

## **FACT SHEET 2017**

### **Establishment and Mandate**

Formation: 1 January 2010

Legal basis: Anti-Corruption Law (2016 Revision) (the “Law”)

The Law gives effect to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and to the United Nations Convention Against Corruption. The Law covers a broad range of local corruption offences by public officials, private individuals and entities. It extends to bribery of foreign public officials outside the Cayman Islands. Offences under the Law are extraditable.

### **Mission Statement**

The mission of the Anti-Corruption Commission is “To enhance the stability, prosperity and reputation of the Cayman Islands by sustaining the confidence and trust of the community in the integrity and good governance of its government and public institutions through fighting corruption with just, fair and effective investigations.”

### **Principal powers, duties and functions under the Law**

The Commission is responsible for the administration of the Law and shall:

- receive, consider and investigate reports to the Commission of corruption offences as set out in Appendix 1;
- receive and (including from overseas anti-corruption agencies) request, analyse and disseminate disclosures of information concerning corruption offences, or suspected offences; or required by any law in order to counter corruption; and
- detect and investigate suspected corruption offences, attempts to commit an offence, or conspiracies to commit an offence.

### **Additional powers, duties and functions under the Law**

- Arrest any person who has committed or is suspected of having committed a corruption offence;
- Obtain evidence by search warrants with court approval;
- Freeze assets and confiscate proceeds of corruption offences with court approval;
- Refer the results of its investigations to the Director of Public Prosecutions for disposition where it appears an offence has been committed;
- Assist with overseas investigations;

- Enter into assistance arrangements with overseas anti-corruption agencies with the consent of the Attorney General;
- Enter into assistance arrangements with any local law enforcement authority, for the discharge of performance of its powers, duties and functions;
- Advise the Governor on the Commission's work; and
- Submit an annual report to the Governor.

## Control, Oversight, and Policy Directions

The Governor has broad powers of oversight over the work of the Commission and may give to the Commission directions as to the policy to be followed in the exercise and performance of its functions. To date, the Governor has not issued any such directions.

The Commission may, after consultation with the Director of Public Prosecutions, issue guidelines setting out:

- (a) the forms and procedures for making a report of a corruption offence; and
- (b) the operational procedures in connection with disclosures made to the Commission.

To date, the Commission has issued the form for making a report as set out in Appendix 2. It is currently preparing a detailed policy and procedures manual.

## Governance and Structure

The following persons were appointed to the Commission on 15 August 2016:-

- Richard Coles (Chairman) - two year term
- W. Norman Bodden, OBE - two year term (resigned 13 July 2017)
- Sophia-Ann Harris (nee Solomon) - three year term
- Kadi Pentney (nee Merren) - three year term
- Timothy Ridley, OBE - two year term

The Commission is supported by the Commissions Secretariat comprising a Manager, a Senior Investigator, Investigators (x2), Administrator/Analysts (x2), an Office Administrator, and a Trainee Investigator. Appropriate safeguards are in place to ensure the security and confidentiality of the Commission's work and records.

## Website Link

The Commission's website ([www.anticorruptioncommission.ky](http://www.anticorruptioncommission.ky)) provides a source of information including minutes and reports. The site will be expanded to include policies and procedures as well as education and resources for preventing and reporting corruption.

## Appendix 1 - Offences under Part 3 of the Anti-Corruption Law (2016 Revision)

In accordance with sections 10 to 25 of the Law the Commission may receive reports of allegations of the 16 offences detailed below [as it relates to any person or where relevant a public officer]:-

- **Bribery of public officers and members of the Legislative Assembly**
  - directly or indirectly-
    - (a) solicits;
    - (b) accepts or obtains; or
    - (c) agrees to accept or obtain,for himself or any other person, any loan, reward, advantage or other benefit with intent-
    - (a) to interfere with the administration of justice;
    - (b) to procure or facilitate the commission of an offence; or
    - (c) to protect from detection or punishment a person who has committed or who intends to commit an offence,
  - Gives or offers any loan, reward, advantage or other benefit, with intent that the public officer should do anything mentioned above.
  
- **Frauds on the Government**
  - Demands, accepts, offers or agrees to accept a loan, reward, advantage or other benefit for cooperation, assistance, exercise of influence etc. in connection with the transaction of business relating to the Government.
  - Pays a commission or reward or confers an advantage or benefit on a member of the Legislative Assembly or a public officer of a government entity or to any member of the family of a member of the Legislative Assembly or a public officer, unless he has the consent in writing of the Chief Officer of the government entity.
  - Demands, accepts or offers or agrees to accept from a person who has dealings with the Government a loan, reward, advantage or other benefit directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the Chief Officer of the government entity that employs him or of which he is an official.
  
- **Breach of trust by public officer or by a member of the Legislative Assembly**
  - In connection with the duties of a public office, commits fraud or a breach of trust;
  - Liable on conviction to imprisonment for a term of five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

- **Selling or Purchasing Office**
  - Sell or agrees to sell an appointment to or a resignation from a public office, or a consent to any such appointment or resignation, or
  - Purchase or give a loan, reward, advantage or other benefit for the purchase of any such appointment, resignation or consent, or agrees or promises to do so.
  
