

The background of the top half of the cover features a dark blue world map centered on the Atlantic Ocean. Overlaid on the map are various digital and circuit-like elements in a lighter blue color, including horizontal and vertical lines, a triangle, a right-pointing arrow, and a series of small circles, giving it a technological or data-driven appearance.

2021/2022

1 JULY 2021 - 30 JUNE 2022

ANNUAL REPORT

ACC

ANTI-CORRUPTION
COMMISSION

CAYMAN ISLANDS

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Statement from the Chairman

The Anti-Corruption Commission (ACC) has had a busy year

Major investigations

Recently the ACC undertook an investigation into suggestions that a member of civilian staff employed within a sensitive role of the Royal Cayman Islands Police Service (RCIPS) was actively compromising confidential RCIPS information.

Following extensive analysis of the work undertaken by the member of staff, both legitimate and otherwise, it became clear that sufficient grounds existed to give rise to reasonable suspicion that the staff member had committed a breach of trust, contrary to Section 13 of the Anti-Corruption Act, (2019 revision), (the "ACA").

Working jointly with colleagues from the Drugs and Serious Crime Task Force of RCIPS, a proactive operation was coordinated, and the suspect was arrested as a passenger in a vehicle leaving an address. The suspect was arrested by Anti-Corruption Commission investigators upon suspicion of a Breach of Trust contrary to Section 13 of the ACA. The suspect was then taken back to the address from which they had come and an extensive search undertaken.

During the course of the search, Anti-Corruption Commission investigators found a 9mm handgun together with a significant quantity of live ammunition hidden in the suspect's bedroom. The suspect was subsequently charged by RCIPS investigators with unlawful possession of the firearm.

The ACC investigation into the breach of trust and other surrounding circumstances is ongoing at this time.

Significant sentence imposed on a former employee of the Department of Vehicle and Licensing Department

Following a protracted and complex ACC investigation into the large scale corrupt and fraudulent issuance

of driver's licenses the following persons were sentenced on 17th December 2021 for their respective roles in these offenses:

Kimberley ROBERTS was sentenced to 9 months and 2 weeks imprisonment, concurrent on each of 4 offenses, and Alex RATTRAY was sentenced to 13 months imprisonment, suspended for 12 months and a 240 hours community service order, to be completed over 1 year.

The offences committed by these individuals were particularly serious, not only due to the abuse of public trust, but also because they posed a very real risk to public safety by facilitating both unlicensed, and in many cases, untrained persons to drive on the public roads and the additional hazard of their vehicles being uninsured.

Significant case files awaiting a ruling from the Office of the Director of Public Prosecutions (ODPP)

Following a protracted investigation into a breach of trust, bribery, and fraud on the government, involving former employees of a government department, acting together with members of the public, files requesting a ruling relating to multiple defendants have been submitted to the Office of the Director of Public Prosecutions and we are currently awaiting the outcome.

Prove or disprove

As previously outlined within the ACC report of 2020-2021, a significant percentage of ACC resources has been deployed proving or disproving allegations.

During this period under review, ACC investigators have undertaken two extremely time-consuming and resource-intensive investigations into allegations of corruption, one of which involved a professional person employed in a high-profile position.

At the conclusion of the investigations, reports were submitted to the ODPP for a charge ruling. Subsequently, the ODPP decided not to prosecute in either case. The ACC is required by law to liaise with the ODPP where technically the nature of the allegation/evidence suggests corruption under the ACA. Not in all cases will the ACC and/or the ODPP determine that there is sufficient evidence or that it is in the public interest to go to trial (or that time and resources should be expended on an investigation).

It is vital, however, that the ACC continues to exert a proportionate investigative response to all allegations, where the ACC determines that there are reasonable grounds to believe that there might be corruption based on the allegations in the complaint, etc., as we are tasked to do under the ACA, in order that innocent persons are rightly and justifiably exonerated, as well as hopefully successfully convicting those that are not.

It is apparent that these cases where the ACC and/or the ODPP agree not to move forward to prosecution, and of which there are many, never reach the public arena and consequently do not feature within positive performance outcomes for the ACC. However, this should not detract from the perception of the amount and quality of the work undertaken by the Commission.

