Office of the Auditor General
CAYMAN ISLANDS

Fighting Corruption in the Cayman Islands

November 2018


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EXECUTIVE SUMMARY

Corruption has been identified as one of the most important problems facing the world today.[1] It is a world-wide problem that became an increasing concern in the early 1990s. Since then, addressing corruption has become increasingly urgent. Corruption exists across the public and private sectors; the International Monetary Fund (IMF) estimates that bribery alone siphons between US$1.5 trillion and US$2 trillion annually from the global economy (two per cent of global GDP).[2] Corruption has a significant negative effect on human and economic development, as it hinders economic growth, results in lost tax revenues, and contributes to sustained poverty. It can also erode public trust and confidence in governments and can stifle progress and innovation.

Given the extent of corruption, major development and capacity building institutions including the IMF, United Nations, the Organization for Economic Co-operation and Development, Transparency International and the World Bank have been encouraging and supporting countries across the world to do more to strengthen their governance, accountability and transparency arrangements with the aim of eliminating corruption.

The Cayman Islands is not immune to corruption. Since 2011, there have been around 13 high-profile cases of fraud and corruption involving public servants; over the last two years, nine cases of alleged fraud and corruption in the public sector have been reported and are being investigated. Widespread corruption creates a significant reputational risk for the Cayman Islands if government is seen to be ineffective in tackling fraud and corruption.

Since 2007, consecutive governments have introduced measures aimed at combatting fraud and corruption, including passing legislation, setting up anti-corruption bodies and strengthening government policies and procedures. However, actions have not yet been extended across the wider public sector; and it is not yet clear how effective the framework is at preventing corruption.

This audit focuses on the institutional framework for fighting corruption at the national level and within the infrastructure sector, with emphasis on the three planning entities: the Cayman Islands Government's Department of Planning, Central Planning Authority (CPA) and Development Control Board (DCB). We selected this sector because it is integral to the country's development and economic prosperity and because there are significant numbers of major infrastructure developments (both public

[1] 2013 World Independent Network/Gallup International annual survey covering 65 countries.
[2] IMF Staff Discussion Note – Corruption: Costs and Mitigating Strategies, International Monetary Fund, May 2016 http://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf

and private sector) currently underway in the Cayman Islands. We have also previously recommended that the National Development Plan be updated to provide a strategic approach to infrastructure in the Cayman Islands.[3]

The objective of the audit was to assess the effectiveness of the mechanisms for preventing corruption at the national level and within the infrastructure sector. Specifically, we attempted to answer the following audit questions:

- How well-designed is the national framework to prevent corruption?
- How effective is the national framework in preventing corruption at the national level?
- How well-equipped is the infrastructure sector to prevent corruption?

KEY MESSAGES

The Government has made progress in developing a national framework for countering corruption. This includes enacting a range of legislation, the main component being the *Anti-Corruption Law*. However, some of the legislation has only recently come into force, and some has yet to come into force. The *Standards in Public Life Law 2014*, a major piece of legislation for the framework of preventing corruption, does not yet have an enforcement date set.

The Anti-Corruption Commission (ACC) was established in 2010. Its remit focuses on investigation and enforcement, and its resources have been significantly increased over the last two years as a result of changes in legislation. A range of other public bodies also have a role to play in combatting corruption; they cooperate on anti-corruption activities, but there is scope to clarify their roles and responsibilities.

Along with this framework, the Cayman Islands Government has started to take a number of actions to strengthen anti-fraud and anti-corruption activities. In 2017 it launched an Anti-Fraud Policy aimed at strengthening controls to prevent, detect and investigate fraud and related offences. To support the policy, the Government also developed fraud awareness training for civil servants. However, as at September 2018 only 19 per cent of civil servants had completed the training; the Government needs to do more to increase staff awareness about anti-fraud and anti-corruption activities. It is promising that the Government has developed its own Anti-Fraud Policy but the policy is not applicable to Statutory Authorities and Government Companies (SAGCs). The Government needs to do more to extend this policy to the whole of the public sector.

The ACC's resources have significantly increased since 2015, and it now employs one senior investigator, five investigators and one trainee investigator. It also brings in specialist expertise as necessary. The

[3] *National Land Management and Government Real Property*, Office of the Auditor General of the Cayman Islands, June 2015

work of the ACC is reactive: it investigates allegations of corruption that are referred to it (although it has thresholds for investigation and refers some allegations to other bodies). Many of the corruption investigations are complex and some can take a long time to complete. It is not clear whether the ACC has the resources it needs to effectively investigate the volume of existing corruption cases. It is currently investigating 14 cases some of which have been ongoing for a number of years. The ACC publicly reports some performance information each year. However, the information published does not give any indication of the time it takes to investigate corruption cases or the cost of doing this. This information may be helpful to inform the public and manage expectations about the work of the ACC.

A range of other bodies also play a role in combatting corruption. These include the Commission for Standards in Public Life (CSPL), the Ombudsman, the Office of the Auditor General (OAG), the Royal Cayman Islands Police Service (RCIPS) and the Financial Reporting Authority (FRA). However, the CSPL is not currently operating as intended, because the *Standards in Public Life Law* has yet to be brought into force. The ACC has memorandums of understanding (MOUs) with most of these bodies, which set out how they should cooperate with each other. The OAG and RCIPS support the ACC in investigating cases, and the ACC can formally delegate cases to RCIPS. Information is shared by all of these bodies with the ACC and all refer potential corruption cases on to the ACC.

The CPA and DCB are independent of government and make most planning decisions in the Cayman Islands. The CPA is responsible for planning decisions on Grand Cayman and delegates some planning decisions to the Director of Planning. The DCB makes all planning decisions for Cayman Brac and Little Cayman. Since the OAG's report in 2015, the CPA and DCB have improved the governance and transparency of their operations: registers of interest are now completed and published, meetings are open to the public, and their decisions are publicly available. However, there is scope to further improve transparency and governance. Balancing the membership of the boards to include members that do not have an interest in the infrastructure sector would also help alleviate any perception of corruption.

The Department of Planning is expected to comply with Cayman Islands Government policies and procedures in relation to fraud and corruption, but it does not have a formal corruption risk assessment process in place. In addition, it has its own procedures manual. All Department of Planning staff are expected to complete an annual declaration on notice of interests but we found that almost one third of staff had not done this for 2017. Furthermore, notices of interests are not being used to allocate planning applications to staff in order to minimise the likelihood of any conflicts of interest.

INTRODUCTION

CORRUPTION IS A LONG-STANDING PROBLEM THAT RESULTS IN SIGNIFICANT LOSS TO THE GLOBAL ECONOMY

1. Corruption has been identified as one of the most important problems facing the world today, and addressing it has become increasingly urgent. Corruption is a problem that affects both advanced and developing countries, and it exists in both the public and private sectors.

2. A widely accepted definition of corruption is "the abuse of public office for private gain". Corruption can take many forms, as outlined in Exhibit 1.

Exhibit 1 – Corrupt activities are wide-ranging

Source: www.corruptioncontrol.com/Types_of_Corruption.html

INTERNATIONAL ACTION IS BEING TAKEN TO REDUCE THE LEVEL OF CORRUPTION

3. A number of global organisations have been encouraging and supporting countries to develop their approaches and build capacity in the fight against corruption, including:

    - The United Nations
    - Organization for Economic Co-operation and Development
    - Transparency International
    - International Monetary Fund
    - World Bank

4. The United Nations (UN) is an international organisation committed to take action on issues confronting humanity in the 21st century. The UN has a number of initiatives to combat corruption, including the following:

    - UN Convention Against Corruption (UNCAC). This provides a unique tool for developing a comprehensive response to corruption. It covers five main areas: preventive measures, criminalisation and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange.[4] The UN Office on Drugs and Crimes website describes the UNCAC as "the only legally binding universal anti-corruption instrument". The vast majority of UN member states are parties to the Convention."[5]
    - UN Development Programme (UNDP). In 2015, UN member states adopted a set of 17 UN Sustainable Development Goals to end poverty, protect the planet and ensure prosperity for all. UN Sustainable Development Goal 16, Peace, Justice and Strong Institutions, has a target to substantially reduce corruption and bribery in all forms. It also has targets aimed at improving transparency, which will also contribute to fighting corruption. Countries are expected to take deliberate steps to fight corruption.

5. The Organization for Economic Co-operation and Development (OECD) exists to promote policies that will improve the economic and social well-being of people around the world.[6] The OECD established an Anti-Bribery Convention, aimed at reducing corruption in developing countries by encouraging sanctions against bribery in international business transactions by companies based in the Convention member countries. It is the first and only international anti-corruption instrument

[4] https://www.unodc.org/unodc/en/treaties/CAC/
[5] https://www.unodc.org/unodc/en/corruption/uncac.html
[6] http://www.oecd.org/about/

focused on the 'supply side' of the bribery transaction.[7] All of the 36 OECD member states and eight other countries have adopted the OECD Anti-Bribery Convention which establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective.

6. The Cayman Islands is not a member of the UN or OECD and so does not have to comply with these initiatives, but it has built many of the UN and OECD requirements into its national framework against corruption through the *Anti-Corruption Law*.

7. Transparency International (TI) was established in 1993 by a few individuals who decided to take a stand against corruption; and more than 100 countries around the world now participate. It aims to bring about change in the fight against corruption and recognises that corruption can be kept in check only if representatives of government, business and civil society work together to develop standards and procedures that they all support. It created a Corruption Perception Index to measure the perception of corruption in countries across the world. The Corruption Perception Index suggests that although the perception of corruption is worse in developing countries, it is also prevalent in advanced economies, and some advanced countries score worse than developing countries. Most countries in the world are covered by the Corruption Perception Index, although the Cayman Islands is not. This is because countries covered are generally UN members.

8. The International Monetary Fund (IMF) is an organisation created in 1945 and consists of 189 countries. It works to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world. The IMF has reported that designing and implementing an anti-corruption strategy requires change on many levels. It identifies four elements that should be prioritised in creating a strategy: transparency, rule of law, economic reform, and building of institutions.[8]

9. The World Bank considers corruption to be a major challenge to its goals of ending poverty by 2030 and boosting shared prosperity for the poorest 40 per cent of people in developing countries. It believes that for anti-corruption efforts to be effective, they need to be jointly led by politicians, senior government officials, the private sector, citizens, communities and civil society organisations. The World Bank provides support to developing countries to build capable, transparent and accountable institutions. The Cayman Islands does not receive support from the World Bank due to its economic prosperity.

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[7] http://www.oecd.org/corruption/oecdantibriberyconvention.htm

[8] IMF Staff Discussion Note – Corruption: Costs and Mitigating Strategies, International Monetary Fund, May 2016 http://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf

10. As part of our audit, we looked at requirements and activities for countries to fight corruption as set out by the UNDP, OECD, World Bank and IMF. Our review of these bodies' documents identified some differences in frameworks and arrangements for preventing corruption.

11. Our review of the UNDP noted that some countries often have functions only to prevent corruption, with no investigation or prosecution functions.[9] Other countries have established anti-corruption agencies that specialise in combatting corruption through law enforcement—for example, the Romanian National Anti-Corruption Directorate, the Croatian Office for the Suppression of Corruption and Organized Crime. In the Cayman Islands the ACC's only function is to investigate.

12. However, some countries have adopted an approach that combines preventive and enforcement functions. This approach is based on the model originally developed by the Hong Kong Independent Commission against Corruption and the Singapore Corrupt Practices Investigation Bureau.

13. Some countries, particularly those with limited resources, have established multi-purpose accountability institutions rather than a dedicated anti-corruption agency. These institutions perform a mix of human rights, anti-corruption, and/or Ombudsman functions, depending on the type of complaints they are dealing with. In addition, there may be a Commission of Inquiry, which can investigate a range of issues, including corruption.

