



THE NINTH REPORT OF THE COMMISSION FOR STANDARDS IN PUBLIC LIFE

1 FEBRUARY 2015 – 31 JULY 2015

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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.
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. Each of these Reports are available on our website.
6. The Commission extends its congratulations to the Chairman and the members of the first Commission for all their accomplishments. Having paved the way to the introduction into our society of new legislation, they will, no doubt, remain vigilant of the Commission’s work in its enforcement.
7. During the current reporting period the new Members sought to bring themselves up-to-date on the work of the previous Commission, reviewed the Standards in Public Life Law and considered possible amendments to the Law and the relevant content for the Standards in Public Life Regulations.
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 February – 31 July 2015.

SECTION TWO – STANDARDS IN PUBLIC LIFE LEGISLATION

9. The Commission is acutely aware of the fact that the Law, although passed by members of the Legislative Assembly in 2013, and gazetted in 2014, has not, to date been brought into effect. The Commission considers this to be unsatisfactory and, has, therefore, taken the following steps towards securing the implementation of the Law:
 - i). reviewed the further proposed amendments to the Law;
 - ii). met with the Honourable Premier to discuss the concerns expressed about the implementation of the Law and to gain a better understanding of the rationale for the further proposed amendments; and
 - iii). liaised with the Legal Draftsman to discuss the proposed amendments.
10. The Commission has been informed that the reason for the delay in the commencement of the Law hinges on the concerns expressed by a large number of persons, specifically, persons in the private sector who serve on Boards, regarding the effect of the provisions of section 11 and 12 (1) of the Law which requires “a person in public life” to “make a declaration to the Commission of his income, assets and liabilities as specified in section 12(1) in respect of the previous year in such form as may be prescribed by regulations; ... and each succeeding year thereafter.”
11. The term “person in public life” is defined in section 2 of the Law by reference to Schedule 1 to the Law.
12. Section 12(1) of the Law makes it mandatory for the person in public life to include in the declaration details in relation to himself “*and any connected person*” [emphasis added], which are set out under subsection 1(a) through (k).
13. The term “*connected person*” is defined widely by section 2 to include “a person who acts on behalf of, or for the benefit of, the declarant, with the declarant’s actual or implied authority and includes...” a list of categories of persons/entities in relation to whom information is required to be included in the declaration.
14. Section 14 of the Law renders declarations filed with the Commission open to public inspection during normal working hours.
15. It appears that the concerns remain notwithstanding the provisions contained in section 12 (4) which limits mandatory disclosure in declarations as follows:

a declarant is not required to list “actual amount or extent of any financial benefit, contribution or interests”; and

section 12(5):

“shall not be required to include in a declaration any interest referred to in or prescribed under subsection (1) unless there is a possible or perceived conflict with his functions on the entity to which he is appointed arising out of such interest”.

16. To address these concerns, the Commission was provided with proposed draft Amendments to the Law following its meeting held on 5 March 2015 for its consideration. Having considered and discussed the proposed draft Amendments, the Commission wished to consider the matter further, gain a better understanding of the aim of the proposed draft Amendments and engage in discussion with the Legal Draftsman.
17. The Commission has also undertaken to provide the Honourable Premier with its views on the proposed draft Amendments and on any other matter relating to the Law. A draft document is being prepared for discussion at the Commission’s next meeting.
18. The Commission sought an opinion on whether members of the judiciary came within the ambit of the Law. An opinion was provided by Sir Jeffrey Jowell, Q.C. concluded that “(a) the Law does not apply to members of the judiciary, (b) members of the judiciary who may be members of the judicial and Legal Services would not be subject to the Law in their capacity as judges, and (c) those judges would not even be subject to the Law in their capacities as members of the Judicial and Legal Services Commission.”

SECTION THREE – MEETINGS OF THE COMMISSION

19. The term for the new Commission commenced on 1 February 2015. Since that time, the Commission has met on 5 March, 9 April, and 3 June 2015. 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.
20. Upon taking office, this Commission was briefed by the Manager for the Commission Secretariat on the workings of the first Commission. Reports were forwarded to Members for their review. Copies of the Law were also provided to Commission Members.
21. An invitation was extended to the Chairman of the Commission to attend a meeting, along with Chairpersons of other Commissions, hosted by Her Excellency the Governor scheduled to take place on 19 May 2015. Due to other scheduling conflicts, this meeting was postponed.
22. The Chairman met with the previous Chairman on 13 July 2015 to discuss the work of the previous Commission especially that which relates to the Standards in Public Life Law (2014).