- **Influencing or negotiating appointments or dealing in offices**
  - Receives, agrees to receive, gives or procures to be given, directly or indirectly, a loan, reward, advantage or other benefit as consideration for cooperation, assistance or exercise of influence to secure the appointment of any other person to a public office;
  - Solicits, recommends or negotiates an appointment to or resignation from a public office, in expectation of a direct or indirect loan, reward, advantage or other benefit.
  
- **False claims by Public Officers**
  - Knowingly make false claims on accounting statements or returns relating to money payable to himself or any other person for services, delivery of goods, etc.
  
- **Abuse of Office**
  - Doing or directing to be done, in abuse of the authority of a public office, any arbitrary act prejudicial to the rights of another person.
  
- **False certificates by public officers or by members of the Legislative Assembly**
  - Knowingly giving a false certificate when authorised or required by law to give such a certificate wherein the rights of any person may be prejudicially affected.
  
- **Conflict of Interest**
  - Where a government entity proposes to deal with a company, partnership or other undertaking in which -
    - (a) a public officer of the entity;
    - (b) a member of the Legislative Assembly; or
    - (c) a member of the family, or an associate, of any person specified in paragraphs (a) or (b),has a direct, indirect or beneficial interest in such company, partnership or undertaking; or
    - (d) any person specified in paragraphs (a), (b) or (c) holds more than ten per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,

- the public officer or the member of the Legislative Assembly shall forthwith disclose, in writing, to that government entity, the nature of such interest.
- Where in relation to a government entity -
    - (a) a public officer of the entity;
    - (b) a member of the Legislative Assembly; or
    - (c) a member of the family, or an associate, of either the public officer or the member of the Legislative Assembly,has a personal interest in a decision which the government entity is to take, that public officer or member of the Legislative Assembly shall forthwith disclose, in writing, to the government entity, the nature of that personal interest.
  - A public officer or member of the Legislative Assembly who fails to disclose an interest in accordance with subsection (1) or (2) and who votes or otherwise takes part in proceedings or decisions of the government entity relating to such interest commits an offence and is liable on conviction on indictment to imprisonment for a term of five years.
- **Failure of a public officer and member of the Legislative Assembly to whom a bribe is offered to report such offerings**
    - A public officer or member of the Legislative Assembly to whom any loan, reward, advantage or other benefit is given, promised or offered, in contravention of the Anti-Corruption Law, shall report such to the Commission or any RCIPS police constable together with the name, if known, of the person who gave, promised, or offered such load, reward, advantage or other benefit to him.
    - A public officer or member of the Legislative Assembly who has reasonable cause, to believe that another public officer or member of the Legislative Assembly has solicited, obtained, or agreed to accept or obtain any loan, reward, advantage or other benefit, in contravention of the Anti-Corruption Law, shall report the name of the public officer or member of the Legislative Assembly to the Commission or any RCIPS police constable.
  - **Secret Commissions**
    - gives, offers or agrees to give or offer to an agent any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for favour or disfavour to any person with relation to the affairs or business of his principal; or
    - being an agent, demands, accepts or offers or agrees to accept from any person any loan, reward, advantage or other benefit relating to the affairs or business of his principal or for showing favour or disfavour to any person with relation to the affairs or business of his principal; or

- **Bribing a Foreign Public Officer**
  - Obtain or retain an advantage in the course of business, directly or indirectly promises, gives, offers or agrees to give or offer a loan, reward, advantage, or benefit of any kind to a foreign public officer for his benefit or for the benefit of another person or to person for the benefit of a foreign public officer-
    - (a) as consideration for an act or omission by the foreign public officer in connection with the performance of the officer's duties or functions; or
    - (b) to induce the foreign public officer to use his position to influence any acts or decisions of the foreign country or public international organisation for which the officer performs duties or functions.
  
- **False Statements to the Commission**
  - Makes or causes any other person to make false or misleading statements to the Commission or to a police constable.
  - Makes an initial statement to the Commission or RCIPS, and then wilfully makes a subsequent inconsistent statement to the Commission or RCIPS.
  
- **Inchoate Offences**
  - Unless expressly provided otherwise the following are offences under this Law-
    - (a) an attempt, conspiracy or incitement to commit an offence under this Law; and
    - (b) aiding, abetting, counselling or procuring the commission of an offence under this Law.
  
- **Contractor subscribing to election fund**
  - A person who, in order to obtain or retain a contract with the Government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any loan, reward, advantage or other benefit-
    - (a) for the purpose of promoting the election of a candidate or a class or party of candidates to the Legislative Assembly; or
    - (b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Legislative Assembly, commits an offence.
  - A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of ten years.