THE CAYMAN ISLANDS CONTINUES TO EXPERIENCE CORRUPTION

14. The Cayman Islands is a major financial services centre and is widely regarded as a leader in the Caribbean region in many aspects of government. Like most countries, the Cayman Islands has experienced corruption. Some of our past audits have highlighted risks of corruption where controls, governance and other mechanisms were inadequate to provide assurance that corruption risks were being actively addressed by the Cayman Islands Government. A number of findings in these reports emphasise the risks relating to potential misspending or foregoing of public funds. For example, we found that revenue concessions were not being controlled properly, which led to their being awarded in a subjective way.[10]

[9] The United Nations Development Programme (UNDP) is the United Nations' global development network. It advocates for change and is instrumental in connecting countries to relevant resources and knowledge to help persons build a better life. It provides expert advice, training and grants support to developing countries, with increasing emphasis on assistance to the least developed countries. It promotes technical and investment cooperation among nations.

[10] Collecting Government Revenues, Office of the Auditor General, September 2015.

15. Since 2011, there have been a number of high-profile fraud and corruption cases in the public domain, including the following:

    - In 2011, a civilian employee of the Royal Cayman Islands Police Service (RCIPS) was arrested for misusing police data systems to solicit information from the Department of Immigration.
    - In 2013, the former Managing Director of the Electricity Regulatory Authority was charged and convicted for a string of theft and forgery-related offences.
    - In 2014, the former chair of the Health Service Authority was charged with breach of trust, conflict of interest, fraud on government, failure to disclose a pecuniary interest, and money laundering for the Carepay hospital swipe-card fraud. In 2016 the former chair was found guilty and sentenced to seven years in prison.
    - In 2014, a police officer was convicted for bribery—the first person to be convicted under the *Anti-Corruption Law* (ACL)—and was sentenced to three years in prison.

16. Between 2016 and June 2018 there was an increase in the number of fraud and corruption allegations across the public sector. The reasons for this are not clear, but it may be a result of a wider awareness of corruption and more willingness to report it. These include the following:

    - Twelve people have been charged with bribery of a public office, fraud on government and breach of trust relating to immigration. Six are Department of Immigration staff and six are members of the public.
    - The Managing Director of the National Roads Authority (NRA) is alleged to have misused the resources of the NRA. The NRA Director was placed on required leave pending the completion of an investigation and has now been dismissed.
    - The Director of the Port Authority of the Cayman Islands is alleged to have breached recruitment policies, mismanaged finances and spent money without Board approval. The Port Director was disciplined and is now suspended while further allegations are investigated.
    - A Senior Customs Officer allegedly evaded duty fees. The employee was fired for gross misconduct and has been arrested and released on police bail.
    - A Cayman Turtle Centre employee allegedly stole significant sums of cash from several revenue sources. The employee was fired and has since been arrested by the police. In another instance, an employee (previously suspended by the Cayman Turtle Centre) and two other people were arrested upon suspicion of having committed fraud on the government and breach of trust.
    - A former administrator of Facilities Management was charged with 11 offences: eight counts of obtaining money by deception, two counts of false accounting and one count of theft. The former employee pleaded guilty to the charges and was sentenced to 15 months in prison.

- Two civilian employees of RCIPS used credit charge accounts with Kirk Supermarket for personal purposes on more than 100 occasions over two years. One former employee pleaded guilty and was given a suspended sentence. The other employee absconded and has not returned to the Cayman Islands. Charges against the latter are still being progressed through the Summary Court.
- Two Security Officers in the Health Services Authority were suspected of committing bribery of a police officer, committing fraud on the government, breach of trust, and false claims by public officers. Additional investigations relating to overtime claim charges are ongoing. The employees were arrested, detained for questioning, and released on bail.
- Three people, including one member of staff in the Department of Vehicle and Drivers' Licensing, have been arrested in connection with an ongoing case of bribery of public officials, fraud on the government and breach of trust.

17. There is a perception that some activities, such as the appointment of public officials, are open to corruption due to the lack of transparency in the appointments process. There is also international evidence that low pay contributes to a higher incidence of fraud and corruption; low paid employees may be more tempted to commit fraudulent or corrupt activities to supplement their income, particularly when the cost of living is high.[11] Our report Workforce planning and management in the Cayman Islands Government in April 2018 noted that around 70 per cent of civil servants were earning less than CI$50,000 a year.[12] The Government announced a five per cent pay raise for civil servants in September 2018 but this will still leave a significant percentage of civil servants earning less than $50,000 a year. A recent publication reports that Cayman Islands have the second-highest cost of living of 350 cities across the world.[13] The Cayman Islands Government's policy on required leave may also not provide sufficient incentive for civil servants accused of fraud or corruption to conclude their cases quickly as they can continue to be paid for long periods of time while their cases are investigated. We understand that the Deputy Governor intends to pursue amendments to the Personnel Regulations to reduce the time a person can be on required leave with full pay.

18. The Cayman Islands has made progress in developing mechanisms to fight corruption, but these mechanisms are geared towards investigation and enforcement. They are important steps in the fight against corruption and may deter some corruption. However, tackling the issue before it happens could further strengthen the overall effectiveness of the country's anti-corruption initiatives.

[11] https://www.sciencealert.com/corruption-linked-to-low-income
[12] Workforce planning and management in the Cayman Islands Government, Office of the Auditor General, April 2018.
[13] Expatisan https://www.expatistan.com/cost-of-living/index

19. At least eight laws have been enacted to combat corruption, the first being the 2008 *Anti-Corruption Law* (ACL). However, not all laws have been brought into force, and some have only recently come into force. For example, the *Public Authorities Law 2017* came into effect 1 June 2017 (except Section 47, terms and conditions and remuneration of staff, which is due to commence in June 2019). This law provides more rigour in the appointment of public officials, including the appointment and responsibility of the Chief Executive Officer and Public Authority Personnel Management requirements. The *Standards in Public Life Law 2014* would make a major contribution to preventing and combatting corruption, as it sets ethical and behaviour standards for people in public life. However, four years after being passed by the Legislative Assembly, this legislation has still not been brought into force.

20. The Cayman Islands Government has also taken positive steps to improve its internal procedures for fighting corruption. During 2017, it introduced an Anti-Fraud Policy and Whistle Blower Policy and launched an anonymous whistle-blower hotline (located overseas and operated by a professional service firm) in the fight against fraud and corruption. The public can also report potentially corrupt activities to the Government's Internal Audit Service, the Office of the Auditor General, RCIPS and the Ombudsman.

ABOUT THE AUDIT

21. Due to the importance of combatting corruption in the world, we carried out the audit to explore the mechanisms to prevent corruption at a national level and within the infrastructure sector. It was a cooperative audit and part of a programme being facilitated by INTOSAI Development Initiative (IDI). The cooperative audit involves public sector audit offices across the world conducting simultaneous audits of their country's institutional framework for fighting corruption. The programme provides support to the audit team members through training, mentorship and peer reviews.

22. The objective of this audit was to assess the effectiveness of the mechanisms for preventing corruption at the national level and in the infrastructure sector.[14] It sought to answer the following audit questions:

    - How well-designed is the national framework to prevent corruption?
    - How effective is the national framework in preventing corruption at the national level?
    - How well-equipped is the infrastructure sector to prevent corruption?

[14] Our audit focused specifically on the planning sector and the three planning entities - Department of Planning, Central Planning Authority and the Development Control Board.

23. Our report is structured into two sections:

    - Cayman Islands National Framework for Fighting Corruption; and
    - Preventing Corruption in the Planning Sector.

24. The audit assessed how the Cayman Islands laws and various anti-corruption bodies contribute to fighting corruption—specifically, to preventing corruption—at the national level. It also reviewed anti-corruption activities undertaken by the Cayman Islands Government in ministries, portfolios and offices and the departments within them. We evaluated the implementation of mechanisms to prevent corruption at a sector level, focusing on the infrastructure sector with an emphasis on planning entities, including the Department of Planning, Central Planning Authority (CPA) and the Development Control Board (DCB).

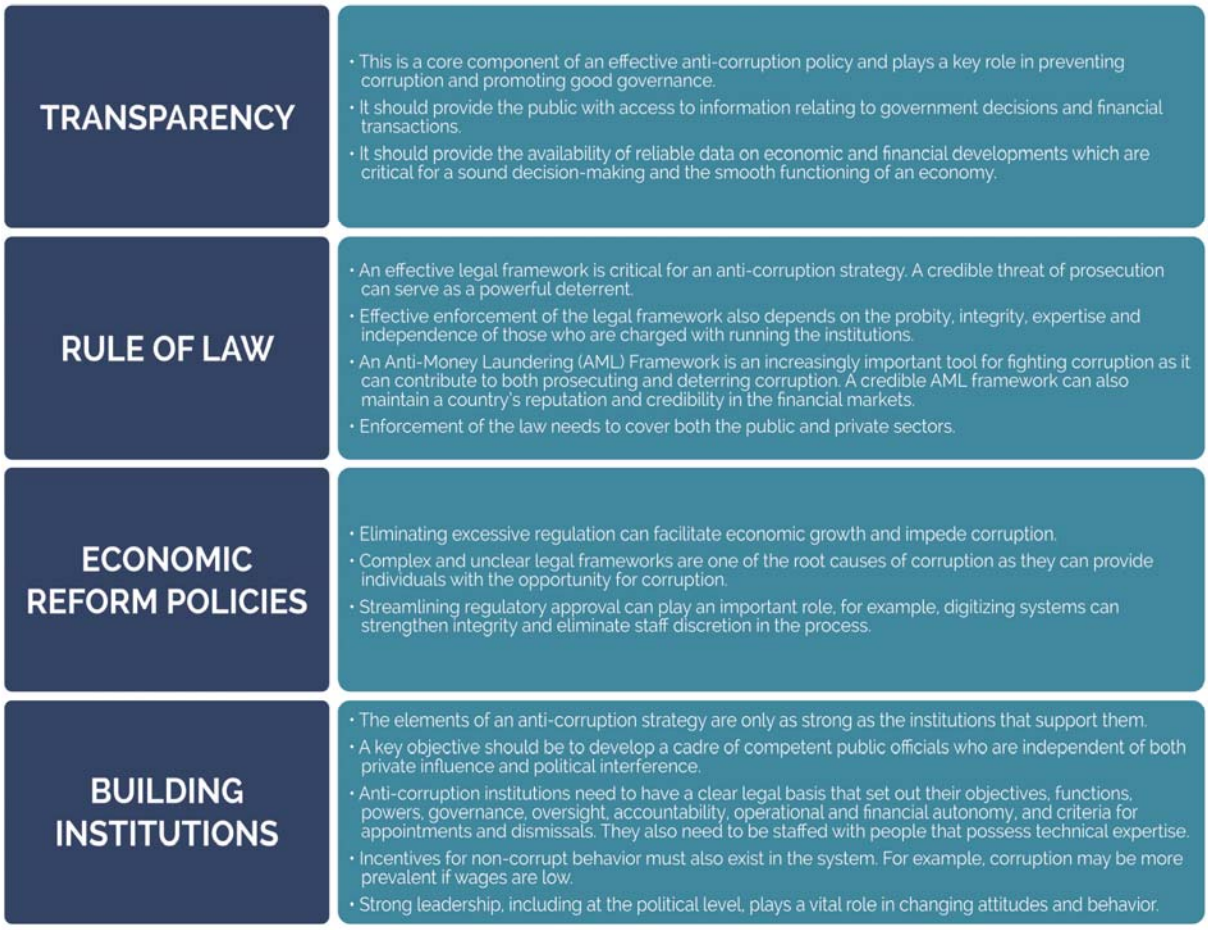
25. In carrying out the audit, we reviewed laws, regulations, policies and procedures. We analysed quantitative data from 2013 to 2017 to identify the actions that have been taken to fight corruption. We interviewed key officials across government as well as the Chairmen of both the CPA and DCB. We performed walkthrough testing of the planning application process to better understand how it works. In conducting the audit, we encountered some limitations, including lack of access to the ACC records due to the sensitivity of the information held; and performance indicators that are not comprehensive and lack internal benchmarks or targets. Appendix 1 provides more information about the audit, including the audit criteria, approach and methodology.

26. The assistance and cooperation we received from officials in the Cayman Islands Government, anti-corruption bodies and planning entities in all phases of the audit is gratefully acknowledged. Without their help, the audit could not have been completed.

