

2019/2020

# ANNUAL REPORT

# ACC

---

ANTI-CORRUPTION  
COMMISSION

# Table of Contents

## *Chairman Statement*

---

- 02 Statement

## *Section One - Anti-Corruption Commission*

---

- 03 Role
- 03 The Anti-Corruption Law
- 03 Mission Statement
- 03 Commission Members
- 04 Principal powers, duties and functions
- 04 Additional powers, duties and functions
- 04 Control, oversight and policy directions

## *Section Two - Breaches of the Law*

---

- 05 General Overview
- 05 Corruption Offences in the Cayman Islands
- 05 Offences under the Law

## *Section Three - Reporting Corruption*

---

- 06 Making a Report
- 06 Duty to Report
- 06 Submission of Reports
- 06 Confidentiality
- 06 Conflicts of Interest
- 07 Code of Conduct
- 07 Protection of Witnesses
- 07 Records
- 07 Referral to the Director of Public Prosecutions

## *Section Four - 2019-2020 Corruption Statistics*

---

- 08 2019-2020 Corruption Statistics
- 09 Summary of Cases 2019-2020
- 10 Case Tracking & Outcomes of Arrest 2019-2020
- 11 Interactions with Overseas Entities & Court Interactions 2019-2020
- 12 Office of the Director of Public Prosecutions Interactions & Interactions with Local Entities 2019-2020

## *Section Five - Topical Issues*

---

- 13 Legislation
- 14 Policy
- 14 Memorandum of Understanding
- 15 Caribbean Financial Action Task Force (C-FATF)
- 17 Public Engagement

## *Section Six - Moving Forward*

---

- 18 Moving Forward

## *Appendices*

---

- 20 Appendix 1 - Members' Biographies
- 23 Appendix 2 - Offences under the Law

# Statement from the Chairman

January 1st 2020 marked a significant milestone of 10 years since the inception of the Anti-Corruption Commission, and while there have been many notable accomplishments and achievements of the Commission over the years, the Commission casts its focus on the future, on the work to be done as corruption continues to be a growing concern globally.

Whilst the effects of the global pandemic have been far reaching and brought about unprecedented challenges to the Cayman Islands and the world as a whole, the Anti-Corruption Commission remains resolute to maintain and uphold its mission. Our mission remains “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.”

The Commission remains vigilant in its actions to promote awareness and the enhancement of good governance. During this period the Commission has supported the Civil Service vision to be a ‘World-Class Civil Service’ in collaboration with the Commission for Standards in Public Life by conducting an informative presentation on the remit, powers and work of the Commission to new recruits of the Customs and Border Control (CBC) cohort. In addition, the Commission has finalised the proposed draft amendments to the Anti-Corruption Law which incorporate key provisions to enhance the work of the Commission.

Furthermore, during this reporting period the final trial in the largest-ever corruption trial in the Cayman Islands Grand Court took place. This final trial was the result of the criminal case involving so many defendants that no single courtroom could accommodate them all and for the first time in Cayman the trial was split into multiple trials. Ultimately nine out of twelve defendants received guilty verdicts though the sentencing hearings have yet to be concluded.

As the start of the next reporting period brings to an end my tenure with the Commission I wish to thank my fellow Commissioners and the Commission’s Secretariat staff, for their support and hard work during the past year indeed during the whole of my four year term as Chairman. It is due to your dedication that the Commission has been able to be as successful as it has.

**Richard Coles**  
**Chairman, Anti-Corruption Commission**

# Section One

## The Anti-Corruption Commission("the Commission")

### 1.1 Role

The Commission was created under the Anti-Corruption Law, 2008 which came into effect on 1 January 2010. The Commission is responsible for the administration of the law, now the Anti-Corruption Law (2019 Revision).

### 1.2 The Anti-Corruption Law (2019 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.

### 1.3 Mission Statement

The mission of the 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."

### 1.4 Commission Members

The Commission consists of five persons who, in the opinion of the Governor, are of high integrity and are able to exercise competence, diligence and sound

judgement in fulfilling their responsibilities under the Law. Members must be residents of the Islands and may include:

- (i) retired judges of the Grand Court or the Court of Appeal;
- (ii) retired police officers;
- (iii) retired justices of the peace or magistrates;
- (iv) chartered or certified accountants;
- (v) attorneys-at-law of ten or more years call or retired attorneys-at-law; and
- (vi) such other persons as the Governor considers qualified to be appointed.

No persons may be appointed to hold office as a member of the Commission if he is a public officer or such other category of person as may be prescribed by Order of the Governor. The names of all members of the Commission are gazetted at the time of appointment and the Governor after consultation with the Attorney General may at any time revoke the membership of a member.

The following persons (appointed on 15 August 2016 and subsequently re-appointed at various intervals) continued to serve on the Commission during the reporting period:-

- Richard Coles (Chairman)
- Sophia-Ann Harris (née Solomon)
- Kadi Pentney (née Merren)
- Timothy Ridley, OBE

In addition, Member Kenrick Hall was appointed effective 5 December 2017.

Member's biographies are set out in Appendix 1.

### **1.5 Principal powers, duties and functions**

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 the Law;
- 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.

### **1.6 Additional powers, duties and functions**

- 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.

### **1.7 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:

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

To date, the Commission has issued the form for making a report and a procedures memorandum. These can be found on the Commission's website [www.anticorruptioncommission.ky](http://www.anticorruptioncommission.ky)

# Section Two

## Breaches of the Law

### 2.1 General Overview

The Commission receives reports of alleged breaches under the Law through direct communication to the Commission; requests for mutual assistance from overseas; and those reported to other law enforcement agencies. In each case, the allegation is fully recorded and a decision taken as to what, if any, further investigation or action is appropriate. Each allegation is assessed on its own merits. No prosecution is undertaken without the express authority of the Director of Public Prosecutions in accordance with the Law.

