
	Laura Jackson	Analyst, Commissions Secretariat

APOLOGIES:	Roy McTaggart	Member
	Deborah Bodden	Manager, Commissions Secretariat

1. Meeting called to order

The meeting was called to order at 2:40 pm.

Pastor Winston Rose opened the meeting with a prayer and the Chair welcomed all the members of the Commission.

2. Confirmation of Previous Minutes

There were no outstanding meeting minutes for consideration, following the summer hiatus.

3. Outstanding Business

a. First Report of the CSPL

- i. The Chair updated members on the submission of the Commission's first report to the Deputy Governor for tabling at the Legislative Assembly. The document is expected to be brought before the Cabinet at the forthcoming September sitting.
- ii. HE the Governor has been provided with a copy of the document.
- iii. The Commission shall make the report public via its website once tabling is completed and courtesy copies will be provided to the other Commission Chairs.

b. Hon. Attorney General's legal opinion (received 15-07-10)

- i. The Chair distributed hard copies of the legal opinion requested from the Attorney General's Chambers concerning clarification on the mandate of the CSPL.
- ii. The Commission agreed the legal opinion confirmed its current knowledge of the parameters of the powers and functions outlined in sections 117 and 121 of the Constitution and validated the Commission's continued request for enabling standards in public life legislation and the prerequisite amendments to the ROI Law 1996 to fulfill its constitutional remit.

4. New Business

a. The Standards in Public Life Bill 2010

- i. The Commission Chair and Secretariat met with a member of the Senior Legislative Council, Legislative Drafting Department on 3 September 2010 to discuss the proposed Standards in Public Life Bill. During these discussions, all necessary supporting documentation regarding the draft bill was provided to the Legal Drafting Dept. to facilitate their work.
- ii. The Chair informed the Legal Draftsman that all changes and/or amendments to the Register of Interests Law 1996 would be left to the discretion of the legislative drafting authorities but indicated that it was the Commission's view that the Register of Interests Law 1996 and any consequential amendments thereto be retained as a separate law and that the Standards in Public Life Bill be introduced as a corresponding law to deal specifically with the mandate of the CSPL in accordance with the provisions outlined in sections 117 and 121 of the Constitution.
- iii. The Chair expressed the urgency of this legislation and the commitment of the Commission to work hand in hand with the legal drafting department to advance the law. It will separately look to garnering public awareness and support for the standards in public life legislation.

b. FOI Law (2007) and the CSPL

- i. To provide a general understanding of the relationship between the Freedom of Information Law 2007 and the powers and functions of the Commission, the Chair gave an overview of the law. Members were advised that the independency of the Commission is preserved by the Constitution and that such independence will not in any way thereby be diminished.
- ii. Members were also referred to the Information Commissioner's recent offer to provide a workshop on the Freedom of Information Law and discussed the usefulness of this exercise.
- iii. Under section 3(2) of the FOI Law; Commissions are not considered "public authorities" and therefore not subject to its regulations.
- iv. The position taken by the Commission at its initial meeting on the 15th February was reiterated. By its very nature the meetings of the CSPL should be as open and accessible to all members of the public as possible. The Commission will therefore use its best endeavours to comply with the requirements of the FOI law and in so doing and provide accessibility to the public sphere requirements in order to promote greater transparency in respect to all matters falling under its remit.
- v. The CSPL further stated its need to remain cognizant of the fact that any and all records held by the Commissions Secretariat (being a public authority under FOI law) would be susceptible to disclosure under the FOI law and therefore pending any subsequent amendments to the FOI Law the question of access to the Commission's records would have to be determined in accordance with the relevant provisions.. The Commission agreed that in the performance of its functions; knowledge of public access must be at the forefront unless exemptions are validated by the nature of the records which may be privileged sensitive or otherwise restricted. .

c. CTC and the Tendering process per sections 37, 40 and 41 of the PMFL Financial Regulations 2008

- i. The Chair circulated the PMFL Financial Regulations for 2008 (including relevant sections from both the 2005 and the 2007 amendments) and provided an overview of sections 37, 40 and 41 which are those that pertain to the tendering process.
- ii. The Chair recapped the contents of the meeting held with the CTC Chair in March 2010 and highlighted the areas for relevant consideration and discussion by the Commission:

Tendering process:

The Commission proposes to consider the extent of the provisions relating to discretion when dealing with sensitive matters regarding public contracts and whether such discretion should be extended to give protections in other instances and by whom this should be determined.

Conflicts of interest:

The Commission agreed that it will review the existing law and the regulations to ensure the necessary safeguards are in place. This review will extend to those contracts falling under \$250,000 in value as evaluated by a tenders committee established by the chief officer of a prescribed entity, statutory authority or a government company.

Appointment procedure:

It was further agreed that the procedure relating to the appointment of the members of the CTC will be reviewed;

Consideration will also be given to the manner and nature of such appointments including the qualifications of the persons who are chosen to serve.

Bidding process:

The Commission has also determined the need to look at the existing safeguards for those contracts falling under the remit of the CTC (i.e. those over C\$250,000) and whether there are any potential weaknesses inherent in this system. The Commission will also review and consider the various processes that are currently in place for contracts valued at less than \$250,000.

Pre-qualification process:

As part of its review the Commission will evaluate the pre-qualifying process to ascertain the effectiveness of the system.

Contracts approved by the CTC in 2009/10:

To assist with its work the Commission will be seeking to be apprised of all contracts approved by the CTC over the last year in order to familiarize itself with the various steps adopted and the scope for any resultant changes or shortfalls arisen therefrom..

Contractual changes:

Discussion included the need to consider and review existing policies regarding the making of any subsequent changes of a material nature to the terms of contracts falling under the remit of the CTC i.e. the nature of such changes (be it in the public interest or otherwise) and the costs associated with changes made to contracts after approval has

been given, the presence of safeguards for further expenditure in these arrangements and whether or not the relevant party (be it the tendering committee appointed by the Chief Officer or the CTC) must refer back to the qualifying process with contracts once such changes have been made. The Commission also noted its interest in ascertaining at what point the role of the CTC ends.

Meeting with Chair of CTC:

The Commission Chair will arrange a further meeting with the Chair of the CTC to further review the policies and procedures of the CTC in regards to the topics discussed above.

d. Commissions website

The Commission was informed that the website material has been sent to Computer Services and all efforts will be made for the members to be able to view the website at the next meeting.

5. Any other business

a. Update re: issue of Indemnity for the Commission

- i. As an update from the letter of request to HE Governor on May 25 2010 for the CSPL members to receive indemnity the Chair informed members that
- ii. the Attorney General suggested the issue of Indemnity be covered in the relevant legislation. As such, it has been included in the draft Standards in Public Life Bill 2010.

6. Items to be discussed at next meeting

- i. The role of the CTC re: contractual changes.
- ii. The policies and procedures of the CTC including
 - a. the procedure for making appointments to public authorities
 - b. the procedures for awarding public contracts
- iii. Update re: meeting between the Chair of the CTC and the Chair of the CSPL
- iv. Commission website
- v. CSPL Policies and Procedures Manual

7. Action List

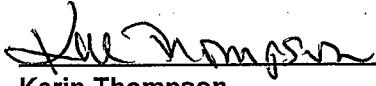
The Secretariat will research the policies and procedures in place for awarding public contracts and the role of the CTC.

8. Next meeting

The next meeting of the CSPL will be held on 1 November, 2010 at 2:30 pm in the Commissions Secretariat boardroom.

9. Adjournment

The meeting was adjourned at 5:45pm.



Karin Thompson

CHAIR

COMMISSION FOR STANDARDS IN PUBLIC LIFE