CAYMAN ISLANDS' NATIONAL FRAMEWORK FOR FIGHTING CORRUPTION

27. The International Monetary Fund (IMF) suggests that designing and implementing an anti-corruption strategy requires change on many different levels. However, it suggests that, in its experience, there are four key elements that should be prioritised.[15] Exhibit 2 summarises the four key elements.

Exhibit 2 – Key elements of an effective anti-corruption strategy



Source: International Monetary Fund

[15] IMF Staff Discussion Note – Corruption: Costs and Mitigating Strategies, International Monetary Fund, May 2016

28. In 2007, the Cayman Islands started to develop its national framework to strengthen its approach to and guard against corrupt activities. The framework is made up of a range of laws and regulations that define and punish corrupt individuals; various anti-corruption bodies whose purpose is to help prevent and investigate corrupt acts; the improving of governance and transparency; and the strengthening of arrangements, including policies and procedures, within the Cayman Islands Government.

29. It is worth noting that the IMF states that anti-corruption strategies can take time to develop, even if anti-corruption legislation is adopted quickly, as it requires transformational change in individuals' behaviours and values. It also acknowledges that there are significant challenges in measuring the success of anti-corruption strategies. Noting the IMF's observations, we have attempted to evaluate progress to date in the Cayman Islands' national framework for corruption.

A SIGNIFICANT AMOUNT OF LEGISLATION HAS BEEN PASSED TO HELP COMBAT CORRUPTION

THE ANTI CORRUPTION LAW WAS INTRODUCED IN 2010 AND IS THE MAIN COMPONENT OF THE NATIONAL FRAMEWORK FOR FIGHTING CORRUPTION

30. The Cayman Islands started to build its national framework for fighting corruption when the *Anti-Corruption Law* (ACL) was passed in the Legislative Assembly in 2008. The ACL repealed the provisions of the Penal Code that related to corrupt practices, and aimed to bring into effect the United Nations Convention Against Corruption (UNCAC) and the Organization for Economic Co-operation and Development (OECD) Convention on Combatting Bribery of Foreign Officials. The ACL was brought into force on 1 January 2010. It has been updated three times since then, most recently in October 2018. Exhibit 3 provides a summary of the revisions to the ACL.

Exhibit 3 – Summary of *Anti-Corruption Laws*

VERSION/ AMENDMENT	DATE PASSED BY LEGISLATIVE ASSEMBLY	DATE BOUGHT IN TO FORCE	MAIN PROVISIONS AND CHANGES
ANTI-CORRUPTION LAW 2008	AUGUST 2008	1 JANUARY 2010	Established an Anti-Corruption Commission; defines offences covered by the law (repealing outdated offences from the Penal Code); specifies the evidence to be gathered, the guidelines and operational procedures to be followed and other general information such as the protection of informants.
2012 REVISION	31 AUGUST 2012	13 SEPTEMBER 2012	This revision updates the main Anti-Corruption Law when the Office of Director of Public Prosecutions (ODPP) started. The amendments were embodied in the law that affected various laws, and in the case of the Anti-corruption Law, changes were mainly about transferring prosecutorial functions from the Attorney General to ODPP.
2016 AMENDMENT	JUNE 2016	30 AUGUST 2016	Enhanced the operation and independence of the ACC by broadening the categories from which ACC members may be chosen; removed the ability for public officers to be appointed to the ACC. The Auditor General, Complaints Commissioner and the Commissioner of Police were previously members of the ACC, but may still be invited to attend any meeting and provide information. Enabled the ACC to appoint independent investigators who have the same powers and immunity as police constables; additionally, ACC may also still delegate any of its duties and functions to the Commissioner of Police; provided for the appointment of consultants and experts
2018 AMENDMENT	12 SEPTEMBER 2018	26 OCTOBER 2018	This bill was put in place to amend the Anti-Corruption Law (2018 Revision) in order to allow ACC investigating officers to use protective equipment for incidental and connected purposes.

Source: OAG Analysis of Legislation

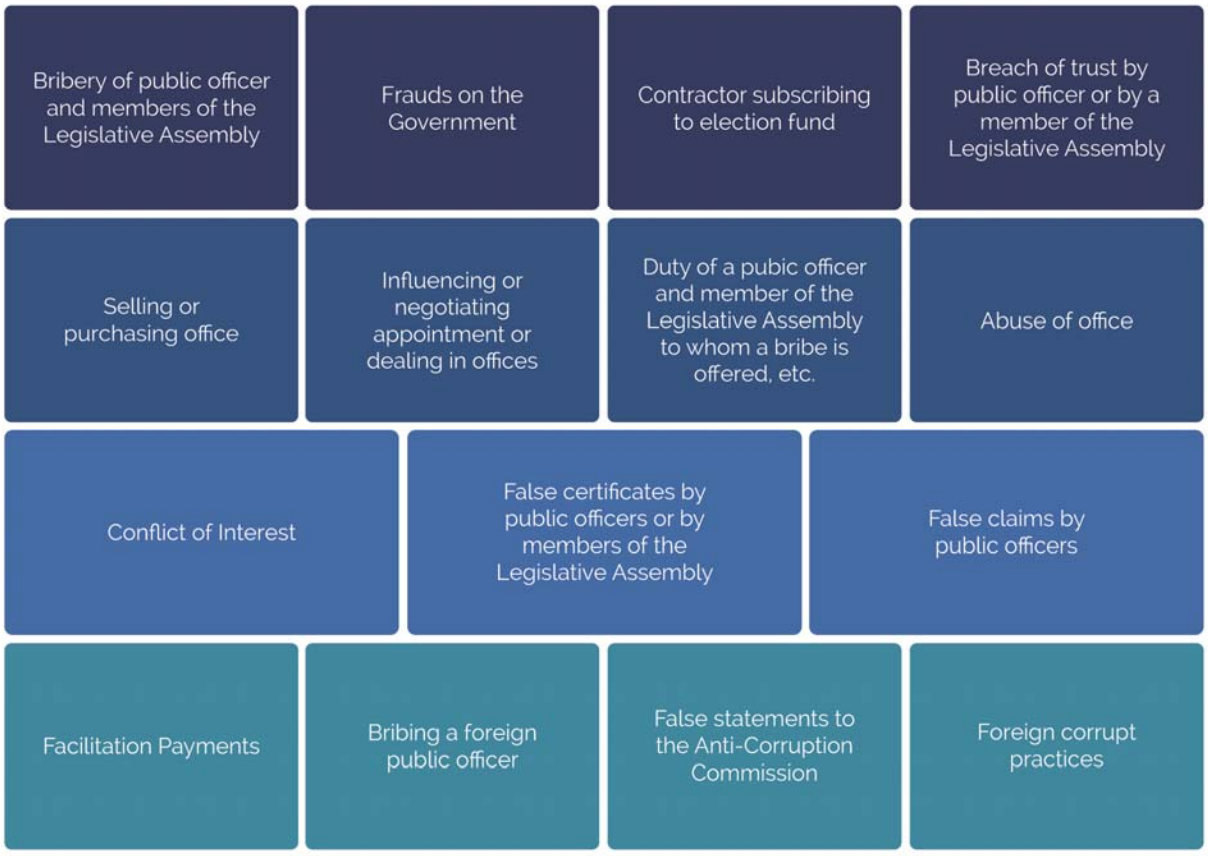
31. The ACL has robust provisions for law enforcement, such as the power of arrest, but does not have the same for prevention.

CAYMAN ISLANDS HAS A WIDE DEFINITION OF CORRUPTION THAT IS IN LINE WITH GOOD PRACTICE

32. The ACL sets out the corruption offences that are covered by the law. These offences are wide ranging and are in line with those recommended by the UNCAC. The new legislation and definition of corruption improved on the more generic corruption offences previously included in the Penal

Code. Exhibit 4 provides a summary of corruption offences in the Cayman Islands as outlined in the ACL.

Exhibit 4 – Offences under the *Anti-Corruption Law*



Source: Anti-Corruption Law (2018 Revision)

OTHER LEGISLATION HAS BEEN PASSED WITH A VIEW TO COMBATTING CORRUPTION BUT SOME LAWS HAVE ONLY RECENTLY BEEN ENFORCED AND OTHERS ARE NOT YET IN FORCE

33. The Government has enacted various laws to combat corruption in recent years. These laws range from those that are designed to encourage and enforce ethical conduct in the public sector, improve government practices and protect individuals. Exhibit 5 provides a summary of legislation that contributes to the national framework for corruption.

Exhibit 5 – Key provisions of Cayman Islands Laws to combat corruption

LAW	PURPOSE	DATE INITIALLY PASSED BY THE LEGISLATIVE ASSEMBLY	DATE BROUGHT IN TO FORCE
PUBLIC MANAGEMENT AND FINANCE LAW, 2001	Gives the Office of the Auditor General the power to conduct investigations on his/her own initiative or at the request of the Legislative Assembly or any of its committees or subcommittees.	26 SEPTEMBER 2001	6 NOVEMBER 2002
FREEDOM OF INFORMATION LAW, 2007	Mandates timely public access to information held by public authorities. The role of the Ombudsman is to investigate and resolve complaints made by the public against public bodies.	3 SEPTEMBER 2007	3 JANUARY 2009
STANDARDS IN PUBLIC LIFE LAW, 2014	Requires certain persons to make public entries of their interest. Addresses conflicts of interest. This law will supersede the Register of Interest Law 1996 when brought into force.	31 JANUARY 2014	NOT YET ENFORCED AND NO DATE SET FOR ENFORCEMENT
WHISTLEBLOWER PROTECTION LAW, 2015	Safeguards against various forms of retaliation for persons reporting wrongdoing in the workforce.	26 NOVEMBER 2015	1 FEBRUARY 2018
PROCUREMENT LAW, 2016	Provides the framework for the procurement of goods and services by the Cayman Islands Government, and establishes a Central Procurement Office. Ensures fairness and impartiality in the treatment of bid submission.	24 OCTOBER 2016	1 MAY 2018
THE POLICE (COMPLAINTS BY THE PUBLIC), LAW 2017	Provides the Ombudsman with responsibilities and powers to investigate and resolve complaints by members of the public against police officers.	27 MARCH 2017	26 APRIL 2017

LAW	PURPOSE	DATE INITIALLY PASSED BY THE LEGISLATIVE ASSEMBLY	DATE BROUGHT IN TO FORCE
OMBUDSMAN LAW, 2017	Creates the Office of the Ombudsman, which is charged with responsibilities for investigating and resolving complaints under prescribed law; to create deputy ombudsmen for the purpose of assisting the ombudsman in the performance of those responsibilities; and to make provisions for related matters.	27 MARCH 2017	26 APRIL 2017
PUBLIC AUTHORITIES LAW 2017	Provides uniform regulation of the management and governance of statutory authorities and government companies (SAGCs).	27 MARCH 2017	1 JUNE 2017 (with the exception of Section 47 which comes into force on 1 JUNE 2019)
PROCEEDS OF CRIME LAW (2017 REVISION) REPLACED THE PROCEEDS OF CRIMINAL CONDUCT LAW	Criminalises and provides for freezing the laundering of proceeds from crime as separate offences in addition to the predicate (main) crimes. Enabled asset recovery.	22 MAY 2017	31 MAY 2017
DATA PROTECTION LAW 2017	Imposes strict legislation on entities handling personal data.	5 JUNE 2017	TO BE ENFORCED 30 SEPTEMBER 2019
ANTI-MONEY LAUNDERING REGULATIONS, 2017	Helps detect and report suspicious activity, including offences of money laundering and terrorist financing.	20 SEPTEMBER 2017	2 OCTOBER 2017
COMPLAINTS (MAL-ADMINISTRATION) LAW 2018	Provides the Ombudsman with power to investigate complaints from the public about administrative injustice of government bodies. Replaces the Complaints Commissioner Law (originally enacted 1 October 2003)	13 MARCH 2018	17 MARCH 2018

Source: OAG analysis of legislation

34. We noted that around half of the legislation was brought into force within a year after it was passed by the Legislative Assembly. However, most of the other laws took as long as two years to be brought into force and some laws are not yet in force.

35. The *Freedom of Information Law 2007* (FOI) took about sixteen months to be brought into force after it was passed by the Legislative Assembly.