### 2.2 Corruption Offences in the Cayman Islands

Corruption can be described as abusing a position of trust to gain an undue advantage, e.g. where decisions are not taken for public benefit, but rather to serve private interests.

Examples of corrupt behaviour are:

- A Public Officer (PO) or Member of the Legislative Assembly (MLA) uses, or tries to use, knowledge, power or resources which they have gained as a result of their position for personal gain or for the advantage of others ;
- A PO or MLA uses, or attempts to use, their position to interfere with justice, to commit an offence or to prevent an offence being detected or punished;
- A PO or MLA acts dishonestly or

unfairly, or breaches the trust of the public or abuses their office;

- A member of the public influences, or tries to influence, a PO, MLA or foreign PO or foreign equivalent of an MLA to use his or her position in a way that is dishonest, unfair or breaches public trust.

### 2.3 Offences under the Law

The principal offences are set out in Appendix 2.

# Section Three

## Reporting Corruption

### 3.1 Making a Report

Anyone who reasonably believes or suspects that there has been an act of corruption in breach of the Law should complete and submit a report in the Reporting Form to the Commission. Reports should be made as soon as reasonably practicable after becoming aware of the conduct in question.

### 3.2 Duty to Report

Individuals should be aware of the principles that guide the performance of public officers in the conduct of their duties. Public officers may incur criminal liability for corruption as follows:

- **Those directly involved:** An individual who is directly involved in committing a corruption offence in accordance with the Law may be liable for the offence.
- **Those indirectly involved:** An individual may be liable for a corruption offence where he/she is indirectly involved in committing the offence.
- **Failure to act:** An individual may be liable for a corruption offence even where he/she was not directly involved in committing the offence, but was wilfully blind to it.
- **Aiding and abetting:** An individual may also be liable for aiding and abetting where he has aided or assisted in the committing of the offence.

### 3.3 Submission of Reports

Reports should be submitted to the Commission via the Commission's manager (the "Manager"):-

Phone: 1-345-244-3685

Fax: 1-345-945-8649

Website: [www.anticorruptioncommission.ky](http://www.anticorruptioncommission.ky)

E-mail: [info@anticorruptioncommission.ky](mailto:info@anticorruptioncommission.ky);  
[deborah.bodden@gov.ky](mailto:deborah.bodden@gov.ky);

Mailing Address: P.O. Box 391 KY1-1106

Physical Address: 2nd Floor Artemis House,  
#67 Fort Street

Should any member of the Commission receive a report it will be forwarded forthwith to the Manager.

Members of the public making reports are encouraged to use the Reporting Form whenever possible. The Manager or any member of the Commission, receiving a verbal report by telephone call or otherwise should also complete the Reporting Form for submission to the Commission.

### 3.4 Confidentiality

The Commission will keep confidential any information that it receives or acquires during the course of its work or duties except in the exercise of the Commission's functions. It will ensure that it deals with information appropriately and uses it only for the proper purposes of the Commission.

### 3.5 Conflicts of Interest

The work of the Commission will not be compromised or affected by any personal interest of Members or staff. The public interest comes first on all such occasions. Conflicts of interest, or the perception that they have arisen or may arise, can do great damage to the reputation of the

Commission and its staff. Members and staff will declare to the Commission any conflicts or potential conflicts of interest immediately. The Commission has appropriate procedures for dealing with any such conflicts.

In the event of any conflict of interest or perceived conflict of interest, the relevant Member or staff will recuse himself/herself from all consideration of the matter in question and shall not be entitled to any information regarding the disposition of the matter by the Commission.

### **3.6 Code of Conduct**

The Members of the Commission adopted the Code of Conduct promulgated by the Commission for Standards in Public Life during the previous reporting period. Members continue to uphold, promote and undertake to be bound by the seven core principles, known as the Nolan Principles, which form the basis of a universal standard of good governance.

### **3.7 Protection of Witnesses**

The Commission will make every effort to protect the identity of those providing that information. The Commission will encourage a caller, if the information is to be taken in a live situation, to identify his or her self as it may be necessary in the future to seek additional information or clarification of information received. This information also allows the Commission to be able to provide the person with

updates on the investigation, if appropriate. The information reported in a live situation will also be submitted to the Commission in the Reporting Form.

### **3.8 Records**

The Commission will keep records of all aspects of the investigation. These records will be kept confidential, except when otherwise required by law.

### **3.9 Referral to the Director of Public Prosecutions**

The Commission will refer the results of its investigations to the Director of Public Prosecutions for disposition (such as prosecution) where it appears an offence under the Law has been committed.

## **CONFIDENTIAL REPORTING LINE**



+1 (345) 328-4388

# Section Four

## 2019-2020 Corruption Statistics

The Commission has a duty to safeguard the confidentiality and integrity of information, to respect the rights of individuals and not to prejudice investigations/proceedings. These must be balanced against the duty to be open and transparent wherever reasonably possible.

The policy of the Commission is compliant with the recommendations of the Leveson Inquiry.

It is the policy of the Commission not to release the names of persons who are arrested, unless there are exceptional circumstances, e.g.:-

- threat to life;
- prevention or detection of crime; or
- a matter of significant public interest.

At the time of arrest, the Commission will normally provide the following non-identifiable information about persons arrested:-

- age;
- gender;
- resident district;
- offence(s); and
- whether or not the individual is a public official.

For example, “a 48 year old male, who is a public official, from the district of George Town has been arrested on suspicion of bribery, fraud and money laundering”.

It is the policy of the Commission to name persons once charged. The following information will be released about an adult, providing there are no applicable legal restrictions:-

- name;
- occupation;
- resident district; and
- charge details.

