



ACC

ANTI-CORRUPTION
COMMISSION

Annual Report

1 July 2020 – 30 June 2021

Table of Contents

Statement from the Chairman	3
Section One – The Anti-Corruption Commission (“the Commission”)	6
1.1 Role	6
1.2 The Anti-Corruption Law (2018 Revision) (the “Law”)	6
1.3 Mission Statement	6
1.4 Commission Members	6
1.5 Principal powers, duties and functions	7
1.6 Additional powers, duties and functions	7
1.7 Control, Oversight, and Policy Directions	7
Section Two – Breaches of the Law	8
2.1 General Overview	8
2.2 Corruption Offences in the Cayman Islands	8
2.3 Offences under the Law	9
Section Three – Reporting Corruption	9
3.1 Making a Report	9
3.2 Duty to Report	9
3.3 Submission of Reports	9
3.4 Confidentiality	10
3.5 Conflicts of Interest	10
3.6 Code of Conduct	10
3.7 Protection of Witnesses	10
3.8 Records	10
3.9 Referral to the Director of Public Prosecutions	11
Section Four – 2020-2021 Corruption Statistics	11
Section Five – Topical Issues	16
5.1 Legislation	16
5.2 ACC Policy Re: Responses	16
5.3 Memorandums of Understanding (“MOU”)	16
5.4 International Anti-Corruption Coordination Centre Membership	17
5.5 Caribbean Financial Action Task Force	17
5.6 Meeting with Cayman Islands Bureau of Financial Investigations	17
5.7 Sixth Annual Commonwealth Association of Integrity Commissions and Anti-Corruption Bodies	

(Virtual) Conference	18
5.8 CCAICACB Annual Senior Leadership Management Regional Training Programme	18
5.9 UK CPA BIMR Election Expert Reports.....	18
5.10 National Risk Assessment (“NRA”) Related Updates	18
5.11 United Nations Convention Against Corruption	18
5.12 Educational Needs/Opportunities	18
Section Six – Moving Forward.....	20
Appendix 1 – Members’ Biographies.....	21
Appendix 2 – Offences under the Law.....	23

Statement from the Chairman

Convictions

In April 2021 two persons pleaded guilty to breach of trust and conspiracy to commit a breach of trust contrary to sections 13 and 52 of the Anti-Corruption Law (2016 revision). The convictions follow a complex, lengthy and protracted investigation by Anti-Corruption Commission (ACC) investigators into allegations of widespread abuse of the issuance of drivers' licenses by a former member of the Department of Vehicle and Drivers' Licencing (DVDL). During the course of the investigation the ACC were assisted by members of the DVDL, Cayman Islands Government internal audit Department and the Royal Cayman Islands Police Service.

The offences committed by these individuals were of a particularly serious nature not only due to the abuse of the public trust, but also because they posed a significant risk to public safety by facilitating unlicensed and, in many cases, untrained persons to drive on the public road, together with the additional hazard of being uninsured.

In December 2020 an individual was convicted of making threats towards a person (contrary to section 88A (1) (a) Penal Code 2018 revision) who had given evidence during the course of a previous Anti-Corruption Commission investigation into the widespread corruption and abuse of the Immigration Department English Language test.

It is important to stress that the victim of the threats was a person who showed considerable courage in providing valuable evidence in the case. The ACC has an obligation to support, encourage and protect anyone who is prepared to expose and stand up to individuals in authority who abuse their public office.

COVID-19

In common with the majority of both private and public entities, the restrictions to normal operating procedures impacted, and continues to impact, the ACC in terms of operational output and also in the methodology adapted to the changing working environment.

During the course of the COVID-19 restrictions, most ACC investigators continued their investigative work remotely. Due to the number of ACC cases currently awaiting Grand Court trial this period of remote working provided the investigators with the opportunity to use their time constructively in trial preparation activities.

Due to the necessary introduction of physical distancing measures during this period, in appropriate cases ACC investigators utilised their own offices as an alternative venue in which to conduct suspect interviews. This was introduced as a means of assisting in the reduction on the use of the interview facilities at the Cayman Islands Detention Centre (Fairbanks). An additional advantage gained by adapting such

procedures was reflected in a substantial reduction in the number of persons required to report on bail, often over extended periods during the course of protracted investigations. Clearly such procedures would not be appropriate in all instances and each case continues to be reviewed individually.