SECTION FOUR – EDUCATION AND PUBLIC RELATIONS

23. Attendance at the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies

- a. In May 2015 an invitation was extended to the Commission to attend the first conference of the Commonwealth Caribbean Association of Integrity Commissions and Anti-corruption bodies in Grenada from 21 through 27 June 2015 (the “Conference”). The theme of the Conference was “Strengthening Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean”. The Conference was sponsored by the Commonwealth Fund for Technical Co-operation (“CFTC”), Commonwealth Secretariat and hosted by the Integrity Commission of Grenada. The conditions of acceptance included the requirement for each delegate to submit and present a paper on “its work in the fight against corruption”. Each delegate was also required to chair one of the presentations and panel discussions. The Chairman of the Commission, together with Mr. Richard Oliver, Anti-Corruption Unit, attended the Conference. The paper presented by the Commission is attached as Appendix I.
- b. The Conference was attended by delegates from Antigua & Barbuda, Cayman Islands, Dominica, Grenada (host country), Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Trinidad & Tobago and Turks & Caicos. The Director General for the Prevention and Combating of Corruption Bureau, Tanzania, Dr. Edward Hosea, also participated in the Conference.
- c. Emerging from this Conference was the newly formed Association of Integrity Commission and Anti-corruption bodies of the Commonwealth with the following Executive:

Commission Chair	Grenada Integrity Commission
Vice Chair	Trinidad & Tobago
Secretary	Grenada
Treasurer	Grenada
Executive Members	Dominica, Jamaica and Turks & Caicos
	Representative from the Commonwealth Secretariat
- d. The aims and objectives of the Association are expressed in the Communiqué which was agreed by all members on 25 June 2015. A copy of the Communiqué is attached as Appendix II.

- e. The timing of the Conference afforded the Commission the opportunity to share with delegates its accomplishments thus far and to benefit from lessons learned by other Commissions in the region. The Association will allow cooperation and collaboration between members in order to achieve its mandate.

- f. Matters arising from the Conference:

It was learned that while all Commissions within the Association require completion and filing of declarations of interests by “persons in public life”, other than the Cayman Islands, none of the registers for Board members and, in some instances, other persons in public life, are open for public inspection.

Given the expressions of concerns by Board members in the Cayman Islands, the Commission will be considering whether further amendments to the Law to reflect a situation similar to the Laws of other Commonwealth Caribbean countries would alleviate the concerns expressed and allow the Law to be brought into effect in the near future.

24. Interview with the Cayman Compass:

On 20 July 2015 the Chairman met with Charles Duncan from the Cayman Compass at his request to discuss the attendance at the above mentioned conference and the issue of regional co-operation. The discussion was a helpful one, and in keeping with one of the resolutions adopted by the Association of Integrity Commissions and Anti-Corruption bodies in the Commonwealth Caribbean i.e. engaging the media (and others) in the fight against corruption.

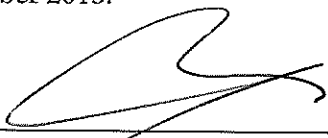
SECTION SIX – MOVING FORWARD

26. Over the next reporting period the Commission intends to:

- a. extend an invitation to the Leader of the Opposition and with other members of the Legislative Assembly to introduce ourselves and to discuss the legislation with a view to securing their support for the necessary amendments and the commencement of the Law;
- b. continue to work towards bringing into force the Standards in Public Life Law (2014) and relevant Regulations;
- c. review the current Register of Interest supervised by the Clerk of the Legislative Assembly;
- d. engage the media, the private sector and the general public on the work of the Commission and on the need for the involvement of all in the fight against corruption through greater transparency and accountability by all persons in public life;
- e. engage in local and regional cooperation efforts where possible; and
- f. continue the efforts of the previous Commission.

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 8th day of October 2015.



Rosie Whittaker-Myles (Chairman)

Sheenah Hislop (Member)

Pastor Shian O'Connor (Member)

SECTION SEVEN – APPENDICES

Appendix I – Paper by the CSPL for the Commonwealth Caribbean Association of Integrity Commissions and Anti-Corruption Bodies Conference

Grenadian by Rex Resorts, Grenada
22 – 26 June, 2015

- **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.”