ACC continued contribution to Cayman Islands' response to Caribbean Financial Action Task Force (FATF) assessment and National Risk Assessment.

Both myself as Chairman and the Senior Investigative Officer regularly attended meetings for the CFATF including anti-money laundering unit meetings.

ACC commitment to furthering investigative knowledge and expertise

On the 3rd May 2022, I gave a presentation on Financial Crime Prevention & Regulatory Compliance, for the Webinar Series hosted by the School of International Financial Services.

Between 9th/10th June 2022 representatives of the ACC took part in presenting aspects of the work of the ACC to visiting officials from Bosnia during the course of an "International Anti-Corruption Seminar." The visit to the Cayman Islands was hosted by HE the Governor, and organized by the Royal Cayman Islands Police Service. The ACC provided insights into the work of the Commission together with examples of their work and methodology as part of an exchange of best practices.

On the 26th August 2022, I gave a presentation to Customs and Border Control (CBC) on the ACA and on corruption in general, as part of an educational joint exercise with the ACC and the CBC.

What's next?

The ACC investigators' work is incredibly labour intensive, at any one moment in time doing a number of in-depth investigations of corruption, including investigating complaints that will not necessarily result in moving forward to trial, and all whilst actively supporting the Director of Public Prosecutions during ongoing trials.

In order to meet the evolving challenges of bribery and corruption, and to provide effective and efficient service to both the Cayman Islands community and the global community to which it also has an obligation, the ACC must periodically examine and consider the best ways of improving its operations to meet the current times and trends of corruption. The ACC must eventually start to think outside the box, particularly due to the size of the jurisdiction, and the challenges of having a relatively small community, a challenge, amongst others, that is not unique to Cayman but shared with many of the other Overseas Territories.

BVI, another Overseas Territory, has had a number of recent recommendations made as a result of a Commission of Inquiry (COI) instigated by the Governor. The COI noted the small size of the jury pool and made the recommendation that they have judge-only criminal trials in certain cases; this might be good food for thought for Cayman. There are cases of such significance with such a strong criminal element or with such complex criminal financial components, that a small jury pool adds to the challenges of ensuring that justice is done and seen to be done.

It is worth noting here, however, that statistics suggest that most of the proceeds of corruption within the Islands involve corruption that stems from outside of the Islands, not internally.

As I end my term under the ACA, on behalf of the ACC, we thank the Governor, the Deputy Governor, the Attorney General and the ODPP for their ongoing support and constant availability to the ACC; we could not be effective without their support.

Our thanks too to the other law enforcement agencies with which the ACC also works closely. I would also be remiss if I failed to acknowledge the Secretariat staff and certainly Deborah Bodden who managed the ACC from its inception until 2021, and certainly our Senior Investigation Officer with whom the Commission works very closely and in whom we have every confidence.

I wish the ACC the very best moving forward, in the best interest of the Cayman Islands.



Sophia-Ann Harris (née Solomon)
Chairman, Anti-Corruption Commission^{*1}

**The Statement from the Chairman is presented by Sophia-Ann Harris in her capacity as Chairman during the entirety of the reporting period. It is endorsed by the current Chairman, Adrian (Gus) Pope, who was appointed after the reporting period.*

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 Act (2019 Revision).

1.2 The Anti-Corruption Act (2019 Revision) (the "Law")

The Act 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 Act 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 not less than 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 Act. 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 s/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 names of the members of the Commission during the reporting period and at the date of submission of this Annual Report are set forth in Appendix 1.

1.5 Principal powers, duties and functions

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

- receive, consider and investigate reports to the Commission of corruption offences as set out in the Act;

- receive (including from overseas anti-corruption agencies) and 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.

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.

The Commission has issued a reporting form and guidelines on the procedures.

These can be found on the Commission's website www.anticorruptioncommission.ky

Section Two

Breaches of the Law

2.1 General Overview

The Commission receives reports of alleged breaches under the Act 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 Act.

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 Parliament (MP) 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 Public Officer (PO) or Member of Parliament (MP) 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 MP 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, MP or foreign PO or foreign equivalent of an MP to use his or her position in a way that is dishonest, unfair or breaches public trust.

