



**THE TWELFTH REPORT OF THE COMMISSION FOR
STANDARDS IN PUBLIC LIFE**

1 AUGUST 2016 – 31 JANUARY 2017

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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. 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 Cayman Islands Constitution Order 2009 to report to the Legislative Assembly 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 11, 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 2016 – 31 January 2017.

9. During the current reporting period the Members have:
- a. hosted an introductory meeting with the Auditor General Sue Winspear;
 - b. finalised and submitted the Commission's Eleventh Report;
 - c. expanded and finalised the draft Policies and Procedures Manual;
 - d. finalised and submitted recommended areas of inclusion in the Regulations to accompany the Law and The Standards in Public Life (Amendment) Law 2016 (the "Amendment Law");
 - e. followed up with the Honourable Premier and the Hon. Attorney General on drafting instructions for the Regulations and the proposed commencement date for the Law and the Amendment Law;
 - f. corresponded with the Honourable Attorney General as to whether a review as set out in s.20(3) of the Law had commenced and if so, what proposals have been put forward;
 - g. followed up with the Office of the Deputy Governor detailing the remaining concerns regarding the draft Procurement Bill and Regulations;
 - h. drew to the attention of the Minister of Finance and Economic Development their concerns related to the draft Procurement Bill and Regulations;
 - i. noted the publication of the Public Authorities Bill, 2016 for public consultation with a view to identifying differences between its content and that of the Law ;
 - j. requested a copy of the working version of the Ministerial Code of Conduct from the Cabinet Secretary;
 - k. noted the newspaper reports of the findings of the Gender Equality Tribunal ("the Tribunal") on the matter *Atherley et al v H.M. Prison Service* identifying numerous concerns;
 - l. finalised the redeveloped website;
 - m. conducted an interview with Cayman 27 which focused on the content of the Commission's Eleventh Report; and
 - n. re-developed the educational pamphlet on the work and remit of the Commission and developed educational pamphlets on conflicts of interest, ethics, and the Register of Interests.

SECTION TWO – MEETINGS AND ADMINISTRATIVE MATTERS OF THE COMMISSION

10. The reporting period for this Report commenced on 1 August 2016. Since that time, the Commission held general meetings on 12 September 2016, 11 October 2016, 9 November 2016, 7 December 2016, and 25 January 2017.
11. In addition, on 15 September 2016, the Commission welcomed Auditor General Sue Winspear to an introductory meeting. The purpose of the meeting was for each of the parties to familiarise themselves with their respective remits, their future goals and to identify areas in which collaboration, where appropriate, may be possible to achieve the respective goals.
12. The Minutes of the Meetings of the Commission will 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.
13. The Commission’s Eleventh Report was finalised and laid in the Legislative Assembly in the October 2016 sitting of the Legislative Assembly. It has been released to the media and uploaded to the Commission’s website.
14. Following the passage of the Law and the Amendment) Law, the Commission expanded and finalised the draft Policies and Procedures Manual (“the Manual”) which had initially been developed by the previous Commission.
15. The purpose of the Manual is to act as an operational guide for the members of the Commission. It specifies the internal procedures, rules and processes that the Commission has established to govern its operation. The Manual has been uploaded to the Commission’s website to assist members of the public to understand how it operates.

SECTION THREE – STANDARDS IN PUBLIC LIFE LEGISLATION

16. As previously reported the Law was passed by the Legislative Assembly on 31 January 2014 and gazetted on 10 March 2014 (Supplement No. 3 published with Gazette No. 5).
17. In addition, 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).
18. The Commission undertook a review of the necessary content for the Standards in Public Life, Regulations (“the Regulations”) during the previous reporting period. These were finalised during this reporting period and on 22 September 2016 recommended areas of inclusion in the Regulations were submitted to the attention of the Honourable Premier.
19. Follow up correspondence requesting an update on the drafting of the Regulations was sent the Honourable Premier on 15 November 2016 and an inquiry into the proposed commencement date for the Law and the Amendment Law.
20. On 15 November 2016, the Commission also wrote to the Honourable Attorney General inquiring into whether the review anticipated by section 20(3) of the Law had been commenced, and if so, requesting an update. Section 20(3) of the Law reads:

“Before the entry into force of this Law, Cabinet may cause to be compiled all provisions in Laws and regulations that restrict disclosure of information that is subject to disclosure under this section so as to ensure the Laws are amended or repealed in order to make this section effective”.
21. The Commission has not received responses to these enquiries and intends to follow up on these matters and will provide an with an update in the next reporting period.