36. The law that preceded the *Complaints (Maladministration) Law*— the *Complaints Commissioner Law* in 2003—was the first major piece of legislation to be introduced in the Cayman Islands to aid the fight against corruption. It sought to provide a tangible channel for complaints of maladministration in public sector activities and decision making.

37. The *Standards in Public Life Law 2014* does not yet have a commencement date despite being passed by the Legislative Assembly four years ago. This is a major gap in the framework for combatting corruption, and it weakens the intended impact of the framework. The *Standards in Public Life Law 2014* requires public reporting of personal interests, which is intended to help identify potential conflicts of interest. Other jurisdictions such as the United Kingdom have similar laws that contribute to the prevention of corruption. Until this law is in force, if conflicts of interest arise they might not be identified or dealt with appropriately, creating opportunities for corruption. The Commission on Standards in Public Life is also hindered from operating effectively and from carrying out its duties as required by both the Constitution and the law. The fact that the law is not yet in force may also affect public trust and lead to lack of integrity, transparency and accountability. When the law is brought into force it could have implications, such as potential conflicts of interest for the portfolios held by both politicians and senior civil servants and senior public servants in Statutory Authorities and Government Companies.

38. The *Procurement Law 2016* aims to improve the Cayman Islands Government's buying of assets, goods and services. It is intended to create an overarching framework that embeds controls to ensure that all procurement is as fair and transparent as possible. The *Procurement Law* came into force on 1 May 2018, eighteen months after it was passed by the Legislative Assembly. This Law is supported by the Procurement Regulations, 2018, which establish controls that ensure value for money in the procurement of goods and services, including the required oversight by the Public Procurement Committee for projects valued above two hundred and fifty thousand dollars (although the Public Procurement Committee has yet to be established). The Regulations also establish a requirement for business cases and what they should set out. It is too early to say how significant the effect of this legislation has been.

39. The *Whistleblower Protection Law 2015* was enacted to encourage, help and protect employees who choose to report improper conduct by their employers. It came into force on 1 February 2018. The law applies to all employers and employees in the Cayman Islands (public and private sectors). It

specifies that designated authorities are responsible for receiving, investigating and dealing with disclosures under the law and monitoring compliance with the law. It does not specify the designated authorities but the Office of the Ombudsman has assumed this responsibility. In other jurisdictions, such as the UK, the list of prescribed persons (or designated authorities) that a whistle-blower can turn to is much wider than the Ombudsman, and generally includes the Auditor General and other commissioners.[16]

40. The Cayman Islands has a range of laws that are aimed at fighting against laundering money and financing terrorism. These include the *Monetary Authority Law*, which created the Cayman Islands Monetary Authority and provides its powers; Anti Money-Laundering Regulations; the *Proceeds of Crime Law*; the *Terrorism Law*; and the *Proliferation Financing (Prohibition) Law*.

41. These laws, together with the *Anti-Corruption Law*, strengthen the legal framework for combatting corruption. However, we note that they mostly focus on enforcement and investigation as means of combatting corruptions, and there are gaps when it comes to prevention. Most of the legislation has only recently come into force, during 2017 and 2018, and it is too early to say whether it is fully effective in deterring or preventing corruption.

Recommendation 1: The Government should bring into force the *Standards for Public Life Law 2014* urgently.

Recommendation 2: The Government should consider extending the list of designated authorities to whom whistle-blowers can turn.

A NUMBER OF ANTI-CORRUPTION BODIES EXIST TO SUPPORT THE FIGHT AGAINST CORRUPTION

THE ANTI-CORRUPTION COMMISSION'S MEMBERSHIP HAS CHANGED SINCE IT WAS FIRST ESTABLISHED AND IT NOW HAS SIGNIFICANTLY MORE RESOURCES

42. The ACL established the Anti-Corruption Commission (ACC) in 2010, originally with five members who were appointees from the local law enforcement and public sector. At that time, the membership included three public officers - the Auditor General, Complaints Commissioner, and the Commissioner of Police as the Chairman of the ACC (all of whom are independent of government) - and two private citizens appointed by HE the Governor. In 2016, the membership of the ACC changed when the law was amended to remove the three public officers from the ACC and allow HE the Governor to appoint retired judges, lawyers, police officers, justices of the peace,

[16] UK Government - https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

accountants or other private citizens as members. The public officers are no longer members of the ACC, although they can be called upon for expert advice and information sharing.

43. The ACC is responsible for the administration of the ACL; its powers, duties and functions are to:[17]

    - receive, consider and investigate reports of alleged corruption offences;
    - receive (including from overseas anti-corruption agencies) and request, analyse and disseminate disclosures of information concerning corruption offences, or suspected offences; and
    - detect and investigate suspected corruption offences, attempts to commit an offence, or conspiracies to commit an offence.

44. To achieve these responsibilities the ACC can arrest people who have committed, or are suspected of having committed, a corruption offence, obtain evidence by search warrant, and request the courts to freeze assets and confiscate the proceeds of corruption offences. It can also assist with overseas investigations and enter into assistance agreements with overseas anti-corruption agencies. It can also refer cases to the Director of Public Prosecutions.

ANTI-CORRUPTION COMMISSION RESOURCES HAVE INCREASED SIGNIFICANTLY BUT IT IS NOT CLEAR IF THESE ARE SUFFICIENT TO MANAGE ITS PERFORMANCE EFFECTIVELY

45. In 2017 the ACC had a total of six investigators (one senior investigator and five investigators), a significant increase from previous years. In 2015 the ACC had one investigator; increasing to three in 2016; and further increasing to six in 2017. Prior to having directly employed investigators, officers from the Royal Cayman Islands Police Service (RCIPS) were initially placed with the Commissions Secretariat offices to support the ACC and then formally seconded by the Commissions Secretariat to provide support to the ACC. The increase in the number of ACC investigators was a direct result of the change to the ACL in 2016 that ended the involvement of the RCIPS in investigating cases that had been referred to the ACC. However, ACC can delegate cases to RCIPS, and it also uses the OAG for support in some cases. In addition to its own investigators, the ACC also acquires specialist expertise from outside the Cayman Islands to support some of its activities and investigations. The ACC relies on other public sector bodies to provide information and support it in carrying out some of its functions. This reliance on others may affect the time taken to carry out investigations—for example, if specialists are not available when needed, or if other public bodies do not have the necessary resources. The ACC reports its performance publicly through its annual report, which is published on its website. Performance information reported includes measures such as the number of complaints, the number of cases investigated and number of persons charged and arrested.

[17] Mission Statement, Anti-Corruption Commission

Exhibit 6 summarises the ACC's performance information for the five years from 2012-13 to 2016-17.

Exhibit 6 - ACC publicly reported performance information 2012-13 to 2016-17

	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Complaints Received	31	24	14	9	10
Interviews Conducted	82	107	106	20	54
Letters Served for Production of Documents	12	5	3	0	1
Persons Disciplined	0	0	0	0	0
Reports to Legal Department	14	9	15	12	6
Calls Received on Hotline	30	1	0	0	0
Cases Active	19	23	12	0	7
Cases Concluded	9	30	15	0	5
Cases Transferred to Other Departments	4	3	0	0	10
Cases Pending Further Information	4	3	11	0	8
Persons Awaiting Grand Court Trial	2	0	2	1	0
Persons Charged	1	0	2	0	0
Persons Convicted	0	2	0	1	0
Persons Awaiting DPP Charge Ruling	0	0	2	1	1
Persons Arrested	0	0	0	2	11

Source: ACC Annual Reports

46. Over the five-year period from 2012 to 2017, the ACC received 88 complaints, with 78 per cent of these in the first three years. Over the same period the number of active cases varied from year to year, with the highest number in 2013-2014. It is not clear how many live cases continue from one year to the next and how many are new cases. Over the five years, the ACC reported that it concluded 59 cases resulting in 13 arrests, three people charged and three convicted. A total of 11 of the 13 arrests (85 per cent) were made in 2016-2017. The trend also highlights that 2015-2016 had a distinctly lower level of activities across the board.

47. This is useful information. However, performance information could be improved by extending it to include some efficiency and effectiveness measures, such as the cost per case or the length of time taken to investigate and close cases. ACC investigations may take a long time to complete for a

range of reasons and there is no time limit set for completing them. We acknowledge that most cases will be different and that averages may not be possible, but ranges could be provided. It may be useful to make this information publicly available, as it could help increase awareness of the process and indicate the time and cost of fully investigating cases.

Recommendation 3: The Anti-Corruption Commission should extend its performance indicators to include efficiency and effectiveness measures and report these publicly in its annual report.

A NUMBER OF OTHER BODIES PLAY A ROLE IN THE FIGHT AGAINST CORRUPTION

48. Anti-corruption institutions should have a clear mandate in fighting corruption. There should be guidelines and procedures to follow and adhere to. In addition to the ACC, the Commission for Standards in Public Life (CSPL) was established to support the fight against corruption. Other public bodies also have a role in fighting corruption—the Office of the Auditor General (OAG), RCIPS, Ombudsman, the Financial Regulatory Authority, and the Cayman Islands Monetary Authority. Exhibit 7 summarises their roles.

49. The OAG scrutinises public spending on behalf of the Legislative Assembly, helping it to hold government to account for its use of public money and helping public service managers improve performance and service delivery. The OAG is responsible for the audit of all public bodies in the Cayman Islands. It undertakes financial audits and performance audits and has the power to carry out investigations. Individuals can raise concerns with the OAG about the public bodies it audits. The OAG will consider any concerns raised as part of its ongoing risk-based audit approach if they fall within its remit.

50. The RCIPS was established in 1907 to provide security and safety for every person in the Cayman Islands, whether visitor or resident; and to maintain national security and border patrol. RCIPS has a specialist unit – the Financial Crime Investigation Unit - dedicated to investigating criminal offences related to money laundering, the financing of terrorism, and fraud.

51. The Office of the Ombudsman was established in 2017, replacing the previous Complaints Commissioner and Information Commissioner. The Ombudsman oversees the requirements of the *Freedom of Information Law (2015)*, *Whistleblower Protection Law, 2015* and will also oversee the requirements of the *Data Protection Law 2017* when it comes into force in September 2019. The Ombudsman is the official guardian of fairness and transparency in the Cayman Islands and is charged with representing the interests of the public by investigating and addressing complaints of maladministration.

52. The Financial Reporting Authority (FRA) is the financial intelligence unit of the Cayman Islands. Its responsibility is to receive, analyse and disseminate financial information disclosures concerning the proceeds of criminal conduct, money laundering and the financing of terrorism.

53. The Cayman Islands Monetary Authority (CIMA) was established in 1997 and is the primary financial services regulator of the Cayman Islands. It has four main functions, one being to monitor compliance with money laundering regulations and issue relevant and appropriate guidance.

Exhibit 7 – Other bodies with a role in fighting corruption in the Cayman Islands

	COMMISSION FOR STANDARDS IN PUBLIC LIFE (CSPL)	OMBUDSMAN	OFFICE OF THE AUDITOR GENERAL (OAG)	ROYAL CAYMAN ISLANDS POLICE SERVICE (RCIPS)	FINANCIAL REPORTING AUTHORITY (FRA)	CAYMAN ISLANDS MONETARY AUTHORITY (CIMA)
LEGAL BASIS	Standards in Public Life Law (2014) The Cayman Islands Constitution Order 2009	Ombudsman Law (2017) Various laws	Public Management and Finance Law (PMFL) The Cayman Islands Constitution Order 2009	Police Law (2014 Revision)	Proceeds of Crime Law	Monetary Authority Law
MANDATE	Establish standards of honesty, consistency and competence for persons in public life.	Official guardians of fairness and transparency in the Cayman Islands.	To ensure the Government is held accountable for its activities. To report on whether organisations spending money use it properly, economically, efficiently and effectively.	To deliver the full range of police services across the Cayman Islands and its territorial waters, to deliver national security and border control (by sea or air) including criminal interdiction in territorial waters.	To participate in the international effort to deter and counter money laundering and the financing of terrorism.	To protect and enhance the reputation of the Cayman Islands as an international financial centre.
KEY FUNCTIONS	Assist in establishing and maintaining the highest standards of honesty, integrity and competence for persons in public life, in order to ensure the prevention of corruption or conflicts of interest.	Investigate and act on maladministration complaints about the Government, Statutory Authorities and Government Companies and RCIPS. To protect whistleblowers, ensure information rights and Government transparency.	To carry out both financial and performance audit work. Undertake investigations as required.	To protect the citizens and visitors of the Cayman Islands from physical, mental and financial harm.	To protect the citizens and visitors of the Cayman Islands from physical, mental and financial harm.	Regulate and supervise financial services business, monitor compliance with money laundering regulations; and perform other regulatory or supervisory duties.