For example, “Ms. XYZ, Consultant, from the district of Bodden Town has been charged with bribery, fraud and money laundering”.

These policies of general application will always be subject to the specifics of each matter and overall public interest.

# Summary of Cases 2019-2020

0

CALLS RECEIVED  
ON HOTLINE

4

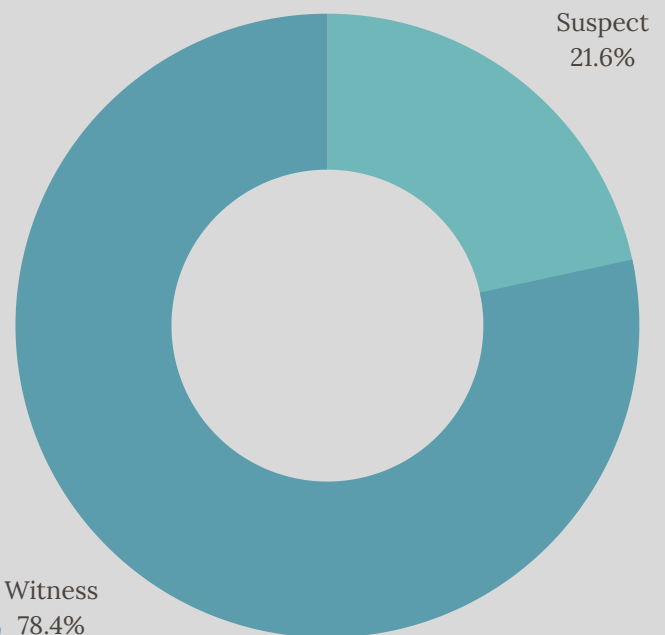
COMPLAINTS/REPORTS  
RECEIVED

74

INTERVIEWS  
CONDUCTED

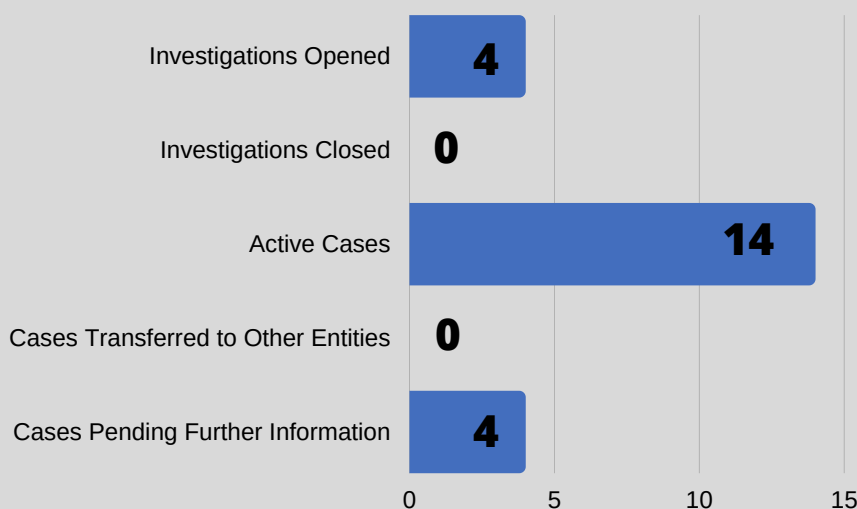
## 74 INTERVIEWS CONDUCTED

Interviews conducted = 16 Suspects  
58 Witness



# Case Tracking & Outcomes of Arrests 2019-2020

## CASE TRACKING 2019-2020



## OUTCOMES OF ARRESTS 2019-2020



# Interactions with Overseas Entities & Court Interaction 2019-2020

## INTERACTIONS WITH OVERSEAS ENTITIES 2019-2020



## COURT INTERACTIONS 2019-2020



0

GRAND COURT  
PRODUCTION  
ORDERS



2

SEARCH  
WARRANTS  
EXECUTED

# Office of the Director of Public Prosecutions Interactions & Interactions with Local Entities 2019-2020

## OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS INTERACTIONS 2019-2020

**0**

Production Order Requests Awaiting Director of Public Prosecutions Assistance

**6**

Reports sent to Office of the Director of Public Prosecutions

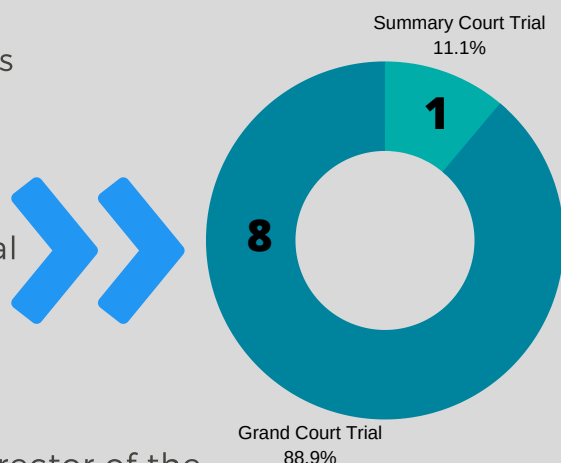
**9**

Persons Charged Awaiting Trial

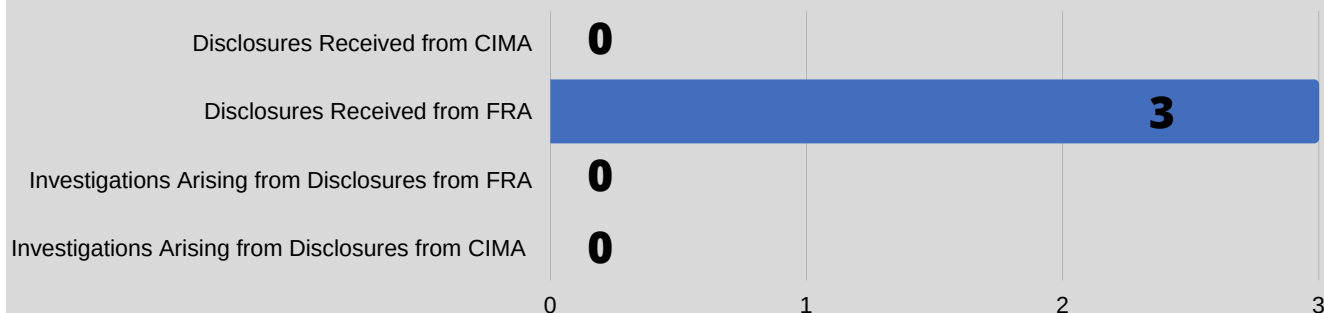
**1**

Files Awaiting Office of the Director of the Public Prosecutions Charge Ruling

Persons Charged  
Awaiting Trial = 1 Summary Court Trial  
8 Grand Court Trial



## INTERACTIONS WITH LOCAL ENTITIES 2019-2020



# Section Five

## Topical Issues

### 5.1 Legislation

#### 5.1.1 Proposed Amendments to the Law

The Commission continued to consider desirable amendments to the Law and the final draft of the desired amendments to the Law were submitted to the Honourable Attorney General for consideration and further action on 11 September 2019. The Attorney General reviewed the same and agreed, on 14 February 2020, that the amendments should be moved forward but details of the rationale/reasoning should be provided in order to assist.

The rationale/reasoning/background information on the desired amendments was compiled at which time the Commission agreed that an additional amendment should include the ability of the Commission to retain any proceeds awarded during confiscation proceedings. Retention of this funding would assist the Commission as it moves forward with achieving future independence. As a general comment, the Commission further agreed that the Chairman should request that the Honourable Attorney General work towards streamlining the confiscation process in order to assist the Commission with its work and also to comply with various requirements of the Caribbean Financial Action Task Force ("C-FATF").

The desired amendments to the Law,

along with the rationales, were then submitted to the Attorney General on 6 January 2020 where they currently remain for consideration.

#### 5.1.2 The ACC as a Law Enforcement Body

Following discussions, it was agreed that it should be brought to the attention of the Attorney General that the ACC should be included generally in all laws so as to have the same or similar provisions as other law-enforcement bodies. This omission has recently been evident with the amendments to the Freedom of Information Law and the designation of other law enforcement bodies, but not the Commission, as "Security and Intelligence Services".