2.3 Offences under the Act

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 Act 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:** A person who is directly involved in committing a corruption offence may be liable for the offence.
- **Those indirectly involved:** A person may be liable for a corruption offence where s/he is indirectly involved in committing the offence.
- **Failure to act:** An individual may be liable for a corruption offence even where s/he 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

Website: www.anticorruptioncommission.ky

E-mail: info@anticorruptioncommission.ky;
marilyn.conolly@gov.ky;

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

Physical Address: 4th Floor George Town Financial Center, #90 Fort Street, George Town, Grand Cayman, CAYMAN ISLANDS

Should any member of the Commission receive a report it will be forwarded 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 and these were specifically reviewed and memorialised in an internal policy document during the reporting period. 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 promoted 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 him/ herself 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. The Commission will continue to vigorously support, encourage and protect witnesses as it did in the previous reporting period when securing the conviction of a person for making threats against a witness.

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 Act has been committed.

Section Four

2021-2022 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”.

A general statement on the ACC’s policy on public comments regarding investigations can be found on the Commission’s website. These policies of general application will always be subject to the specifics of each matter and overall public interest.

Summary of Cases 2021-2022

Complaints, Investigations and Interviews

0

CALLS RECEIVED
ON HOTLINE

4

COMPLAINTS
ACCEPTED FOR
INVESTIGATION

12

ACTIVE
INVESTIGATIONS