Source: OAG Analysis of Legislation

MEMORANDUMS OF UNDERSTANDING ARE IN PLACE FOR INTER-AGENCY COOPERATION

54. The ACC has memorandums of understanding (MOU) with RCIPS, OAG and the FRA. In addition, it has signed a multilateral MOU with CIMA, RCIPS, The Office of the Director of Public Prosecutions (DPP), Cayman Islands Customs Department, Cayman Islands Department of Commerce and

Investment, and the Register of Companies. In 2017, the ACC entered into an information-sharing agreement with the DPP as well as a cooperation agreement with the RCIPS. The MOUs state that the sharing of information promotes and protects the legitimate objective of prevention, detection, and investigation of criminal and corrupt activities.

55. The ACC shares information with the DPP, OAG and the RCIPS on a need-to-know basis to facilitate the investigation and prosecution process. Due to the confidential nature of some of the information that the ACC holds, there are restrictions on how much can be shared with senior government officials. We were told that the ACC meets with HE Governor as needed to provide an update on current issues. However, senior government officials also told us that they believe the ACC could share more information with them on the status of cases without providing detail or compromising any investigations. We acknowledge that it is important to keep confidential information out of the public domain, especially while investigations are ongoing. However, there may be scope for more information sharing across bodies.

56. In 2012 the ACC introduced a new form for people to use when reporting fraud or corruption. It did this to try to ensure that any allegations made were properly thought through and based on reasonable grounds. Since the introduction of the forms, the ACC believes that the information it now receives allows it to better assess whether the allegations should be investigated further. However, there is a perception that completing the forms is onerous and may deter some people from reporting potential fraud and corruption to the ACC.

THE CAYMAN ISLANDS GOVERNMENT HAS IMPROVED ITS APPROACH TO PREVENTING CORRUPTION BUT MORE NEEDS TO BE DONE TO EMBED THIS

57. Since 2017, the Cayman Islands Government has developed a number of initiatives to raise awareness of fraud and corruption within the civil service, including:

- issuing the Anti-Fraud Policy;
- developing and delivering fraud awareness training;
- launching a whistle-blower hotline; and
- monitoring counter-fraud activities within the Government and the wider public sector.

THE CAYMAN ISLANDS GOVERNMENT LAUNCHED AN ANTI-FRAUD POLICY IN MAY 2017 BUT MORE NEEDS TO BE DONE TO EMBED THIS

58. In March 2017, the Cayman Islands Government introduced a Code of Ethics and Conduct as a guideline for all civil servants to uphold high standards of business conduct. The guideline addresses the need for having policies in place to create awareness of the prevention of corruption.

59. In May 2017, the Cayman Islands Government issued an Anti-Fraud Policy to facilitate the development of controls that aid in the detection and prevention of fraud against the Government. The policy establishes new procedures that aid in the prevention, detection, and investigation of fraud and related offences. The policy does this through the following:

    - Providing a framework for setting objectives and establishing an overall sense of direction and principles for action with regard to the management of fraud risk, including the development and maintenance of effective internal controls to prevent, detect, and treat fraud and abuse risk.
    - Ensuring that vigorous and prompt investigations are conducted if a reasonable professional understanding exists that fraud has occurred, is occurring, or could occur as a result of unmitigated vulnerabilities.
    - Taking appropriate legal and/or disciplinary action against the perpetrators of fraud.
    - Taking action where supervisory failures have contributed to fraud or abuse.
    - Taking into account business and legal or regulatory requirements, and contractual obligations.
    - Aligning risk management with the organisation's strategic context in which the establishment and maintenance of the fraud risk management system will take place.
    - Establishing criteria against which fraud risk will be evaluated.
    - Specifying how fraud risk management performance will be measured and reported.
    - Ensuring that the necessary resources are available to assist those accountable and responsible for managing risk.
    - Ensuring that all fraud risk management activities are conducted and implemented in an agreed and controlled manner.
    - Achieving a fraud risk management capability that meets changing business needs and is appropriate to the size, complexity and nature of the organisation.

60. However, it is not clear if the fraud risk management framework has been embedded across the Cayman Islands Government. For example, the Ministry of Commerce Planning and Infrastructure and the Department of Planning did not have evidence that such a framework was in place. There are overarching policies and procedures outlining mechanisms that should be in place to prevent corruption and fraud. However, these are not always applied and adhered to in the operating environment of the ministries, portfolios and offices and underlying departments. There is no monitoring or review to ensure that the information remains up to date.

61. All new civil servants are briefed on the policy as part of employee orientation, which all new employees are required to attend. However, their attendance is not currently monitored.

62. Our audit found that initially, there was good communication about the Anti-Fraud Policy. However, over the last year there has been no further internal communication with civil servants about the

policy. The policy states that chief financial officers are the owners of the policy, which makes them responsible for checking and, if necessary, updating the document at least once a year or within 30 days of any significant organisational change. Our understanding is that the policy has not been reviewed or updated since it was issued. It may be better, therefore, to have a single owner that has responsibility for ensuring that the policy is updated for the whole of government and communicated regularly to staff.

63. The policy covers only the core government, that is, ministries, portfolios and offices and their related departments. It does not cover Statutory Authorities and Government Companies (SAGCs). Our review found that only five SAGCs have fraud and corruption policies in place.

Recommendation 4: The Cayman Islands Government should identify a single owner of the Anti-Fraud Policy who is responsible for ensuring that it is regularly updated and communicated to staff.

Recommendation 5: Statutory Authorities and Government Companies should ensure that they have fit-for-purpose fraud and corruption policies or clearly state why one is not necessary. They could adopt the CIG policy or adapt it to suit their individual needs.

THE CAYMAN ISLANDS GOVERNMENT HAS DEVELOPED FRAUD AWARENESS TRAINING BUT FEW CIVIL SERVANTS HAVE COMPLETED THE TRAINING

64. The Cayman Islands Government developed fraud awareness training in 2017 to support the Anti-Fraud Policy. The training is delivered by the Civil Service College and aims to increase civil servants' understanding of fraud and corruption. It consists of four self-study modules covering an overview of the Anti-Fraud Policy, Anti-Fraud Code of Business Ethics, Anti-Fraud Whistle-Blower Policy, and the Policy on Offering or Receiving Hospitality, Entertainment or Gifts. It is available to all civil servants through the Degreed.com training platform.

65. At the end of September 2018, only 19 per cent of the 3,950 civil servants had completed the training, only four-fifths of which completed all four modules.

Recommendation 6: The Cayman Islands Government should ensure that all civil servants have completed the fraud awareness training and that updated training is completed regularly.

THE GOVERNMENT LAUNCHED A WHISTLE-BLOWER POLICY AND HOTLINE IN 2017 BUT IT IS TOO EARLY TO ASSESS HOW EFFECTIVE THESE ARE

66. In April 2017, the Cayman Islands Government launched a Whistle-Blower Policy, which sets out guidelines for reporting and investigating reports of wrongdoing, including fraud and corruption. It clearly states that government has zero tolerance for fraud and corruption, and encourages civil servants to report, in good faith, any suspected wrongdoing.

67. To support the policy, the Cayman Islands Government also launched a whistle-blower hotline and Anti-Fraud Policy website (fraud.gov.ky). The hotline is available for use by anyone in the Cayman Islands or overseas to report anonymously any suspected fraud or corruption. People can call the toll-free hotline or email fraud@kpmg.co.za; the hotline is located overseas and is hosted by KPMG.

68. Since it started in 2017, the whistle-blower hotline has received a total of 12 reports: seven in 2017 and five in 2018 (to end of June 2018). At the end of June 2018, two of the 12 reports remained open.

GOVERNMENT'S INTERNAL AUDIT SERVICE HAS STARTED TO PREPARE QUARTERLY REPORTS ON FRAUD AND CORRUPTION BUT IT IS NOT CLEAR HOW THESE ARE BEING USED

69. The Government's Internal Audit Service is the 'first-response' fraud investigation team and maintains a working relationship with the OAG, RCIPS and ACC. In January 2018 it established its Counter Fraud Initiative (CFI) programme, which is intended to be a proactive approach to the detection, reporting and investigating of potential fraud. As a result of the CFI programme the Internal Audit Services started to prepare quarterly counter-fraud reports for the Deputy Governor. Although the Deputy Governor reviews these reports it is not clear how this information is being used or whether some of the high-level messages are being disseminated to staff. The intention was that these would also be reported to the Cayman Islands Government's audit committee. However, the audit committee has yet to be established, despite the Government having committed to do this by September 2017.[18]

Recommendation 7: The Cayman Islands Government should establish an audit committee for the core government to act as a driver for continuous improvement in internal control, financial management and financial reporting across government and, through a process of constructive challenge, to provide the Deputy Governor with the required assurance on the arrangements in place.

[18] Evidence provided to the Public Accounts Committee at its hearing in August 2017 on the OAG report *Follow Up of Past PAC Recommendations*. The OAG first recommended that the Cayman Islands Government establish an audit committee in *Restoring Financial Accountability: A Time for Change* in June 2013

PREVENTING CORRUPTION IN THE PLANNING SECTOR

70. As part of our performance audit of fighting corruption in the Cayman Islands, we selected the planning sector to review in more detail. The planning sector has national importance as it is necessary to help ensure that infrastructure developments are fair to all concerned, environmentally friendly, safe, and practical for the needs of the people. Additionally, there has been and continues to be a significant number of major infrastructure developments in the Cayman Islands.

71. In 2015 the OAG published a report, *National Land Development and Government Real Property*. The report noted that decisions regarding land were not always transparent and that the governance framework for the Cayman Islands had not been respected in the approval and management of major developments.[19]

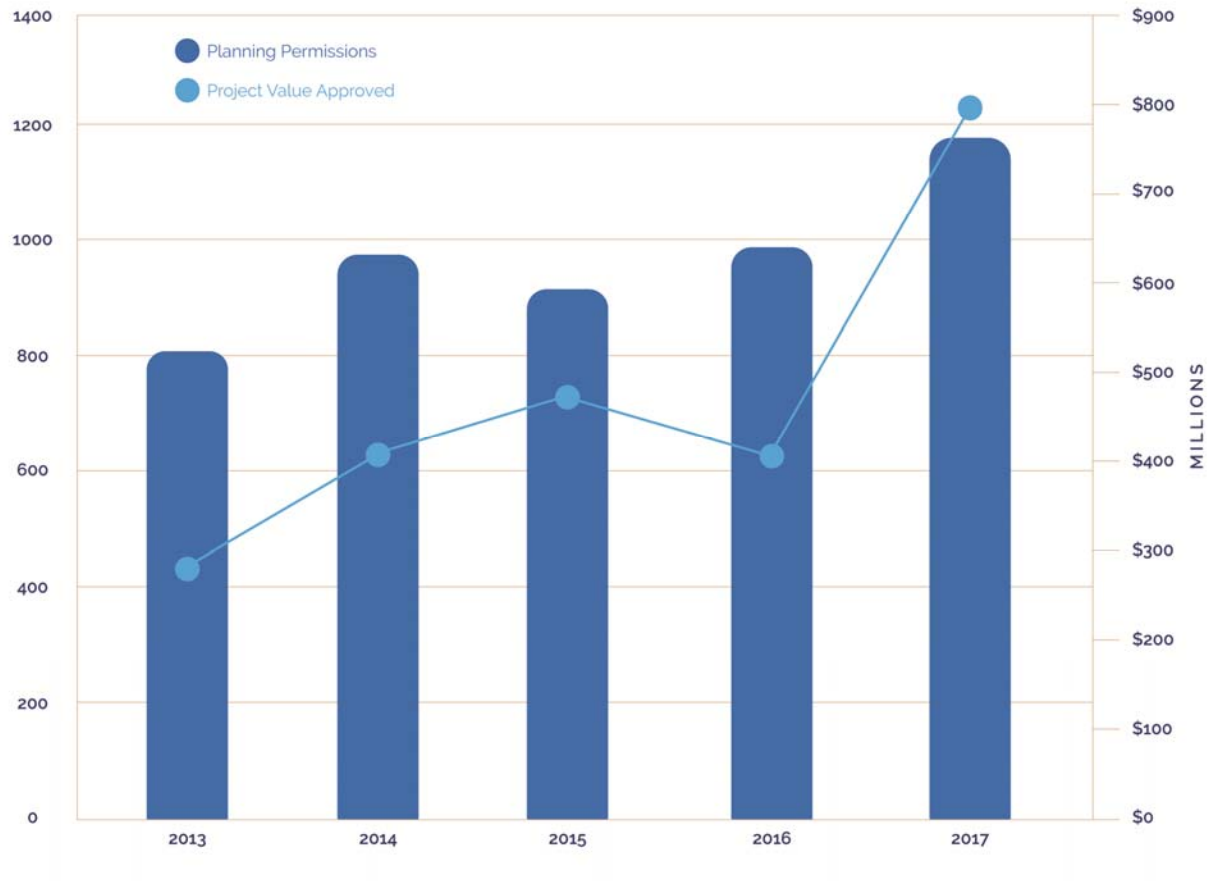
72. In common with most countries across the world, property owners are required to obtain planning permission for planned development, and in the Cayman Islands this is granted by the planning entities. Our audit sought to assess how well the planning entities in the Cayman Islands are preventing and addressing corruption.