The said letter was dispatched on 28 February 2020 and on 2 March 2020 the Attorney General indicated that he was in agreement with the ACC's proposal and subsequently referred the matter to the Legislative Drafting Department for the necessary Amendment Bill to be drafted.

#### 5.1.3 Standards in Public Life Law Commencement ('SiPL Law')

The Commission noted the announcement of the commencement of the SiPL which was issued on 1 March 2020. Members subsequently received the required information to enable them to complete the Declaration in accordance with the SiPL Law.

#### **5.1.4 Grenada Judgment**

Members discussed a judgment relating to the Grenada Integrity Commission and its commencement of investigations. It was agreed that consideration should be given as to how this judgment affects the provisions included in the Anti-Corruption Law, if it does at all. The Commission agreed to defer the review of this matter until the next reporting period.

### **5.2 Policy**

#### **5.2.1 Data Protection Policy**

Members queried whether the Commission had its own Data Protection Policy in accordance with the Data Protection Law, which commenced in September 2019. Members were informed that the Commissions Secretariat is operating in line with the Cayman Islands Government's ("the CIG") Policies on this matter.

#### **5.2.2 Commission's Compliance with CIG Policy (post C-FATF report) on Anti-Corruption**

The Commission agreed its compliance with the CIG Policy on Anti-Corruption, during the last reporting year. Members further discussed the matter and agreed that no further action was needed.

### **5.3 Memorandums of Understanding ("MOU")**

#### **5.3.1 Multilateral Memorandum of Understanding ("MMOU") on the Exchange of Information for Co-operation, Consultation and Enforcement**

The Commission discussed and agreed the revised MMOU on the Exchange of Information for Co-operation, Consultation and Enforcement though queried why the Financial Reporting Authority ("the FRA") was not a signatory. Members then approved the signing of this MMOU on 23 December 2019.

#### **5.3.2 Memorandum of Understanding ('MOU') and Code of Practice - Inter-agency Intelligence Sharing (Financial Crime)**

The Commission agreed to become a party to this MOU (along with the Royal Cayman Islands Police Service ("the RCIPS"), the FRA, and the Cayman Islands Customs and Border Control ("CBC") Service) in order to ensure compliance with international standards established by the Financial Action Task Force and the Caribbean Financial Action Task Force. The MOU serves to ensure the need for the appropriate, effective sharing of information of entities in carrying out their investigations, intelligence development, evaluations and assessments under the relevant laws,

regulations and rules applicable to their organisations. The MOU has been designed to enhance the existing relationship between the participating agencies and the Code of Practice will guide the information sharing process.

Members reviewed and agreed the draft MOU and Code of Practice received at the meeting of 19 February 2020. After receiving clarification, they signed the MOU which was then submitted on 2 April 2020.

#### **5.3.3 International Anti-Corruption Coordination Centre (“IACCC”) Membership**

Members were provided with the MOU for Associate Membership in the IACCC for consideration. The IACCC was established during the 2016 Anti-Corruption Summit by the UK and is hosted by the National Crime Agency. The IACCC seeks to bring together specialist law enforcement officers from multiple agencies around the world to tackle allegations of grand corruption. Members will consider the MOU and revert with thoughts.