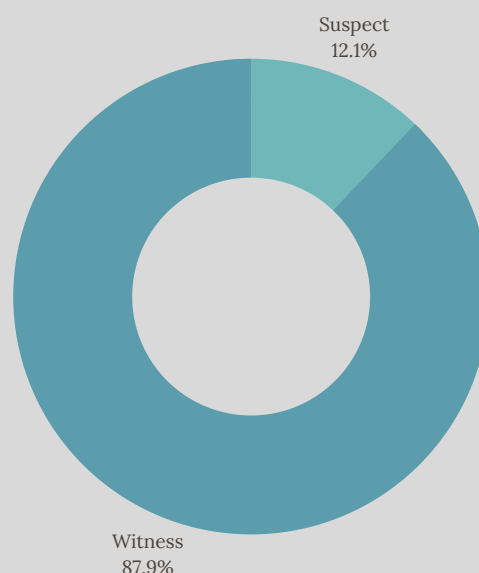
16

COMPLAINTS
RECEIVED

124 INTERVIEWS CONDUCTED

Interviews conducted = 15 Suspects

109 Witnesses



OUTCOMES OF ARRESTS 2021-2022

3

PERSONS
ARRESTED

1

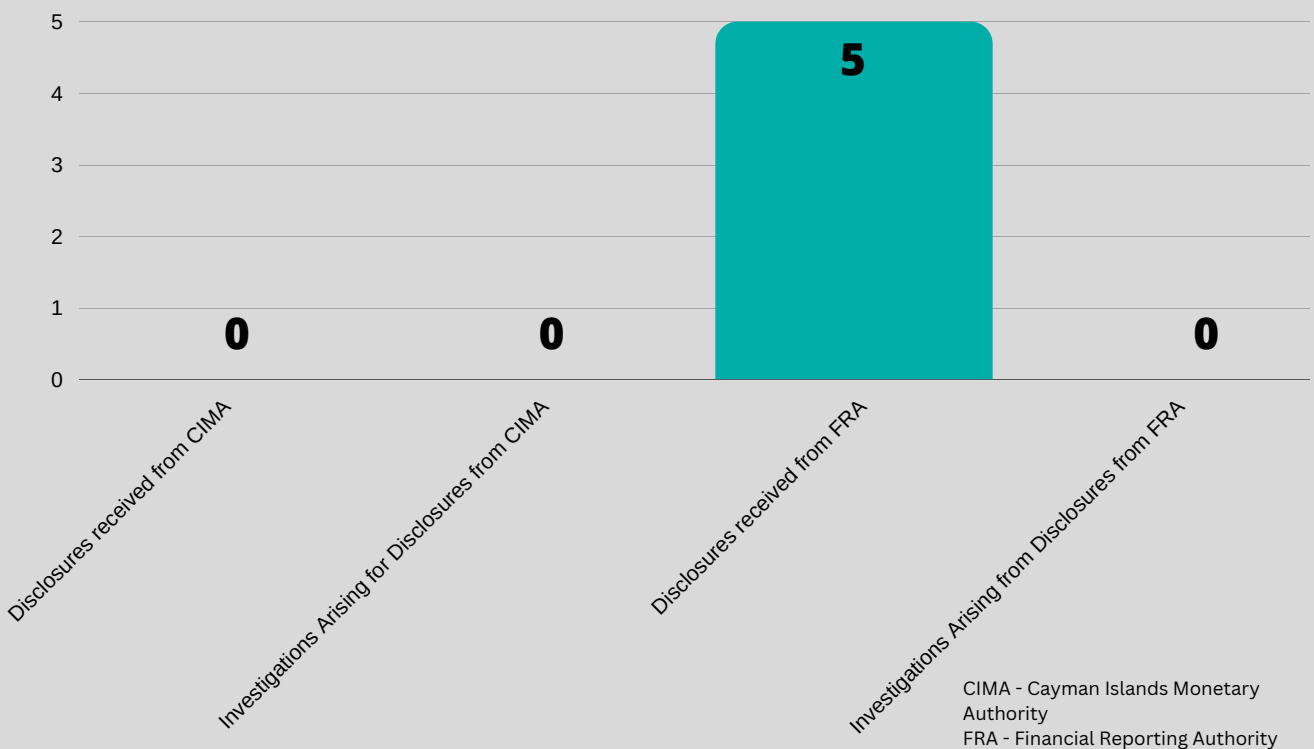
PERSONS
CHARGED

0

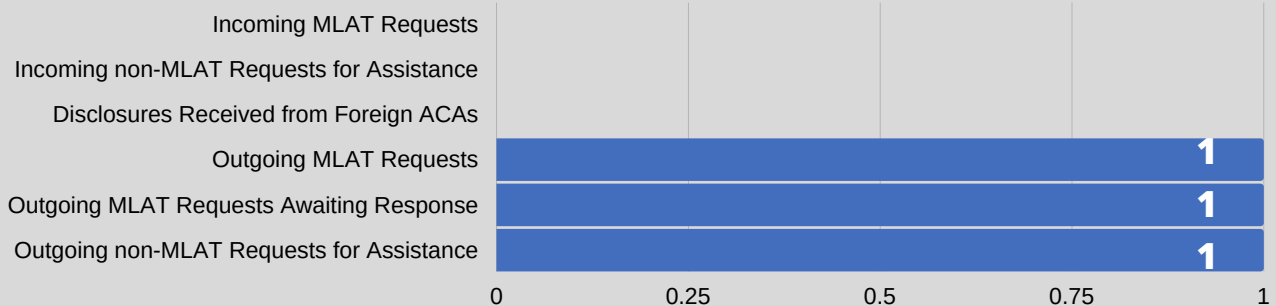
PERSONS
CONVICTED

Interactions with Local and Overseas Entities 2021-2022

INTERACTIONS WITH LOCAL ENTITIES 2021-2022



INTERACTIONS WITH OVERSEAS ENTITIES 2021-2022



MLAT - Mutual Legal Assistance Treaty

Interactions with the Office of the Director of Public Prosecutions 2021-2022

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS INTERACTIONS 2021-2022

0

Production Order Requests Awaiting Director of Public Prosecutions Assistance

92

Reports sent to Office of the Director of Public Prosecutions***

6

Persons Charged Awaiting Grand Court Trial

4

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

***Amendment to Methodology: Prior to the 2020-2021 Annual Report the methodology for calculating the number of 'reports sent to the Office of the Director of Public Prosecutions' (ODPP) was based solely on the number of requests for charge rulings or requests for legal advice, usually at the conclusion of the collection of evidence both for and against the subject of the investigation. However, this figure was not representative of the amount of work required by ODPP in support of the ruling file, mostly during the preparation and presentation for a Grand Court trial. This methodology was therefore adjusted in the 2020-2021 Annual Report going forward to take these factors into account.

Section Five

Topical Issues

5.1 Legislation

The Commission continued to consider desirable amendments to the Act. During the previous reporting period, the Commission submitted an agreed list of desired amendments to the Anti-Corruption Act (along with the respective rationales) to the Honourable Attorney General. These desired amendments had been compiled during the course of the work of both the Commission and the Investigators.