- **Facilitation payments**
  - For the purpose of section 22 (Bribing a Public Officer), a payment is not a loan, reward, advantage or other benefit to obtain or retain an advantage in the course of business, if -
    - (a) the value of the payment is small;
    - (b) it is made to expedite or secure the performance by a foreign public officer of any act of a routine nature that is part of the foreign public officer's duties or functions, including-
      - i. the issuance of a permit, licence or other document to qualify a person to do business;
      - ii. the processing of official documents, such as visas and work permits;
      - iii. the provision of services normally offered to the public, such as mail pick-up and delivery, telecommunication services and power and water supply; and
      - iv. the provision of services normally provided as required, such as police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods; and
    - (c) as soon as practicable after the payment and the act of a routine nature performed by the foreign public officer occurred, the person made a record of the payment and the act and either the following applies-
      - i. the person has retained that record at all relevant times; or
      - ii. that record has been lost or destroyed because of the actions of another person over whom the first-mentioned person had no control, or because of a non-human act or event over which the first-mentioned person had no control, and the first-mentioned person could not reasonably be expected to have guarded against the bringing about of that loss or that destruction.
  - For the purposes of this Law, an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.
  - A report under this section shall set out-
    - (a) the value of the payment concerned;
    - (b) particulars of the act of a routine nature that was sought to be expedited or secured by the payment;

- (c) the date or dates on which the payment was made and on which the act of a routine nature occurred;
- (d) the identity of the relevant foreign public official; and
- (e) the signature of the person who has made the report or some other means of verifying the person's identity.

*It is noted that some of these offences can only be committed by a public officer or a member of the Legislative Assembly while others can be committed by any member of the public.*



## Appendix 2 - Reporting Form

All information and sources of information will be treated confidentially.  
Section 37 of the Anti-Corruption Law protects informers who disclose  
information to the Anti-Corruption Commission.

### Part A – About you (OPTIONAL INFORMATION)

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1. Name: Mr/Mrs/Miss/Ms: \_\_\_\_\_
2. Physical Address: \_\_\_\_\_
3. Mailing Address: P.O. Box \_\_\_\_\_ Postal Code: KY - \_\_\_\_\_
4. Contact numbers: Work: \_\_\_\_\_ Cell: \_\_\_\_\_ Home: \_\_\_\_\_
5. Email: \_\_\_\_\_

### Part B – Your complaint

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Who are you complaining about (if known)?

1. Name: \_\_\_\_\_
2. Position: \_\_\_\_\_
3. Name of organisation: \_\_\_\_\_
4. Physical Address: \_\_\_\_\_
5. Mailing Address: P.O. Box \_\_\_\_\_ Postal Code: KY - \_\_\_\_\_
6. Contact numbers: Work: \_\_\_\_\_ Cell: \_\_\_\_\_ Home: \_\_\_\_\_
7. Email: \_\_\_\_\_

What are you complaining about?

Describe in detail the events that you want to make a report about. We need to know:

- What happened?
- When?
- Who was there?
- How did you become aware of this matter e.g. were you there, did someone tell you about it?
- When did you become aware of this matter?
- Why do you say that what happened was corrupt or wrong?

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**Part C – Further information**

Are you making this report on behalf of someone else?  YES  NO

If yes, how and when did you become aware of the incident?

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Do you have any documents or other evidence in your possession which supports your report? If so, please describe and attach.

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If you believe there is evidence which would support your report which is not in your possession please describe this evidence, how you are aware of it, where it is held and by whom.

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Are there any other people who are aware of this matter and may be able to assist the Commission in investigating it? If so, who are they and how may they be contacted?

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What do you want to happen as a result of making this report?

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Have you reported this matter to any other person or agency? If so, to whom or to which agency? What was the outcome? Please attach any relevant correspondence.

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Have you tried to resolve this matter in any other way? If yes, please give details and attach any relevant documents.

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Are you willing for the Commission to contact you further regarding this matter? If so, how would you like the Commission to do this?

- Telephone    Cell \_\_\_\_\_    Work \_\_\_\_\_    Home \_\_\_\_\_
- Mail      P.O. Box \_\_\_\_\_ Postal Code: KY - \_\_\_\_\_
- E-mail \_\_\_\_\_
- Other \_\_\_\_\_

## DECLARATION:

I understand that under the Anti-Corruption Law (2008)-

Where a person makes or causes any other person to make to the Commissioner or to a constable, in the course of the Commissioner or such constable exercising any power conferred by this Law, any statement which to the knowledge of the person making the statement, or causing the statement to be made-

- (a) is false, or intended to mislead; or
- (b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law, or otherwise, to receive, or require to be made, such other statement regardless whether or not the person making the statement is under any legal or other obligation to tell the truth, he commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of three years or to both.

I hereby declare that the above information and relevant supporting documentation is accurate to the best of my knowledge and is provided in good faith.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Remember:

- sign and date this document; and
- attach copies of any relevant documents.

# ACC ANTI-CORRUPTION COMMISSION

Send your completed form to:  
Manager, Commissions Secretariat  
P.O. Box 391  
Grand Cayman  
CAYMAN ISLANDS KY1-1106  
[info@anticorruptioncommission.ky](mailto:info@anticorruptioncommission.ky)

Official Use Only

Case Reference Number: \_\_\_\_\_

Date and Time Received: \_\_\_\_\_

Name of Secretariat Representative: \_\_\_\_\_

Date Placed on the Commission Agenda: \_\_\_\_\_

Complaint Accepted and Investigated: Yes      No