THE PLANNING SECTOR PLAYS A KEY ROLE IN THE DEVELOPING CAYMAN ISLANDS ECONOMY

73. Over the last five years, the Cayman Islands has experienced an increase in major infrastructure development. Exhibit 8 summarises the number and value of all planning permissions (for the public and private sectors) that were approved between 2013 and 2017.

[19] National Land Development and Government Real Property, Office of the Auditor General, June 2015

Exhibit 8 – Planning approvals and related project values, 2013-2017



Source: OAG's analysis of data drawn from the Planning Department for 2013-2017

74. Exhibit 8 shows that between 2013 and 2017 the number of planning permissions that were approved increased by over 40 per cent, from 819 to 1,156. The number of planning permissions approved between 2014 and 2016 ranged from 819 to 971 a year and increased significantly in 2017. Exhibit 8 also shows that the value of approved planning permissions has increased over the same period. The value of developments granted planning permission increased from around $285 million in 2013 to almost $800 million in 2017 (an increase of 180 per cent). The average value of a planning permission was $0.35 million in 2013, compared to $0.69 million in 2017.

PLANNING DECISIONS ARE MADE BY THREE ENTITIES

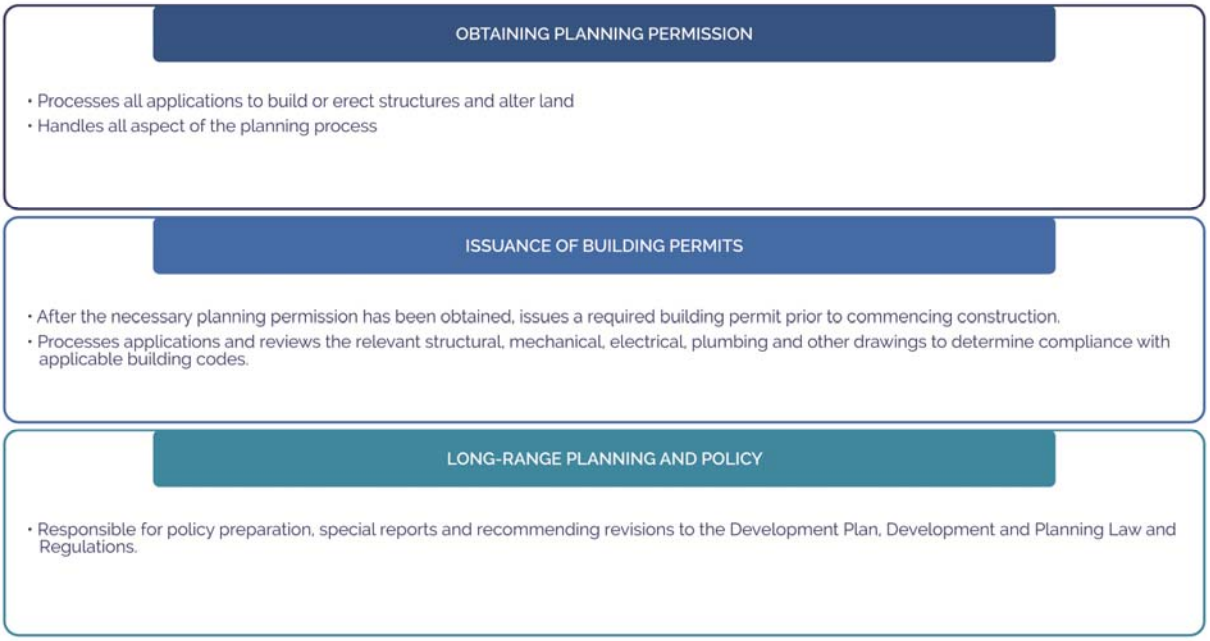
75. Planning decisions in the Cayman Islands are regulated by the *Development and Planning Law* (DPL). The DPL established the Central Planning Authority (CPA) for Grand Cayman, and the Development Control Board (DCB) for Cayman Brac and Little Cayman. The DPL states that each planning application requires CPA or DCB approval (depending on location). The DPL also regulates the

building sector and lays out requirements for builders and owners of property, including future development.

76. The Department of Planning within the Ministry of Commerce, Planning and Infrastructure provides support to the CPA and DCB and grants some planning permission. Together, these three planning entities are responsible for all planning decisions in the Cayman Islands.

77. The Department of Planning is headed by the Director of Planning and oversees national development policy, evaluates planning permissions and issues building permits. It is organised into three sections to cover each of these areas. As at December 2017, it had 37 employees, of whom 27 were involved in the planning permission and buildings permit processes. Exhibit 9 provides a summary of the Department of Planning's functions.

Exhibit 9 – Department of Planning's three core functions



Source: Department of Planning Procedures Manual 2007

78. The CPA, as allowed by law, has delegated power to the Director of Planning to approve planning permission for duplexes and houses that do not have a variance (known as administrative approval). A variance is a departure from the regulatory requirement for a particular application. Exhibit 10 provides an illustration of types of variances. Administrative approval is provided when there are no discrepancies in the application. All administrative approvals are reported individually on the Department of Planning's website on a quarterly basis (Exhibit 11). All other planning permissions and variances must be approved by the CPA.

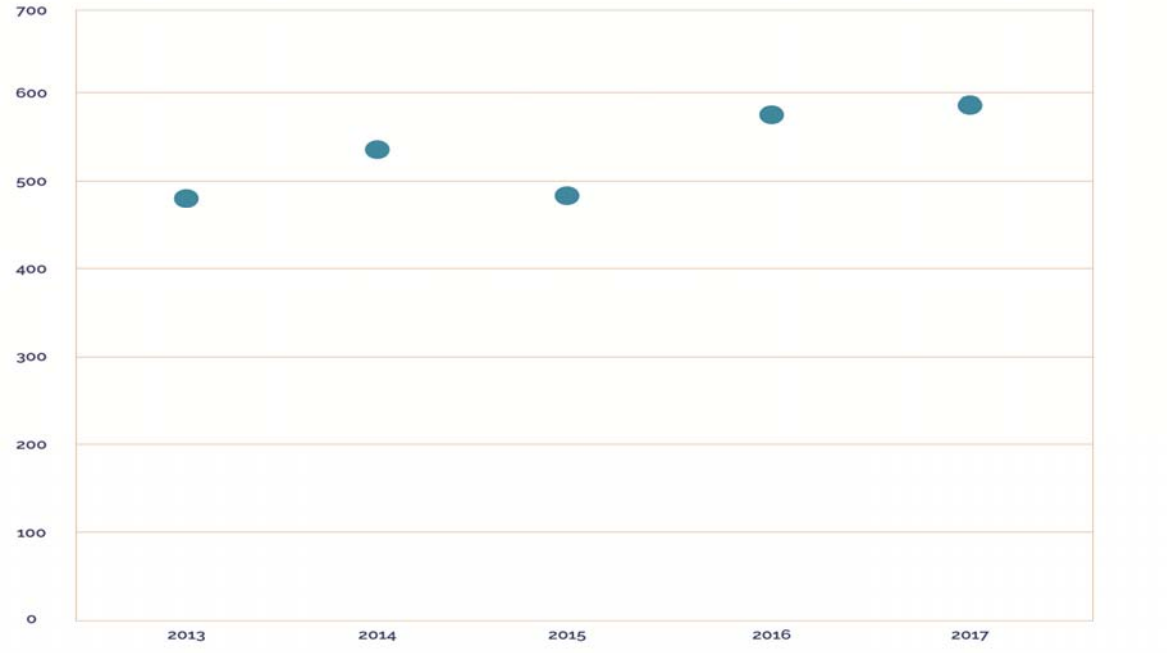
Exhibit 10 – Types of variances specified under legislation

EXAMPLES OF VARIANCES TO THE PLANNING APPLICATION

- The Regulations stipulate that "solid waste storage areas shall be setback a minimum of six feet from adjacent property boundaries and shall be screened with vegetation and fencing", but the applicant is proposing set back less than the standard.
- The Regulations section 9 (8) (c) requires that the maximum allowable bedrooms for a site of 1 acre is 30 however the applicant is proposing more bedrooms.
- The Regulations section 9 (8) (e) requires a lot size of 12,500 sq. ft. for a duplex but the applicant proposes a building with a shortfall.

Source: OAG's examples based on the Regulation and the Minutes from CPA Meeting

Exhibit 11 – Number of administrative approvals awarded by the Director of Planning (2013-2017)



Source: OAG's analysis of data drawn from the Planning Department for 2013-2017

THE CENTRAL PLANNING AUTHORITY AND DEVELOPMENT CONTROL BOARD ARE NOW MORE TRANSPARENT IN THE WAY THEY OPERATE BUT THERE IS STILL ROOM FOR IMPROVEMENT

79. In June 2015, the Office of the Auditor General published a report, *National Land Development and Government Real Property*. The report made the following recommendations:

    - The membership of the CPA and DCB should be balanced to include members representing sectors beyond the building and development industry.

- CPA and DCB hearings should be open to the public and should provide a rationale for decision making.
- The register of interests for the members of the CPA and DCB as required by the *Standards in Public Life Law* should be implemented immediately.

80. Some of these recommendations have been implemented, which has helped improve transparency and accountability. These are discussed further in the sections below.

MEMBERSHIP OF THE CPA AND DCB COULD BE MORE BALANCED

81. Both the CPA and DCB are independent boards made up of members appointed by Cabinet. All members sit in a voluntary capacity and generally have permanent jobs in the private sector. Civil servants are not allowed to be members of the CPA or DCB.

82. In our 2015 report we concluded that the majority of members of the CPA that had been appointed since August 2013 were from the development and construction industries. While this provided expertise to the CPA, there were potential and perceived risks of conflicts of interest. The make-up of the boards has not changed significantly since we reported on this in 2015.[20]

83. The *Public Authorities Law 2017* sought to strengthen governance in Statutory Authorities and Government Companies (SAGCs), including the appointment process for board members. However, the CPA the DCB are not SAGCs and so they fall outside the remit of this legislation.

84. In the UK, public appointments follow a recruitment process. Posts are advertised and those interested in a particular role are required to apply and then a selection plan shortlists candidates to interview. This is a process that encourages transparency and independence in the selection and appointment of public officials.

85. We appreciate that given the size of the Cayman Islands, the limited pool of people who may be willing or able to serve on public boards will be a constraint. However, we believe it is important that the composition of boards be balanced to avoid any perception of bias or conflict and that appointments made promote fairness and equal opportunity.