The ACC has since reviewed and commented upon a succession of drafts of an Anti-Corruption (Amendment) Bill (the “Bill”) most recently in May 2022. The Commission received updates from Legal Drafting and/or the Attorney General’s Chambers during this reporting period. We understand that the draft Bill is now completed and ready to go to Caucus then Cabinet for consideration.

5.2 Caribbean Financial Action Task Force (“CFATF”) Related Updates

The Chairman and the Senior Investigator continue to attend CFATF meetings as required. The Secretariat will continue to submit quarterly statistics as required.

5.3 National Risk Assessment (NRA) Related Updates

The ACC submitted a report to the NRA which included statistics and examples of case studies within the NRA report. The FRA submitted a report to the ACC about people trafficking.

5.4 New Secretariat Manager

On 24 August 2021, Members welcomed the new Manager and expressed gratitude for the work and support of the former Manager.

5.5 Commission Membership

It was noted that shortly after the conclusion of the current reporting period the term of office of two Members (including the Chairman) would expire with the term of office of a third Member expiring before the end of 2022. The Commission also felt that a slightly larger Membership would be beneficial.

Accordingly, subsequent to the reporting period, but prior to the date of submission of this report four new Members have been appointed, together with a new Chairman.

The particulars are set forth in Appendix 1.

5.6 Memorandum of Understanding (“MOU”)

On 2 September 2021, the Chairman, Manager, and Senior Investigator met with the Information Rights Coordinator to discuss data protection issues in relation to memorandums of understanding, and other formal working relationships between the ACC and other agencies.

A new Ombudsman was appointed 4 April 2022. The Commission agreed to continue to follow up with the Office of the Ombudsman and WORC in relation to the MOUs which would allow for collaboration as and when needed.

Members also discussed the possibility of developing an MOU with the Cayman Attorneys Regulation Authority (CARA).

5.7 Training and Development

Regular training and development initiatives are explored and implemented to further enhance the work of the Commission.

On 3 September 2021, a meeting was held with the Information Rights Coordinator who led an interactive discussion on data protection in general and as it relates to the sensitive nature of the Commission's work. Attendees included Members, Investigators and Secretariat staff.

The ACC Analyst attended training in the UK through the ACC's associate membership with the International Anti-Corruption Coordination Centre (IACCC). The training workshop covered Social Media Intelligence (SOCMINT) and focused on the investigation of subjects of interests (SOIs) via social media. The ACC Trainee Investigator successfully completed the RCIPS Recruit Training at a very high level.

5.8 Official Meetings

During the reporting period the Chairman and/or Members held meetings, as and when appropriate with various officials to discuss matters of mutual interest. These included meetings with H.E. The Governor, the Attorney General, the Deputy Governor and the DPP.

5.9 Commission Structure, Staffing and Resources

During this reporting period Members discussed how to enhance the

independence of the Commission and its current budgetary constraints. The Secretariat Manager discussed new resources and potential communication tools for the ACC to explore. Members agreed to explore the need for in-house counsel to further the work of the Commission.


5.10 Assessment of ACC Re: Jakarta Principles

Members discussed the ongoing need to carry out a review of the ACC and the Commission has determined to retain legal counsel on a short term basis to undertake this project.

5.11 Educational Outreach and Presentations

On 11 May 2022, the Chairman participated in the Cayman Financial Crime Prevention & Regulatory Compliance Webinar Series hosted by the School of International Financial Services (SIFS). Her presentation was conducted virtually via Microsoft Teams on the topic of "Bribery & Corruption, Investigations & Enforcement in the Cayman Islands Context". The presentation was one of ten sessions with approximately 40 participants in attendance. The presentation was well received with follow-up requests for copies of the presentation.

On 9 June the ACC Analyst facilitated a presentation to a cohort of the U.S. Embassy Sarajevo Training Deployment.



The presentation focused on IBM I2 which is both a database application and a modelling and analysis tool that provides powerful solutions for configuring, capturing, controlling, analysing and displaying complex information and relationships in link and entity data. The presentation covered link, social network, geospatial analysis and histograms and heat matrix as methods to identify patterns and represent data as a solution to investigate fraud and financial crimes.