The Manager requested the necessary information in order to progress the Commission’s signatory as an Associate Member of the IACCC on 19 February 2020. A response with the relevant information was received on 25 March 2020 providing the Commission with the relevant details and an MOU to

be signed as part of the application process. In accordance with the Law, the Attorney General was asked for and gave his consent to move forward with this application. The IACCC was notified of the Commission’s agreement with the MOU and the Commission now awaits further information.

### **5.4 Caribbean Financial Action Task Force (“C-FATF”)**

#### **5.4.1 Anti-Money Laundering Steering Group (“AMLSG”)**

The Chairman provided Members with regular updates as it relates to AMLSG meetings he attends following recommendations from the C-FATF. On 12 May 2020, Members were informed that due to the COVID-19 pandemic all site visits have been placed on hold for the next several months. The Chairman was subsequently informed that it is not expected that a visit will take place until February 2021.

#### **5.4.2 Technical Assistance Project C-FATF**

In preparation for the C-FATF Observation Period the Cayman Islands Government hired Financial Transparency Advisors (“FTA”), which are a Vienna based consulting firm providing specialised advisory services on AML/CFT to national government and public authorities. The FTA were on island from 10 – 14 February 2020 and conducted a review of Cayman’s written

progress report and conducted mock interviews with persons who will be questioned by the CFATF Observers.

#### **5.4.3 Meeting the Cayman Islands National Coordination Team Caribbean Financial Action Task Force ("CI CFATF") Representative**

The Senior Investigator met with Jan Tibbling on 13 January 2020 who was hired by the Office of the Director of Public Prosecutions as a Law Enforcement Expert to assist the CI CFATF National Coordination Team. The discussions surrounded the relevant work of the Commission as it relates to the CIG's response to the Fourth Round CFATF MER and meeting any recommended actions therein.

### **5.5 Public Engagement**

#### **5.5.1 Media and Public Relations Policy**

Members considered whether it was necessary to draft a policy to detail the Commission's stance on dealing with media and public relations matters. It was agreed that a new and separate policy was not necessary to be formalised, or any existing policies updated/changed in any way. The Commission has already begun its efforts to ensure that it balances the often-conflicting concerns between ensuring confidentiality whilst increasing its reporting on work in order to ensure public trust is maintained.

#### **5.5.2 Meeting with RCIPS Consultants**


On 3 March 2020 the Chairman, along with the Manager and Senior Investigator, met with two consultants working with the RCIPS to prepare a professional, evidence based strategic crime threat assessment. The Commission was identified by the Commissioner of Police as a stakeholder in the development of this assessment.

#### **5.5.3 Presentation to CBC Recruits**

On 11 September 2019 the Chairman made a presentation, along with the Chairman of the Commission for Standards in Public Life, to approximately twenty new recruits of the CBC on the remit, powers, work, etc. of the Commission. This recruitment class has now been trained in both Immigration and Customs functions.

#### **5.5.4 Fifth Annual Caribbean Commonwealth Association of Integrity Commissions and Anti-Corruption Bodies ('CCAICACB') Conference**

On 29 October 2019, a Member again raised the issue of public education following the importance expressed on the subject during the CCAICACB Conference held in June 2019. The Chairman indicated that opportunities had already been taken (i.e. inclusion of additional statistics in the 18/19 Annual Report and the content of the subsequent press release issued about its publication) and would continue to



be utilised when the opportunities present. In addition the Commission agreed that they would strive to seek a balance between the often conflicting concerns of ensuring confidentiality whilst actively reporting facts in order to ensure public trust is maintained.

#### **5.6.5 Stakeholder Engagement**

##### **Workshop**

The Commission participated in a 'stakeholder engagement workshop' on 18 February 2020, facilitated by Royal Cayman Islands Police Service (Financial Crimes Unit) in conjunction with KPMG. The workshop included representatives from the Financial Reporting Authority, Cayman Islands Monetary Authority, Financial Crimes Unit, together with those from the private financial sector, with the intention of increasing awareness and information exchange. Investigators represented the Commission presenting to the internal (law enforcement) and external stakeholders from the financial service sector on the subject of trends and methodology encountered both locally and internationally in relation to major corruption, with particular reference to typologies involving Politically Exposed Persons (PEPS).

# Section Six



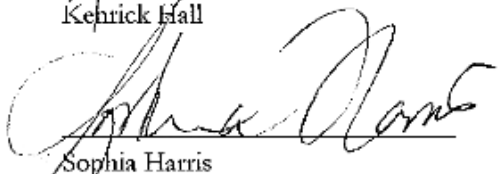
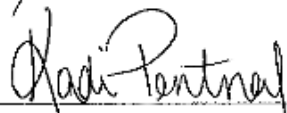
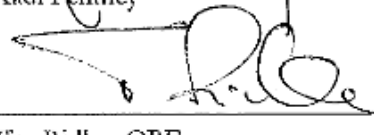
## Moving Forward

During the next reporting period the Commission will continue to accept complaints/reports of corruption as per its legislative remit.

In addition, the Commission will continue to:

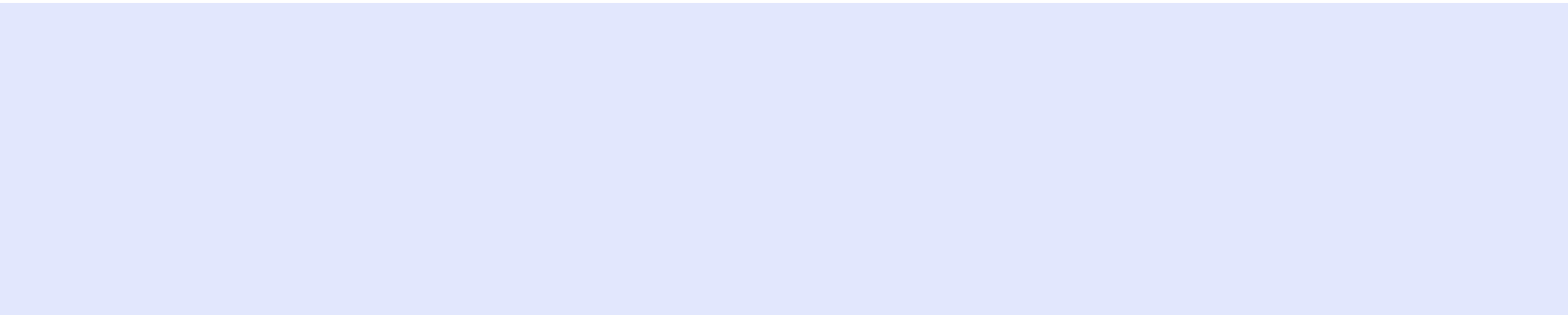
- a. advocate for the desired amendments to the Anti-Corruption Law;
- b. support the fulfilment of the C-FATF recommendations;
- c. seek to progress membership within the IACCC;
- d. strive to enhance reporting of matters to the public; and
- e. continue to seek to enhance the independence and support of the Commission.

**Dated** this 25 day of August 2020.

  
Richard Coles (Chairman)  
Kenrick Hall  
Sophia Harris  
Kadi Pentney  
Tim Ridley, OBE



# Appendices



# Appendix 1

## Members' Biographies

### *Mr. Richard Coles (Chairman)*



Richard Coles is an experienced lawyer both in England and in the Cayman Islands, being a Solicitor admitted in England and Wales, a Cayman Islands attorney-at-law and former Attorney General for the Cayman Islands. He is a member of the Law Society of England, the Caymanian Bar Association, the Commonwealth Lawyers Association, the Commonwealth Parliamentary Association, a Fellow of the Caribbean Law Institute and the Institute of Advanced Legal Studies in London. Mr. Coles also has the distinction of being a Freeman of the City of London. He has previously served as Chairman of the Human Rights Commission, Deputy Chairman of the Civil Service Appeals Commission, member of the Judicial and Legal Services Commission, and Chairman of Cayman Finance. Mr. Coles was appointed as Chairman on 15 August 2016 for a two year term. He was re-appointed effective 14 August 2018 for a further two years.

### *Mr. Kenrick Anthony Hall*



Mr. Hall is married and was educated at Federal High School from 1958 to 1963. He enlisted in the Royal Cayman Islands Police Service as a constable on 17 October 1971. During his tenure he attended several overseas courses including the Canadian Police College in June 1982, and Bramshill Police College in the U.K. in September 1994. From 1995 he was attached to the Criminal Investigation Department as Chief Inspector in the Cayman Islands. He was awarded the Colonial Police Medal in March 2001, and the Queen's Golden Jubilee Medal in 2002. Mr. Hall served on the committee for the Special Olympics in the 1980s and also as a member of the Cayman Islands Football Referee's Association. He retired from the Royal Cayman Police Service on the 17 October 2007 at the rank of Detective Superintendent. Presently he works at Sagikor Insurance as an Insurance Advisor. Mr. Hall was appointed as a Member on 5 December 2017 for a two year term. He was then reappointed on 5 December 2019 for a three year term.

## *Mrs. Sophia-Ann Harris (née Solomon)*



Mrs. Harris is the founder of the law firm Solomon Harris and the Firm's managing partner. She is a council member of the Cayman Islands Law Society and a past member of the Caymanian Bar Association. Mrs. Harris' specialties include banking, investment funds, corporate and commercial law, trusts, immigration and all aspects of local licensing law. She is a past Chairman of the, Government's Business Staffing Plan Board and the Immigration Appeals Tribunal and past Chairwoman of the Board of Directors of Butterfield Bank (Cayman) Ltd. Mrs. Harris is a Past President of the Chamber of Commerce and during her term with the Chamber she has addressed the United Nations on a number of occasions including the United Nations General Assembly on constitutional matters for the Cayman Islands. Mrs. Harris was appointed as a Member on 15 August 2016 for a three year term. She was re-appointed effective 15 August 2019 for a further three years.

## *Mrs. Kadi Pentney (née Merren)*



Mrs. Pentney graduated from Triple C High School in 2004 and went on to earn a Master's degree in Accounting and Taxation from Florida Gulf Coast University in 2008. Mrs. Pentney is a Certified Public Accountant and was a manager at PwC, with financial services experience in Hedge Funds, banking and both court appointed and voluntary liquidations, until April 2015 when she left to become a full-time mother and to focus on growing her family's businesses. From 2008-2015, Mrs. Pentney was an Advisor for PwC's Junior Achievement, and joined the Board in 2015. Mrs. Pentney is a Past President of the Kiwanis Club of Grand Cayman and is also a co-owner of Tea Time in Cayman. In 2014, Mrs. Pentney was awarded the Young Caymanian Leadership Award and in 2015, joined the YCLA Board. She has been a Notary Public since 2014. Mrs. Pentney was appointed as a Member on 15 August 2016 for a three year term. She was re-appointed effective 15 August 2019 for a further three years.

## *Mr. Tim Ridley, OBE*



Mr. Ridley is a graduate of Cambridge University (BA) and Harvard Law School (LLM), qualified as a solicitor in England and is an attorney-at-law in the Cayman Islands. For many years, he was a senior partner of the leading Cayman Islands law firm Maples and Calder and from 1995 until 2000 headed the firm's Asia practice in Hong Kong. Mr. Ridley has wide regulatory and governance experience, having served on the Boards of the Cayman Islands Health Services Commission (2002-2005) and the Cayman Islands Monetary Authority (2002-2008, Chairman 2004-2008). He has also served on various consultative committees that advise the Cayman Islands Government on matters relating to the financial services and local industries. He writes and speaks widely on Cayman Islands legal, financial and regulatory issues, is a member of numerous international professional associations and has served on the editorial boards of leading publications, including the Harvard International Law Journal. He was made an Officer of the British Empire (OBE) in 1996 in recognition for his services to the financial services industry and the local community. Mr. Ridley was appointed as a Member on 15 August 2016 for a two year term. He was re-appointed effective 14 August 2018 for a further two years.