- **Innovative work or initiatives implemented**

The first Commission was appointed in January 2010. The members of the inaugural Commission served until February 2014. Mrs. Karin Thompson, the Chairman of the first Commission, in describing the work of the pioneer Commission wrote in a Report, “as the inaugural Commission for Standards in Public Life, the CSPL has navigated through uncharted

territory in the field of creating and instilling standards and ethics in the Cayman Islands.” The first Commission, among other things, established a solid framework upon which their successors can continue to build. A major accomplishment of the first Commission was the introduction of the Standards in Public Life Law, 2014. Although not as yet brought into effect, the recently appointed Commission is taking steps to ensure that this very important legislation will take effect in the near future.

The work and initiatives of the Commission extend to the following:

Code of Conduct

The Commission created a Code of Conduct for use by all Boards and Committees of the Cayman Islands Government, including the Government Statutory Authorities. This document incorporates the Nolan Principles and is meant to serve as an addition to and not override or conflict with any legal or professional requirements specific to the remit of the Bodies who adopt the Code.

Unethical Behaviour of Public Officials

During the lifetime of the Commission the Cayman Islands have seen a number of persons in public life being investigated for various reasons under the provisions of the Anti-Corruption Law, 2008 and the Penal Code (2010 Revision). The Commission has also received information from members of the public expressing concerns regarding unethical behaviour of public officials; however, to date, there have been no complaints of a formal nature received by the Commission in this regard. At present the Commission does not possess the power to investigate individual cases, outside of an investigation into the breach of an established standard in respect of the operation of registers of interest.

Review and Establish Procedures for Awarding Public Contracts

As a first step in its endeavours to introduce measures to enhance the practice and procedures governing public contracts, the Commission commenced its work by engaging in an in-depth review of the policies and procedures that were in place for public contracts with a value of CI\$250,000.00 or more. The Commission then completed its review of the existing policies and procedures applying to contracts falling below CI\$250,000.00. In addition the Commission examined the manner in which members are appointed to the Central Tenders Committee (“CTC”). Subsequent to its review the Commission provided preliminary recommendations on this topic.

Working Group on Procurement

The Chairman served as the Chairman for the Working Group on Procurement, appointed under the auspices of the office the Honourable Deputy Governor and completed its review of the existing framework and various mechanisms for procurement including, the entities and stakeholders involved, the existing and applicable laws and regulations, the policies and

practices in place, the fairness and transparency of the process, whether value for money is being obtained and the information systems that support the process.

Review and Establish Procedures for appointing members to Public Authorities

The Commission has long indicated its desire to see Government enact legislation which requires public officials, as defined under the 2009 Constitution Order (so as to include all persons who serve on a public body, board, etc.), to complete and submit a Declaration of Interests Form at the time of their appointment. The Commission created a Declaration Form which requests relevant information meant to ensure conflicts of interest, real or perceived, do not arise during the business of these Board, Committee or Commission meetings.

Ministerial Code of Conduct

The Commission received a request from the Deputy Governor's Office to review the Draft Ministerial Code of Conduct which was written by the Cabinet Office, assisted by the Office of the Deputy Governor. The Commission embraced the production of such a code and looks forward to having sight of the final version that extends to the conduct of Ministers not only in their Ministerial capacity but also in a personal and political capacity as elected members of the Legislative Assembly representing a constituency or particular community interest.

- **Main challenges faced in implementing the initiatives**

- Initial lack of political support
- Lack of resources – funding and personnel
- Response of members of Boards to declaration of interests requirements under the Law

- **Results of the innovation/activities/initiatives**

- Standards in Public Life Law, 2014 (SPL)
- Code of Conduct
- Declaration Form for Board Members

- **Reflections and lesson learnt**

Although there is work to be undertaken to secure the implementation of the Standards in Public Life Law and to bring into effect the various recommendations and proposals put forward by the Commission, it is, without a doubt, to the benefit of the people in the Cayman Islands that a defined path to strengthening democracy and establishing standards to which persons in public life are to be held, has been laid.

- **Recommendations that could be shared**

- 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.