Additionally on 10 June, 2022 the Manager and Senior Investigator conducted a presentation on behalf of the Commission to the same cohort of the U.S. Embassy Sarajevo Training Deployment: International Financial Investigations in Corruption Cases. The Commission presentation focused on anti-corruption and crime prevention initiatives in the Cayman Islands. The 3 day training deployment series was coordinated by the Royal Cayman Islands Police Service and featured approximately 8 high level presentations.

The Commission received other educational outreach and presentation requests during this period which will be assessed during the next reporting period.

Section Six

Moving Forward

During the next reporting period the Commission will continue to:

- a. advocate for the desired amendments to the Anti-Corruption Act;
- b. support the fulfilment of the C-FATF recommendations;
- c. strive to enhance reporting of matters to the public;
- d. work diligently to process report/complaints and carry through investigations to their conclusion;
- e. continue to seek to enhance the independence and support of the Commission; and
- f. explore ways to deliver more public education about corruption with a view to its prevention.

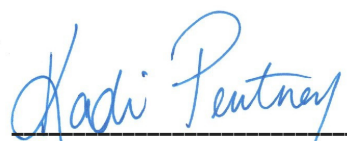
Dated this 25 day of October 2022.



Sophia Harris (Chairman)




Kenrick Hall



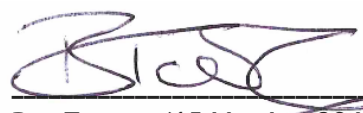
Kadi Pentney



Adrian (Gus) Pope



Simon Whicker



Ben Tonner (15 March – 20 May 2022)



Appendices

Appendix 1

Members of the Commission

The following persons were Members of the Commission during the reporting period and are signatories of this Annual Report:

Sophia-Ann Harris (Chairman)
Kadi Pentney
Kenrick Hall
Adrian (Gus) Pope
Simon Whicker
Ben Tonner (15 March - 20 May 2022)

Subsequent to the reporting period, in August 2022, the terms of office of Sophia-Ann Harris and Kadi Pentney expired and new appointments were made.

The following persons are the current Members of the Commission at the date of submission of this Annual Report:

Adrian (Gus) Pope (Chairman)
Kenrick Hall
Simon Whicker
Laurence Aiolfi
Kendra Foster
Romeo Frederick
Charles Jennings

Appendix 2

Offences under the Act

Bribery of public officers and members of Parliament

10. (1) A public officer or a member of Parliament 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 Parliament 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 Parliament;
 - (C) a member of the family of a public officer;
 - (D) a member of the family of a member of Parliament; or
 - (E) any person for the benefit of a public officer, a member of Parliament or another person; or
 - (ii) being a public officer or a member of Parliament, 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 Parliament 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 Parliament or a public officer of a government entity with which he deals, or to any member of the family of a member of Parliament or a public officer, or to any one for the benefit of the member of Parliament 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 Parliament, 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 Parliament 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 Parliament 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 Parliament 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 Parliament, 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 Parliament

13. A public officer or a member of Parliament 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 Parliament 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 Parliament

18. A public officer or a member of Parliament 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 Parliament; 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 Parliament 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 Parliament; or
- (c) a member of the family, or an associate, of either the public officer or the member of Parliament, has a personal interest in a decision which the government entity is to take, that public officer or member of Parliament shall forthwith disclose, in writing, to the government entity, the nature of that personal interest.

(3) A public officer or member of Parliament 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 Parliament to whom a bribe is offered etc.

20. (1) A public officer or a member of Parliament to whom any loan, reward, advantage or other benefit is given, promised, or offered, in contravention of any provision of this Act 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 Act 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 Parliament who has reasonable cause to believe that another public officer or a member of Parliament 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 Act, 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 Parliament.

(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 Act, 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 Act, 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 Act, 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 act, 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 Act, subsequently thereto makes any other statement to any person having authority or power under any act, 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 Act, subsequently thereto makes any other statement to any person having authority or power under any act, 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 act 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 Parliament while others can be committed by any member of the public.

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COMMISSION

Anti-Corruption Commission (ACC)



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