# Appendix 2

## Offences under the Law

### **Bribery of public officers and members of the Legislative Assembly**

10. (1) A public officer or a member of the Legislative Assembly who 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-
  - (d) to interfere with the administration of justice;
  - (e) to procure or facilitate the commission of an offence; or
  - (f) to protect from detection or punishment a person who has committed or who intends to commit an offence, commits an offence.
- (2) Any person who gives or offers to a public officer or to a member of the Legislative Assembly any loan, reward, advantage or other benefit, with intent that the public officer should do anything mentioned in subsection (1)(d),(e), or (f) commits an offence.
- (3) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of fourteen years.

### **Frauds on the Government**

11. (1) A person commits an offence where-
- (a) directly or indirectly-
    - (i) he gives, offers or agrees to give or offer to-
      - (A) a public officer;
      - (B) a member of the Legislative Assembly;
      - (C) a member of the family of a public officer;
      - (D) a member of the family of a member of the Legislative Assembly; or
      - (E) any person for the benefit of a public officer, a member of the Legislative Assembly or another person; or
    - (ii) being a public officer or a member of the Legislative Assembly, he demands, accepts or offers or agrees to accept from any other person for himself or another person, a loan, reward, advantage or other benefit as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with-
      - (A) the transaction of business with or any matter or business relating to the Government; or
      - (B) a claim against the Government or any benefit that the Government is authorised or is entitled to bestow, whether or not, in fact, the public officer or member of the Legislative Assembly is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

- (b) having dealings of any kind with the Government, he pays a commission or reward to or confers an advantage or benefit of any kind on a member of the Legislative Assembly or a public officer of a government entity with which he deals, or to any member of the family of a member of the Legislative Assembly or a public officer, or to any one for the benefit of the member of the Legislative Assembly or the public officer, with respect to those dealings, unless he has the consent in writing of the chief officer of the government entity with which he deals, the proof of which lies on him;
  - (c) being a public officer or a member of the Legislative Assembly, he 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, the proof of which lies on him;
  - (d) having or pretending to have influence with the Government, with a member of the Legislative Assembly or a public officer, he demands, accepts or offers or agrees to accept for himself or another person a loan, reward, advantage or other benefit as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with-
    - (i) anything mentioned in paragraph (a)(iii) or (iv); or
    - (ii) the appointment of any person, including himself, to an office;
  - (e) he gives, offers or agrees to give or offer to a member of the Legislative Assembly or a public officer a loan, reward, advantage or other benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with-
    - (i) anything mentioned in paragraph (a)(iii) or (iv); or
    - (ii) the appointment of any person, including himself, to an office; or
  - (f) having made a tender to obtain a contract with the Government-
    - (i) he gives, offers or agrees to give or offer to another person who has made a tender or to a member of that person's family, or to another person for the benefit of that person, a reward, advantage or other benefit as consideration for the withdrawal of the tender of that person; or
    - (ii) he demands, accepts or offers or agrees to accept from another person who has made a tender a loan, reward, advantage or other benefit as consideration for the withdrawal of his tender.
- (2) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of ten years.

### **Contractor subscribing to election fund**

12. (1) 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.
- (2) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of ten years.

### **Breach of trust by public officer or by a member of the Legislative Assembly**

13. A public officer or a member of the Legislative Assembly who, in connection with the duties of his office, commits fraud or a breach of trust is liable on conviction on indictment 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**

14. A person who-

- (a) purports to 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 receives or agrees to receive a reward or profit from the purported sale thereof; or
- (b) purports to purchase or gives a loan, reward, advantage or other benefit for the purported purchase of any such appointment, resignation or consent, or agrees or promises to do so, commits an offence and is liable on conviction on indictment to imprisonment for a term of five years.

### **Influencing or negotiating appointments or dealing in offices**

15. A person who-

- (a) 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;
- (b) solicits, recommends or negotiates in any manner with respect to an appointment to or resignation from a public office, in expectation of a direct or indirect loan, reward, advantage or other benefit; or
- (c) keeps without lawful authority, the proof of which lies on him, a place for transacting or negotiating any business relating to-
  - (i) the filling of vacancies in public offices;
  - (ii) the sale or purchase of public offices; or
  - (iii) appointments to or resignations from public offices, commits an offence and is liable on conviction on indictment to imprisonment for a term of five years.

### **False claims by public officers**

16. A public officer who-

- (a) is employed in such a capacity as to require him or enable him to furnish returns or statements relating to any sum payable or claimed to be payable to himself or to any other person, or relating to any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person; and
- (b) makes a return or statement relating to any such matter which is, to his knowledge, false in any material particular, commits an offence.

### **Abuse of office**

17. (1) A public officer or a member of the Legislative Assembly who does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another commits an offence and is liable on summary conviction to imprisonment for a term of two years.

(2) If the act under subsection (1) is done or directed to be done for purposes of a loan, reward, advantage or other benefit such person commits an offence and is liable on summary conviction to imprisonment for a term of three years.

### **False certificates by public officers or by members of the Legislative Assembly**

18. A public officer or a member of the Legislative Assembly who is authorised or required by law to give any certificate relating to any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to his knowledge, false in any material particular, commits an offence.

### **Conflicts of interests**

19. (1) 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.

(2) 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.

(3) 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.