Prove or Disprove Allegations

It is a commonly held misconception that the success of law enforcement agencies, such as the ACC, should be measured in terms of the number of persons arrested/charged and subsequently convicted. While such figures provide some indication as to the effectiveness of the investigative body it does not provide a complete picture of investigative activities undertaken.

The ACC routinely receives complaints regarding allegations of suspected corruption from a host of different sources, including those originating from official bodies, public officers and also members of the public. The ACC also has an obligation to initiate its own enquiries where it suspects corruption (i.e. the enquiry originates from the ACC and not from a complaint filed with the ACC). All complaints received are assessed in the first instance to determine whether the activity complained of constitutes a breach of the Anti-Corruption legislation and, if so, whether the matter is one the Commission consider merits undertaking a full investigation.

Once a complaint is accepted by the Commission, investigators conduct a full investigation, and, regardless of the nature or subject of the allegation, maintain an open mind as to veracity of the issues reported. It is a fundamental principle that all investigations be based on the need to 'prove or disprove' the facts at issue, which may only be achieved by gathering all relevant material and assessing the whole. Consequently it often takes the same amount of time and resources to establish a subject's innocence as it would to establish sufficient grounds for a prosecution. However, both outcomes should be viewed to be of equal value.

It is apparent that the majority of complaints and ensuing enquiries by the ACC investigators which do not lead to a prosecution never reaches the public arena and therefore does not feature within positive performance outcomes. However, this should not detract from the perception of the quantity and quality of the work undertaken by the Commission.

Financial Action Task Force (FATF) Assessment and National Risk Assessment

The ACC continues to demonstrate its commitment to assisting the Cayman Islands obtain a successful outcome to the FATF assessment. This has been outlined within the published ACC policy on money laundering document demonstrating the intention to remove the proceeds of criminal and corrupt activity, and also through a significant number of ACC investigations leading to criminal prosecutions involving charges of money laundering. The charges come as a consequence of complex and protracted corruption investigations involving the transfer of the proceeds of corruption offences across both international borders and locally. The ACC is also pursuing the confiscation of the proceeds of corrupt and criminal activity within the Cayman Islands and overseas.

Looking Forward

On the heels of the largest-ever corruption trial in the Cayman Islands Grand Court, involving so many defendants that no single courtroom could accommodate them (so much so that for the first time in Cayman the trial had to be split into multiple trials), the ACC has taken stock and reflected on the many lessons learned from this trial. It was a successful investigation and trial with nine out of twelve defendants (extending over two reporting periods: 2019-2020 and 2020-2021) receiving guilty verdicts.

Indeed through a wider lens, the ACC has now had the hard earned experience of some 11 years. There have been successful prosecutions resulting from thousands of hours of investigations conducted by well trained, highly experienced and seasoned investigators. Investigators carry out in-depth investigations and also spend many hours supporting the Director of Public Prosecutions during the trials, as well as many hours investigating complaints that do not result in moving to trial.

The ACC is therefore very well placed and at a good point in time to take stock and evaluate how it can be even more effective and of greater service to the community.

As a result, amongst other measures, the ACC has spent time in carefully evaluating its operative legislation. As a consequence, the ACC has submitted to the Attorney General's Chambers for its consideration, several recommendations for necessary legislative changes and at the same time sought to also address any lingering anomalies in the legislation, which it hopes will better equip the ACC, including its investigators, to be more effective.

Sophia-Ann Harris (née Solomon)

Chairman, Anti-Corruption Commission

Section One – The Anti-Corruption Commission (“the Commission”)

1.1 Role

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

1.2 Anti-Corruption Act (2019 Revision) (the “Act”)

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. It 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 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:

- a) retired judges of the Grand Court or the Court of Appeal;
- b) retired police officers;
- c) retired justices of the peace or magistrates;
- d) chartered or certified accountants;
- e) attorneys-at-law of ten or more years call or retired attorneys-at-law; and
- f) 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.

During the reporting period, Member Sophia-Ann Harris (née Solomon) (Chairman) and Member Kadi Pentney (née Merren) were appointed on 15 August 2016 and re-appointed at various

intervals. Member Kenrick Hall was appointed on 5 December 2017 and reappointed on 5 December 2019 for a three year term. Members Adrian (Gus) Pope and Simon Whicker were appointed on 15 & 24 August 2020 (respectively) for three year terms. (Biographies 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 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.
- 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 direct the Commission on 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.