SECTION FOUR – PROCUREMENT

22. Following attendance of the Manager at a Procurement Training facilitated by the Government, an invitation was extended to the presenter Mr. Paul Emanuelli to discuss with the Commission his views and the Commission's concerns regarding the then proposed procurement law and regulations. Initially the meeting had to be postponed due to the presenter's schedule however numerous attempts to reschedule the meeting have failed.
23. As detailed in the tenth report of the Commission, the Commission met with Director of Procurement and Chairman of the current Procurement Committee who presented on the Draft Procurement Law 2015 and Draft Procurement Law (Regulations) 2015. The parties also engaged in discussions surrounding the advancement of the recommendations made by the previous Working Group on Procurement.
24. As previously reported, following the presentation to the Commission by the Director of Procurement and the Chairman of the Procurement Committee, the Commission submitted a list of queries, concerns and observations related to the draft legislation and regulations. A response was received from the Procurement Committee, which the Commission discussed at its meeting on 7 April 2016 and determined that there remained a few questions which were not answered or were not answered adequately.
25. On 2 September 2016 the Commission sent a follow-up response to the Office of the Deputy Governor detailing its remaining concerns regarding the draft Bill and Regulations. The Commission did not receive a response to this correspondence.
26. On 11 October 2016 the Commission sent a further follow-up to the Office of the Deputy Governor indicating that it was aware that the Procurement Bill 2016 had been gazetted (on 2 September 2016). Following a review of the gazetted Bill the Commission noted that some of its most important concerns did not appear to have been considered in the drafting of the Bill.

27. As the Commission considered this issue to be of sufficient importance, it sent a copy of its concerns to the Minister of Finance and Economic Development as the entity responsible for putting forward the Bill, also on 11 October 2016.
28. The Procurement Bill was passed by the Legislative Assembly on 24 October 2016 and gazetted on 2 December 2016 (Supplement No. 4 published with Gazette No. 96). It has not yet been given a commencement date.
29. The Commission will continue to monitor the development of Regulations and any other policies which will govern public procurement.

SECTION FIVE – REGISTER OF INTERESTS

30. As neither the Law nor the Amendment Law have been given commencement dates there is no obligation for persons in public life to file Declarations to be included in the Register of Interests.
31. As such, only persons covered under the Register of Interests Law, 1996 are required to continue to submit Declarations to the Legislative Assembly.
32. During the next reporting period the Commission will begin considering the development of any policies which will be required to govern the handling of Declarations and the Register of Interests in accordance with the Law when in effect.).

SECTION SIX – APPOINTMENT OF BOARD MEMBERS

33. The Commission continues to discuss the need for engagement and training of all board members and is considering options as to how this can best be facilitated.
34. The Commission noted the publication of the Public Authorities Bill, 2016 for public consultation. Whilst only a brief initial discussion took place during the final meeting of the reporting period, the Commission notes that there appear to be provisions in the Public Authorities Bill which differ from those provisions in the Law. As such, the Commission intends to consider the research of the comparisons to determine whether there are any inconsistencies which will need to be addressed to ensure compliance with the already passed legislation.

SECTION SEVEN – CODES OF CONDUCT

35. As previously reported the previous Commission provided recommendations on the draft Ministerial Code of Conduct (“the Code”) in May of 2013. Since that time, the Commission has had no updates on the status of the Code.
36. In November 2016, a request was made for a copy of the working version of the Code of Conduct to be provided to the Commission. On 5 December, 2016, the Cabinet Secretary advised that “significant progress” had been made and that it was the aim of his Office to “have the draft formally presented to the Cabinet for consideration and implementation during the first quarter of 2017”.
37. While this report was encouraging, the Commission, nonetheless, wished to have sight of the current draft and on 9 December, 2016 requested that it be provided with a copy of the latest working draft of the Code of Conduct. Having been informed by the Cabinet Secretary about the impracticality of sharing the document with the Commission while it was being edited, the Commission resolved to write to the Honourable Premier to assist in obtaining a copy of the Code to enable the Commission to perform its duties.