### **Duty of a public officer and member of the Legislative Assembly to whom a bribe is offered etc.**

20. (1) A public officer or a member of the Legislative Assembly to whom any loan, reward, advantage or other benefit is given, promised, or offered, in contravention of any provision of this Law shall report to the Commission such loan, reward, advantage or other benefit together with the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to him.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years or to both.

(3) A person from whom any loan, reward, advantage or other benefit has been solicited or obtained, or an attempt has been made to obtain such loan, reward, advantage or other benefit, in contravention of any provision of this Law shall, at the earliest opportunity thereafter, report such soliciting or obtaining of, or attempt to obtain, the loan, reward, advantage or other benefit together with the full and true description and, if known, the name of the person who solicited, or obtained, or attempted to obtain, the loan, reward, advantage or other benefit from him to the Commission.

(4) A person who fails, without reasonable excuse, to comply with subsection (3) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

(5) A public officer or a member of the Legislative Assembly who has reasonable cause to believe that another public officer or a member of the Legislative Assembly has-

- (a) solicited;
- (b) accepted or obtained; or
- (c) agreed to accept or obtain;

any loan, reward, advantage or other benefit in contravention of any provision of this Law, shall report such belief to the Commission and shall provide the name, if known, of the person who gave, promised or offered such loan, reward, advantage or other benefit to the public officer or the member of the Legislative Assembly.

(6) A person who fails, without reasonable excuse, to comply with subsection (5) commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars or to imprisonment for a term of two years or to both.

(7) A person who commits an act of victimisation against a person who has made a disclosure under subsection (1), (3) or (5) commits an offence and is liable on summary conviction to imprisonment for a term of two years.

(8) In this section, “victimisation” means an act-

- (a) which causes injury, damage or loss;
- (b) of intimidation or harassment;
- (c) of discrimination, disadvantage or adverse treatment in relation to a person’s employment; or
- (d) amounting to threats of reprisals.

#### **Secret commissions**

21. (1) A person commits an offence who-

- (a) gives, offers or agrees to give or offer to an agent any loan, reward, advantage or other benefit as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or
- (b) being an agent, demands, accepts or offers or agrees to accept from any person any loan, reward, advantage or other benefit as consideration for doing or forbearing to do, or for having done or forborne to do, any act relating to the affairs or business of his principal or for showing or forbearing to show favour or disfavour to any person with relation to the affairs or business of his principal; or
- (c) with intent to deceive a principal, gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, an account or other writing-
  - (i) in which the principal has an interest;
  - (ii) that contains any statement that is false or erroneous or defective in any material particular; and
  - (iii) that is intended to mislead the principal.

(2) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for a term of five years.

#### **Bribing a foreign public officer**

22. (1) Subject to sections 23 and 24, a person who, in order to 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 any 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, commits an offence.
- (2) A person who contravenes subsection (1) is liable on conviction on indictment to imprisonment for a term of fourteen years.
- (3) Where it appears to the Director of Public Prosecutions that any person to which this section applies, or an officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice which contravenes subsection (1), the Director of Public Prosecutions may, in his discretion, apply to the Grand Court for an order to enjoin such act or practice, and the court may, if it is satisfied upon the evidence, that such person is so engaged or is about to be so engaged as alleged, order a permanent injunction or a temporary restraining order without requiring a bond.
- (4) Not later than six months after the date of the commencement of this Law, the Commission, after consultation with the Attorney General and the Cayman Islands Monetary Authority, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of this section and may, based on such determination and to the extent necessary and appropriate, issue-
- (a) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Government's enforcement policy, the Commission determines would be in conformance with the provisions of this section; and
  - (b) general precautionary procedures which persons may use on a voluntary basis to conform their conduct to the Government's enforcement policy regarding the provisions this section.

### **Savings provision relating to section 22**

23. A person has not committed an offence under section 22 if the loan, reward, advantage or other benefit-
- (a) is permitted or required under the laws of the foreign country or public international organisation for which the foreign public officer performs duties or functions; or
  - (b) was made to pay the reasonable expenses incurred in good faith by or on behalf of the foreign public officer that are directly related to-
    - (i) the promotion, demonstration or explanation of the person's products and services; or
    - (ii) the execution or performance of a contract between the person and the foreign country for which the officer performs duties or functions.

### **Facilitation payments**

24. (1) For the purpose of section 22, 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.

(2) 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.

(3) 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.

### **False statements to the Commission**

25. (1) Where a person makes or causes any other person to make to the Commission or to an investigating officer, in the course of the Commission or such investigating officer 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.

(2) Where a person, who has made a statement to the Commission or to an investigating officer, in the course of the Commission or such investigating officer exercising any power conferred by this Law, subsequently thereto makes any other statement to any person having authority or power under any law, or otherwise, to receive, or require to be made, such other statement, regardless of whether or not the person making the statement is under a legal or other obligation to tell the truth that person, if such other statement-

(2) Where a person, who has made a statement to the Commission or to an investigating officer, in the course of the Commission or such investigating officer exercising any power conferred by this Law, subsequently thereto makes any other statement to any person having authority or power under any law, or otherwise, to receive, or require to be made, such other statement, regardless of whether or not the person making the statement is under a legal or other obligation to tell the truth that person, if such other statement-

(a) is inconsistent with any statement previously made to the Commission or to an investigating; and

(b) is made wilfully, he commits an offence and is liable on conviction to a fine of one thousand dollars or to imprisonment for a term of three months or to both.

(3) For the avoidance of doubt, it is declared that for the purposes of subsection (1)(b) and subsection (2), any statement made in the course of any legal proceedings before any court, whether civil or criminal, or any statement made by any person in the course of any disciplinary proceedings, whether such legal proceedings or disciplinary proceedings are against the person making the statement or against any other person, shall be deemed to be a statement made to a person having authority or power under law to receive the statement so made.

*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.*