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 PO or 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: 2nd Floor Artemis House, #67 Fort Street, George Town

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.

★ Confidential Reporting Line ★

+1 (345) 328-4388

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 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.

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 – 2020 – 2021 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:-

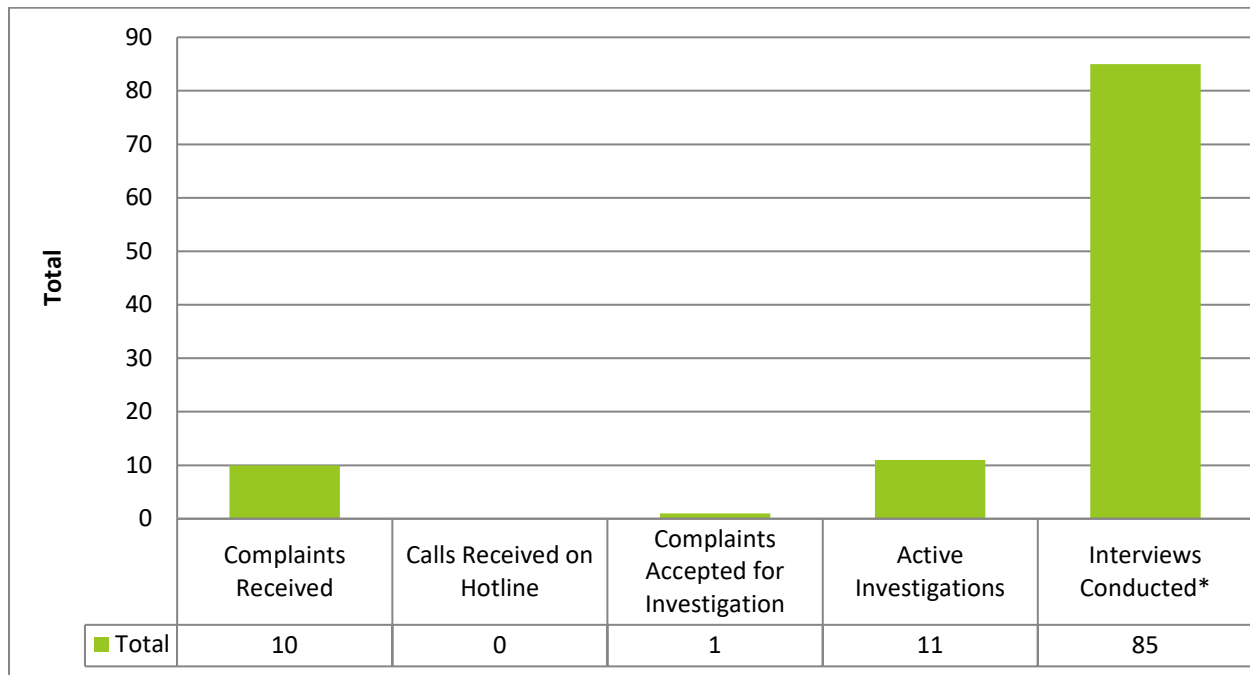
- name;
- occupation;
- resident district; and
- charge details.