SECTION EIGHT – CONFLICTS OF INTEREST

38. The Commission noted the newspaper reports of the findings of the Gender Equality Tribunal (“the Tribunal”) on the matter *Atherley et al v H.M. Prison Service*.
39. Whilst it has yet to receive a requested copy of the Tribunal’s official Ruling (“the Ruling”), an unofficial copy has been reviewed.
40. The Commission identified numerous concerns following its review including the fact that it appears that there is a lack of proper applicability of best practices surrounding conflicts of interest by public officials.
41. The Commission recognises that when the Law 2014 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.
42. However, the Commission notes that until such time, and having regard to the comments made by the Tribunal, that observance of the Public Service Management Law (2013), the Public Service Management Law’s Personnel Regulations (2013 Revision) and the Public Servant’s Code of Conduct would have assisted in alleviating certain of the troubling issues identified in the Ruling.
43. The Commission also noted, with interest, the Tribunal’s comments regarding the credibility of certain witnesses who appeared before it to give evidence. The Commission considers that based on the reports of the Tribunal’s findings, particularly in relation to those areas touching upon the credibility and conduct of some of the public servants who appeared before it, there should be a separate inquiry and a report provided on the findings of such inquiry.
44. The Commission is of the view that it is important that in the event of a finding of wrongdoing or misconduct on the part of the public servants involved, those persons must

be held accountable. The Commission appreciates that although certain actions/behaviours of public servants may not meet the threshold for criminal charges to be brought, misconduct and misbehaviour by public servants must, nonetheless, be addressed and dealt with in an open and transparent manner. This is important, not only to maintain the highest ethical standards of public servants, but equally, to ensure public trust and confidence in them.

45. Having regard to the Commission's constitutional mandate as set out under s.117(9)(b) it intends to correspond with the Honourable Deputy Governor to request confirmation that he, as Head of the Civil Service, has initiated an internal investigation into the actions of the public officials who were involved with the proceedings brought under the Gender Equality Law, particularly, those whose credibility and conduct were called into question by the Tribunal.

SECTION NINE – EDUCATION AND PUBLIC RELATIONS

46. As detailed in the Eleventh Report of the Commission, the website has been redeveloped and during this reporting period it has 'gone live'. The redevelopment of the website was undertaken in order to ensure the work of the Commission is more easily accessible to all persons.

47. The Chairman conducted an interview with Cayman 27 on 1 November which focused on the questions related to the content of the Commission's Eleventh Report.

48. The Commission has re-developed the educational pamphlet on the work and remit of the Commission and has also developed educational pamphlets on conflicts of interest, ethics, and the Register of Interests. The information is available on the Commission's website and the pamphlets are currently being formatted for printing.

SECTION TEN – COMPLAINTS

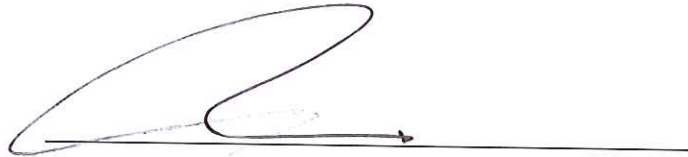
49. During this reporting period no complaints have been submitted to the Commission.

SECTION ELEVEN – MOVING FORWARD

50. Over the next reporting period the Commission intends to:
- a. follow up on both drafting instructions for the Regulations and the proposed commencement date for the Law and the Amendment Law;
 - b. follow up on whether a review as set out in s.20(3) of the Law had commenced and if so, what proposals have been put forward;
 - c. continue to monitor the development of Regulations and any other policies which will govern public procurement;
 - d. begin considering the development of any policies which it will need to have in place to govern the handling of Declarations and the Register of Interests in accordance with the Law (once it commences);
 - e. continue to discuss the need for engagement and training of all board members and is considering options as to how this can best be facilitated;
 - f. consider the research of the comparisons between the Public Authorities Bill, 2016 and the Standards in Public Life Law 2014 to determine whether there are any inconsistencies which need to be addressed to ensure compliance with the already passed legislation;
 - g. request from the Honourable Premier his assistance in obtaining a copy of the Code to enable the Commission to perform its duties;
 - h. request from the Honourable Deputy Governor confirmation that he, as Head of the Civil Service, has initiated an internal investigation into the actions of the public officials who were involved with the proceedings brought under the Gender Equality Law, particularly, those whose credibility and conduct were called into question by the Tribunal; and
 - i. 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.

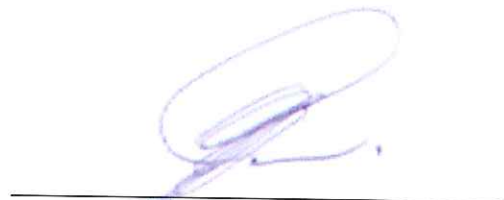
Dated this 9th day of May 2017.



Rosie Whittaker-Myles (Chairman)



Sheenah Hislop (Member)



Pastor Shian O'Connor (Member)

SECTION TWELVE – APPENDICES

Appendix I – 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.