Appendix II – First Commonwealth Regional Conference for Heads of Integrity Commissions and Anti-Corruption Bodies in the Caribbean Communiqué

COMMUNIQUÉ

1. We, the Heads of Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean, meeting at the First Regional Conference of Heads of Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean organized by the Commonwealth Secretariat and hosted by the Integrity Commissions, Grenada from 22-26 June, 2015 under the theme: *“Strengthening Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean”*;
2. **NOTING** with deep gratitude the invaluable support and warm hospitality provided by the Government and people of Grenada, Her Excellency Dame Cecile La Grenade, Governor-General of Grenada in presiding over the opening ceremony and inaugurating the Association of Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean; and Dr. the Right Honourable Keith Mitchell, the Prime Minister of Grenada for delivering the feature address;
3. **MINDFUL** of the need to strengthen cooperation and collaboration between the Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean;
4. **RECOGNISING** the need for a regional platform for the sharing of emerging practices and country experiences in the fight against corruption and for the promotion of good governance;
5. **COMMEND** the Commonwealth Secretariat and the Integrity Commission of Grenada for organising and hosting, this historic First Conference;
6. **HAVING** extensively discussed the aims, objectives and the programme content and being satisfied that a full exchange of views has taken place on the goals of the conference;
7. **AGREED AND ADOPTED** the following resolutions, the Delegates:
 - urge regional Integrity Commissions and Anti-Corruption Bodies to maintain their independence, impartiality and professionalism to further enhance their effectiveness;
 - urge Integrity Commissions and Anti-Corruption Bodies to make recommendations to their Governments with a view to expanding and enhancing the legislative frameworks for improved effectiveness of these institutions in the fight against corruption;

- urge Integrity Commissions and Anti-Corruption Bodies to develop and implement meaningful and effective strategies to achieve effective control of corruption;
- encourage Integrity Commissions and Anti-Corruption Bodies to develop and implement effective strategies to achieve meaningful inter-agency collaboration, locally and regionally;
- call on member Governments to provide adequate financial, technical and human resources to the Integrity Commissions and Anti-Corruption Bodies for the prompt and efficient discharge of their statutory functions for the sustainable fight against corruption;
- recommend Integrity Commissions and Anti-Corruption Bodies to engage the media, private sector and the general public in the fight against corruption;
- call upon member governments to develop strategies and take the necessary actions for establishing, implementing, activating and/or strengthening Integrity Commissions and Anti-Corruption Legislation;
- encourage Integrity Commissions and Anti-Corruption Bodies to develop strategies for strengthening cooperation and collaboration among the Integrity Commissions and Anti-Corruption Bodies;
- urge Integrity Commissions and Anti-Corruption Bodies to develop strategies for strengthening the Association of Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean; and
- to work in close collaboration with international agencies to ensure transfer of knowledge, expertise and skills and other resources in combating corruption.

8. **NOTING** further and welcoming the variety and diversity of experiences shared, the Delegates agreed:

- To develop and implement meaningful and effective model legislation to achieve effective control of corruption in the Commonwealth Caribbean;
- To undertake capacity building programmes critical to the effectiveness of Integrity Commissions and Anti-Corruption Bodies;
- To share experiences and solutions among Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean; and

- To monitor the impact of their interventions and to continue to share knowledge gained from such interventions.
9. Further **Agreed** to accept the offer by Trinidad and Tobago to host the next Conference in 2016 in partnership with the Commonwealth Secretariat.
10. Further **Commend** the Commonwealth Secretariat for their foresight, vision, leadership and effective utilisation of resources, support and guidance.
11. The Conference resolved to have the Integrity Commission of Grenada as the Chair with membership of the following countries as the Executive Committee Members:
- Chair: Grenada
 - Vice-Chair: Trinidad and Tobago
 - Secretary: Grenada
 - Treasurer: Grenada
 - Three other members: Jamaica, Dominica, Turks & Caicos
 - One representative of the Commonwealth Secretariat.

Dated the 26th Day of June, 2015 at St George, Grenada

Appendix III – 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 Cayman Bar Association. Mrs. Whittaker-Myles serves as Chairperson of the Adoption Board and provides pro bono services for adoptions in the Cayman Islands. She is an active Legal Befriender, providing pro bono legal advice on all areas of Cayman Islands law.

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.

Mrs. 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. Mrs. Hislop is a Member of the American Institute of Certified Public Accountants, the Illinois CPA Society & Foundation, and serves as President of the Cayman Islands Society of Public Accountants, and as Chairman of the Cayman Islands Air Transport Licensing Authority. She is also an active member of the St. Ignatius Parish.