Recommendation 8: The membership of the CPA and DCB should be balanced to include members representing sectors beyond the building and development industry.

[20] Two members of the CPA were replaced at the start of the current term as a result of resignations from the board. The new members were also from the development and construction industries.

THE CPA AND DCB ARE OPERATING MORE TRANSPARENTLY THAN PREVIOUSLY

86. In our 2015 report we found that decisions regarding land use were not always transparent. We noted that planning applications were published alongside submissions and decisions made by the CPA and DCB were generally public, but the rationale for the decision was not. We found that where some government agencies with technical expertise—such as the National Roads Authority, the Water Authority and the Department of Environment—have asked for amendments to applications or made objections, those reservations did not always form part of the CPA or DCB decision-making process. We also reported that CPA and DCB deliberations were not open to the public, and conflicts of interest were not consistently declared.

87. The way that the CPA and DCB operate has changed since 2015. Exhibit 12 provides a high-level summary of how they operate. They now give greater consideration to the technical expertise of other government departments. However, agencies need to provide their input within the deadline given by DOP. In May 2018, the CPA granted planning permission for a site without considering the input from the Department of Environment because of the late submission of its comments on the planning application. The CPA and DCB need to ensure that they have all information and technical advice available before making planning decisions.

Exhibit 12 – Composition and work of the CPA and DCB

	CPA	DCB
RESPONSIBLE FOR DEVELOPMENT ON	Grand Cayman	Sister Islands
APPOINTMENT	Cabinet	Cabinet
NUMBER OF MEMBERS	13	7
EXECUTIVE SECRETARY	Director of Planning	Delegated to an employee at DOP on Cayman Brac
FREQUENCY OF MEETINGS	Every 2 weeks	Once per month
AGENDA	Itemised per application Posted on the DOP's website on the Friday preceding the meeting	Itemised per application Posted on the DOP's website on the Friday preceding the meeting
MEETING OPEN TO THE PUBLIC	Partially. The voting process is private	Partially. The voting process is private

Source: Department of Planning website - https://www.planning.ky/

88. The Department of Planning provides administrative assistance to the CPA and the DCB. The Director of Planning (or his nominee) acts as Executive Secretary to the CPA, and a member of the Department of Planning provides a similar function to the DCB. In addition, the Director of Planning presents planning applications at meetings for consideration by the CPA and DCB. As an expert in the requirements of the DPL, the Executive Secretary provides guidance to the CPA and DCB throughout the decision-making process. In the absence of the Director of Planning, the Deputy Director of Planning performs the role of the Executive Secretary at the meetings.

89. Since 2015, the CPA and DCB have opened their meetings to the public. The dates of meetings are advertised well in advance, and agendas for meetings are posted on the DOP's website on the Friday prior to CPA and DCB meetings. The agenda includes a list of applications to be presented at the meeting and specific details of appearances at the meeting.

90. During CPA and DCB meetings applicants and objectors, if any, and their representatives are invited to talk about planning applications. This gives an opportunity for parties to defend or challenge the application prior to a decision. Objectors and applicants are invited in writing, a minimum of 14 days prior to the meeting, to provide proper representation at the meeting. An objector or applicant is allowed to be absent from one meeting, after which the CPA will make a decision without their testimony.

91. Although discussions about each planning application are public, decisions on whether to grant planning permission are made in private. After all the discussions, as the last item on the agenda each application is approved, declined or deferred.

92. After each meeting, the minutes are published on the Department of Planning's website. The minutes provide the decision and the detailed reason for the decision taken by the relevant body. This is a significant step to improve transparency in decision making. The meeting minutes are expected to be published within a week after approval by the CPA and DCB. However, we noted some delays in posting some minutes. We were told that this was because the Director of Planning (Executive Secretary) was unavailable to sign the minutes for timely publishing on DOP's website.

93. Under Schedule 1 of the *Development and Planning Law*, the CPA and DCB have the power to regulate their own proceedings. This has made it difficult for the Cayman Islands Government to force the CPA and DCB to make their operations as transparent as possible. For example, although meetings and decisions are more public and transparent than previously, the Cayman Islands Government has not been able to convince the CPA and DCB that they should be more transparent. For example, specifying the voting process for planning decisions.

94. As an additional control, any decision can be appealed by the applicant or the objectors. The Appeals Tribunal, established by the *Development and Planning Law*, hears appeals of any person who has applied for planning permission, or who objected to an application for planning permission

and is aggrieved by the decision of the CPA or DCB. This provides an additional layer of checks and balances in the decision-making process.

95. The CPA and DCB now have registers of interest in place that are updated annually, and recently these were made public for the first time. They are also trying to manage conflicts of interest better during proceedings. Members are expected to indicate if they have any conflicts during the course of the meetings and, if so, to leave the room during discussions. However, it is not clear what happens when it comes to decision making as that part of the meeting is in private.

Recommendation 9: The Central Planning Authority and Development Control Board should continue to improve the transparency of their operations, including demonstrating that technical advice has been obtained and how this was used in decision making.

THE DEPARTMENT OF PLANNING HAS SOME ANTI-CORRUPTION CONTROLS IN PLACE BUT THERE IS SCOPE TO IMPROVE THEM

96. Since 2007, the Department of Planning has adopted a comprehensive procedures manual that outlines the entire planning process. It defines the core processes for planning permission, policy development and building control unit. It also provides an overview of the department's structure, functions and responsibilities. The procedures manual provides guidance on identifying and handling potential conflicts of interest and clearly requests that employees declare all conflicts of interest even if there is uncertainty.

97. All employees are required to complete a notice of interest each year, which includes the following interests:

- Company or related undertakings
- Self-employment
- Memberships of professional bodies, and trade or other associations
- Charities
- Public appointment
- Property
- Close family links
- Other interests

98. Completing an annual notice of interest form is a welcome step as it helps identify any conflicts of interest. However, it is not entirely effective in preventing corruption, because the Department of Planning relies on self-declaration by employees of any conflict of interest prior to working on a planning application. We found no evidence that conflict of interest forms were being checked before work is assigned to staff. This creates a risk that employees may be processing planning

applications in which they have a conflict of interest. As at June 2018, ten of 34 (29 per cent) staff notices of interest for 2017 had not been completed. This creates a further risk as notice of interest forms are not being completed in a timely manner. The Department of Planning has embedded some controls into its business processes, including segregation of duties and the use of checklists in the planning application process.

99. As a core government department, the Department of Planning is expected to comply with Cayman Islands Government policies and procedures such as:

- Anti-Fraud Policy
- Whistle-Blower Policy
- Offering or Receiving Hospitality, Entertainment or Gifts guide
- Credit card Policy and Procedures
- Procurement policy of the Ministry of Commerce, Planning and Infrastructure
- Official Travel Policy.

100. This helps to strengthen the anti-corruption mechanisms used by the Department of Planning in its overall operations. As outlined earlier (paragraph 59), one requirement of the Anti-Fraud Policy is to have a Corruption Risk Management Programme in place to identify, evaluate, prioritise, mitigate and eradicate the probability of corruption. The Department of Planning does not have a corruption risk management programme. The risk of corruption increases when there is no proactive tool to identify, assess respond to and monitor corruption related activities.

101. It is also not clear if the CPA and DCB are expected to implement the Cayman Islands Government's Anti-Fraud Policy, particularly as it applies to the boards' members who are not civil servants.

Recommendation 10: The Department of Planning should establish corruption risk management programmes in line with the Anti-Fraud Policy.

Recommendation 11: The Department of Planning should ensure that notice of interest forms are completed regularly by all staff and used to effectively manage any potential conflicts.

Recommendation 12: The Central Planning Authority and Development Control Board should adopt anti-fraud policies that are in line with the Cayman Islands Government's policy.

CONCLUSION

102. I am pleased to report that progress has been made in developing a national framework for fighting fraud and corruption in the Cayman Islands. Over the last decade consecutive governments have introduced a range of measures, including passing legislation, setting up anti-corruption bodies or extending the remit of others to incorporate this, and developing and strengthening government policies and procedures.

103. The Cayman Islands have various laws that contribute to the fight against corruption. The main piece of legislation is the *Anti-Corruption Law*, which sets a wide-ranging definition of corruption. However, one key component – the *Standards in Public Life Law* – which was passed by the Legislative Assembly in 2014 has yet to be brought in to force. This is a major gap in the framework, which severely limits the operations of the commission for Standards in Public Life. I urge government to enact this law as soon as possible.

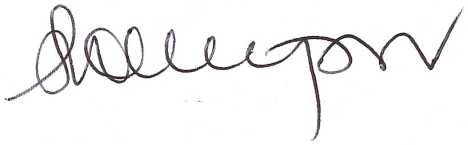
104. The Anti-Corruption Commission (ACC) was set up in 2010 and its resources have increased significantly over the last few years. The ACC plays a significant role in the investigation and enforcement of corrupt activates but its work is reactive as it responds to potential cases that are referred to it. A number of other bodies also play a role, including my Office and the Royal Cayman Islands Police Service. Together, these bodies may play a role in preventing fraud and corruption but there are no specific activities or requirements relating to the prevention of corruption.

105. The Cayman Islands Government has also taken action over the last few years to develop and strengthen its policies and procedures to fight against fraud and corruption. An Anti-Fraud Policy was introduced in 2017 but more work is needed to embed this policy and raise staff awareness about it

106. My audit looked in more detail at the planning sector as this is integral to the economic development of the Cayman Islands and affects many people. My office previously reported a number of risks of corruption in this sector and I am pleased to note that improvements have been made over the past few years. The Central Planning Authority and Development Control Board have changed some of their practices to address these risks, including opening their meetings up to the public, making decisions public and maintaining registers of interests. However, there is still scope to improve. For example, a more balanced membership of these boards and ensuring that technical advice is taken into account in decision making could help avoid any perception of potential conflicts of interest.

107. I have made a number of recommendations to both the Cayman Islands Government and the Anti-Corruption Commission, which I believe would further strengthen the national framework in place.

108. We gratefully acknowledge the cooperation and assistance received from Government officials and the Anti-Corruption Commission in all phases of our work.



Sue Winspear, CPFA
Auditor General
George Town, Grand Cayman
Cayman Islands

30 November 2018

APPENDIX 1 – ABOUT THE AUDIT

OBJECTIVE

1. The objective of the audit was to assess the effectiveness of the mechanisms for preventing corruption at the national level and in the Infrastructure Sector.[21] It sought to answer the following audit questions:
    - How well-designed is the national framework to prevent corruption?
    - How effective is the national framework in preventing corruption at the national level?
    - How well-equipped is the infrastructure sector to prevent corruption?

CRITERIA

2. Audit criteria set out the expectations, or standards, against which an audit can assess observed performance in order to develop findings, make recommendations as appropriate, and conclude on audit objectives. We set the following criteria for this audit:
    - There is comprehensive legislation that is well-designed to prevent corruption.
    - Anti-corruption institutions are working to prevent corruption in accordance with the mandate.
    - Laws and agreements are in places that require sharing among the institutions established to prevent corruption.
    - There are effective policies and procedures in place for preventing corruption.
    - There is clear leadership among senior civil servants for fighting corruption.
    - Anti-corruption institutions practice good governance, transparency and accountability.
    - Fit-for-purpose performance indicators are established and reported.
    - Performance indicators show satisfactory results for anti-corruption institutions.
    - Institutions are given sufficient resources to prevent corruption.
    - Anti-corruption institutions and other government bodies are proactively sharing information to prevent corruption.
    - The infrastructure sector receives sufficient support from anti-corruption institutions and CIG in fighting corruption.
    - There are clear and defined policies and procedures in place for preventing and addressing corruption within the entities in the infrastructure sector.

[21] Focus will be given to the Department of Planning, Central Planning Authority and the Development Control Board.

- The infrastructure sector operates corruption risk management programmes.

AUDIT SCOPE AND APPROACH

3. The audit reviewed the mechanisms in place to prevent corruption at the national level and in the Department of Planning, with a focus on the Department, CPA and DCB. The audit focused on the policies, procedures and laws to prevent corruption in the Cayman Islands.

4. The audit covered the period from 2013 to June 2018 and was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAI) The approach to the audit included:

    - Obtaining the agreement of relevant government officials to the audit objective, questions and criteria.
    - Researching processes to gain a full understanding of activities.
    - Interviewing key officials and practitioners in the Anti-Corruption Commission, Commission on Standards in Public Life, Cayman Islands Government (CIG), Ministry of Commerce, Planning and Infrastructure, Department of Planning, Central Planning Authority and Development Control Board.
    - Reviewing anti-corruption legislation, and assessing the policies, procedures and practices in CIG and the Department of Planning.
    - Researching information on anti-corruption initiatives around the world.
    - Analysing audit evidence and assessing against agreed criteria to develop findings, recommendations and a conclusion on the audit objective.
    - Providing a draft report to relevant government officials for review of factual accuracy and obtaining responses to the report's recommendations (see Appendix 2);
    - Presenting a final report of the audit to the Legislative Assembly.

AUDIT STAFF

5. The audit was carried out under the direction of Angela Cullen, Director of Performance Audit and assisted by Julius Aurelio (Audit Manager), Zenobia Badley (Audit Project Leader) and Gay Frye (Auditor).

APPENDIX 2 – RECOMMENDATIONS

The Anti-Corruption Commission provided the management response to recommendations 3 and 4. Cayman Islands Government provided the management response for all other recommendations.

Recommendation	Management Response	Responsibility	Date of planned implementation
1. The Government should bring into force the *Standards for Public Life Law 2014* urgently.	The commencement of laws on behalf of the Government is the prerogative of the Cabinet. The status of the Law is regularly highlighted in the Commission's own reporting.	The Cabinet	
2. The Government should consider extending the list of designated authorities to whom whistle-blowers can turn.	This recommendation is noted for consideration, and the Deputy Governor agrees to consult with the relevant agencies to determine if this is a necessary and appropriate action to take now or in the future. Extending the list of designated authorities could widen access for whistle-blowers. At the same time it could present issues including: challenges for ensuring a consistent approach among the different authorities, potential duplication of	Deputy Governor	Consultations to be completed by March, 2019.

Recommendation	Management Response	Responsibility	Date of planned implementation
	efforts, data collection and reporting challenges, etc. It would also require clear protocols and procedures to be established and maintained for cross-agency collaboration and communications. The term "designated authority" has a specific meaning within the context of the Whistleblower Protection Law and it is noted that the law applies horizontally to the private and public sectors. Other oversight bodies, such the Auditor General's Office, only have jurisdiction within the public sector. It is possible to adopt a "whistleblower" clause in the Public Management and Finance Law, for example, to extend protections for persons who report wrongdoing without extending the actual remit of the OAG to the private sector. So there may be alternative ways of achieving the objective.		
3. The Anti-Corruption Commission should extend its performance	Breaking down the cost of a single investigation would be difficult to do		

Recommendation	Management Response	Responsibility	Date of planned implementation
indicators to include efficiency and effectiveness measures and report these publicly in its annual report.	as the ACC would need to account for the time each Investigator spent on that case. Different investigators may spend different amounts of time working on a matter.		
4. The Cayman Islands Government should identify a single owner of the Anti-Fraud Policy who is responsible for ensuring that it is regularly updated and communicated to staff.	CIG accepts this recommendation and the Deputy Governor proposes to appoint the Accountant General as the single owner of the Anti-Fraud Policy going forward. The Accountant General will be required to coordinate a review of the policy by CFOs on an annual basis or within 30 days of any significant organisational change, and to report to the Deputy Governor on the outcomes of the review and any proposed changes to the policy.	The Deputy Governor	The appointment of the Accountant General will be made with immediate effect. The review and report on the policy shall be submitted to the Deputy Governor annually with the first report being prepared by June 2019.
5. Statutory Authorities and Government Companies should ensure that they have fit-for-purpose fraud and corruption	CIG accepts this recommendation. The Deputy Governor proposes to seek Cabinet's support extend the policy to statutory authorities and	The Deputy Governor	Submission for Cabinet approval to be made by December, 2018.

Recommendation	Management Response	Responsibility	Date of planned implementation
policies or clearly state why one is not necessary. They could adopt the CIG policy or adapt it to suit their individual needs.	government owned companies pursuant to section 49(d) of the Public Authorities Law (2017), which gives Cabinet the authority to extend policy that applies to the civil service to the public authorities as and when necessary to ensure good governance (S49(d)).		
6. The Cayman Islands Government should ensure that all civil servants have completed the fraud awareness training and that updated training is completed regularly.	CIG accepts that all civil servants should have periodic training on fraud awareness which is relevant to their roles. The online training on fraud awareness, which was developed in-house, is a valuable training resource for civil servants. The Deputy Governor, through Chief Officers, will continue to ensure that civil servants take advantage of this training. However, CIG accepts that this particular mode of delivery is not suitable for all civil servants. The Deputy Governor intends to seek	Deputy Governor, Chief Officers and the Accountant General	The Deputy Governor, in consultation with Chief Officers, to set targets for civil service participation in the online fraud awareness training by December, 2018. The Accountant General/ Owner of the Anti-Fraud Policy to monitor take up of training, on an ongoing basis, and to make recommendations to the Deputy Governor for more role-specific training by the end of Q2, 2019.

Recommendation	Management Response	Responsibility	Date of planned implementation
	recommendations for other approaches from Chief Officers and the Accountant General, as the newly-appointed owner of the CIG Anti-Fraud Policy.		
7. The Cayman Islands Government should establish an audit committee for the core government to act as a driver for continuous improvement in internal control, financial management and financial reporting across government and, through a process of constructive challenge, to provide the Deputy Governor with the required assurance on the arrangements in place.	CIG accepts this recommendation and advises that work to establish a CIG Audit and Risk Assurance Committee (ARAC) is well-advanced. A Terms of Reference (ToR) for the Committee has been completed, with input from the Ministry of Finance, the OAG and Internal Audit, as well as advice from the UK Government Internal Audit Agency. Prospective Committee members have been identified. The ToR proposes that the Committee will consist of three non-Executive members, one of whom will serve as the Chair and another as Deputy Chair. The following officers will have a	Deputy Governor	Membership appointments to be completed by December, 2018. Committee to be operationalised for the start of the 2019 financial year.

Recommendation	Management Response	Responsibility	Date of planned implementation
	standing invitation to attend ARAC meetings: -The Deputy Governor -The Financial Secretary -The Director of Internal Audit Services -The Auditor General -Chief Advisor to the Deputy Governor The ToR also provides for the ARAC to invite any Chief Officer or other Senior Officer to attend and provide briefings to the Committee on the areas of their work relevant to the scope of responsibility of the Committee, and to respond to questions from the Committee on progress in implementing audit recommendations or their risk management arrangements.		
8. The membership of the CPA and DCB should be balanced to include members representing sectors	The appointment of members to the CPA and the DCB is the prerogative of the Cabinet and any changes would	The Cabinet	

Recommendation	Management Response	Responsibility	Date of planned implementation
beyond the building and development industry.	requirement legislative amendment.		
9. The Central Planning Authority and Development Control Board should continue to improve the transparency of their operations, including demonstrating that technical advice has been obtained and how this was used in decision making.	The Department will continue to encourage and support the CPA and the DCB in improving the transparency of the decision-making process.	Chairs of the CPA and BCB, Ministry of CPI and the Director of Planning.	TBD
10. The Department of Planning should establish corruption risk management programmes in line with the Anti-Fraud Policy.	The Department notes and accepts the recommendations of the OAG to strengthen processes and had begun work to develop the recommended policies and procedures.	Director of Planning	Q1-2019
11. The Department of Planning should ensure that notice of interest forms are completed regularly by all staff and used to effectively manage any potential conflicts.	The Department notes and accepts the recommendations of the OAG to strengthen processes and had begun work to develop the recommended policies and procedures.	Director of Planning	Q1-2019

Recommendation	Management Response	Responsibility	Date of planned implementation
12. The Central Planning Authority and Development Control Board should adopt anti-fraud policies that are in line with the Cayman Islands Government's policy.	The Department will continue to encourage and support the CPA and the DCB in improving the transparency of the decision-making process.	Chairs of the CPA and BCB, Ministry of CPI and the Director of Planning	TBD

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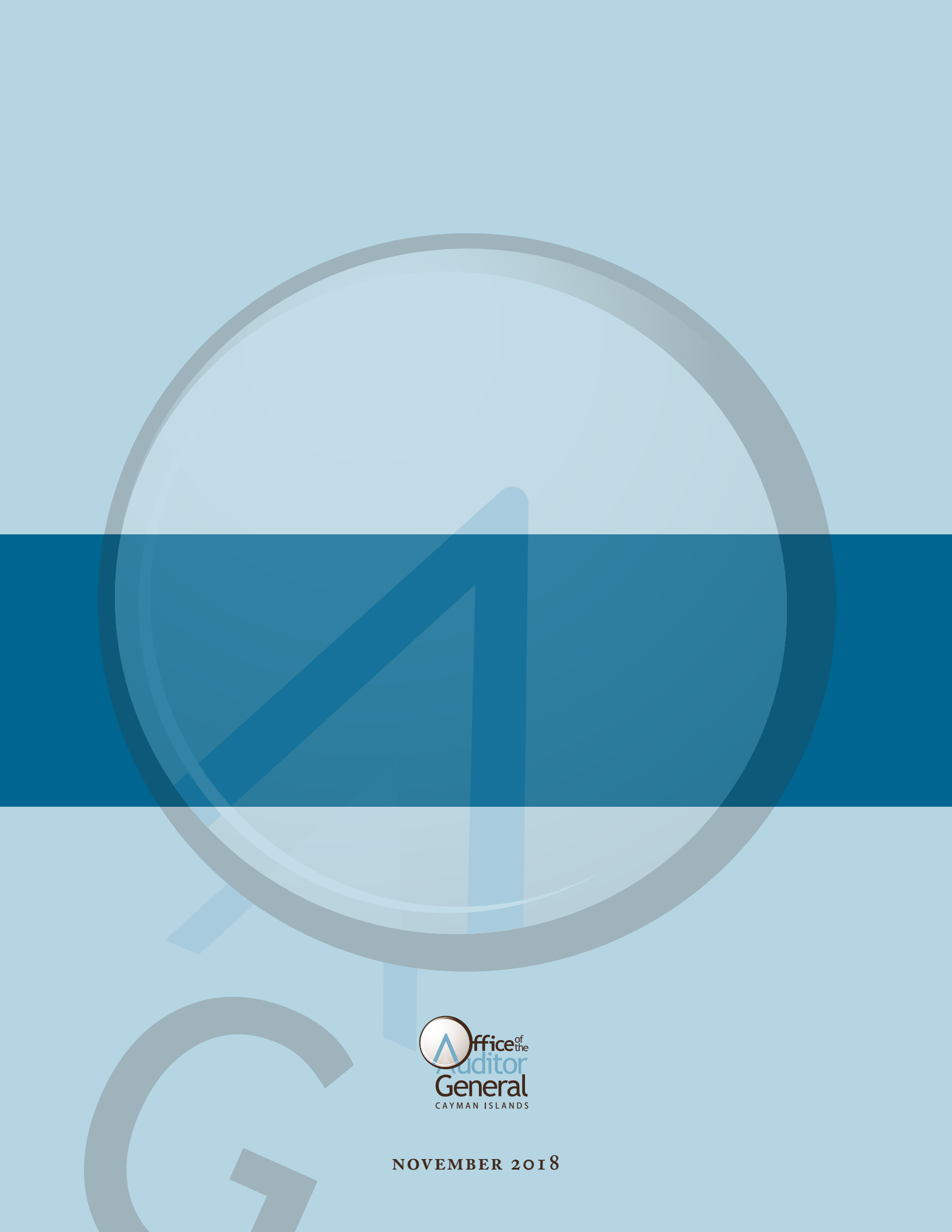
For enquiries from journalists please contact Angela Cullen at our phone number or email: Angela.Cullen@oag.gov.ky



NOVEMBER 2018