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 2020 – 2021

Complaints, Investigations and Interviews

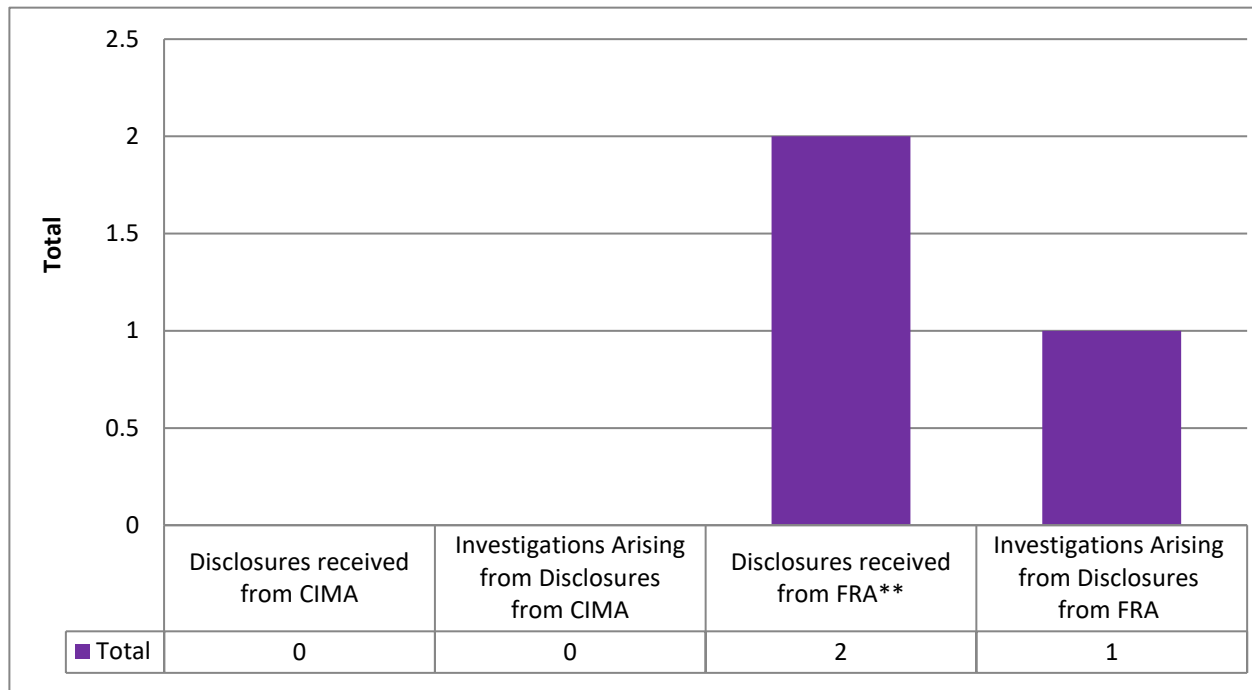


* Interviews conducted = 46 Suspects, 39 Witnesses

Outcomes of Arrests 2020 – 2021

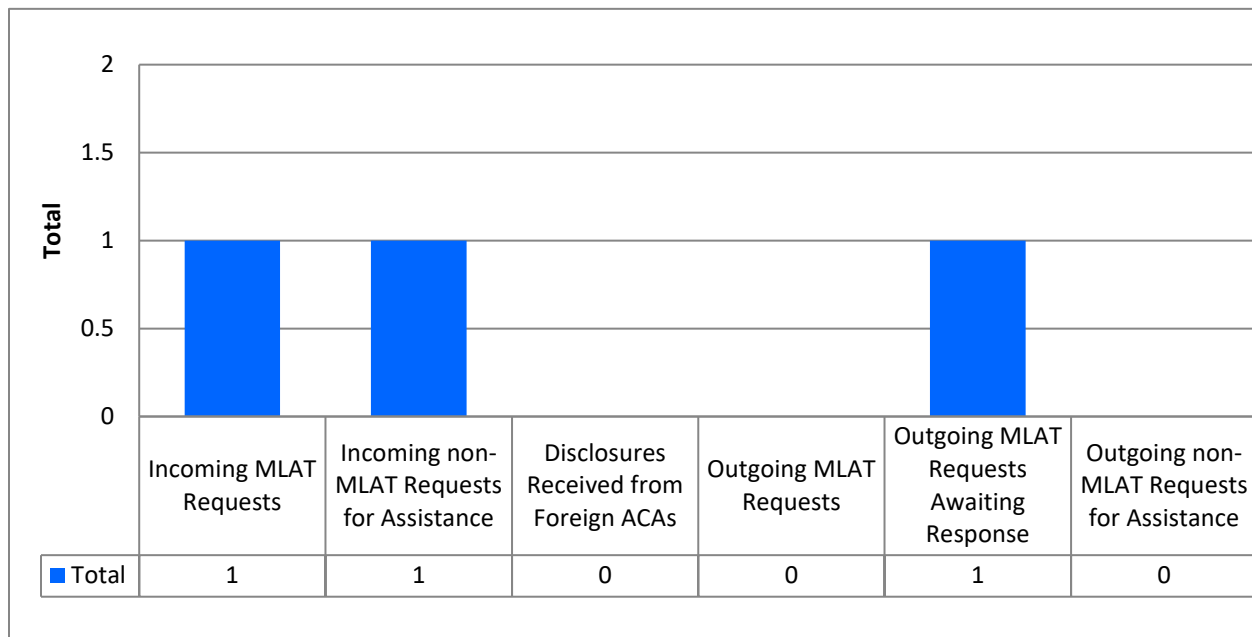


Interactions with Local Entities 2020-2021

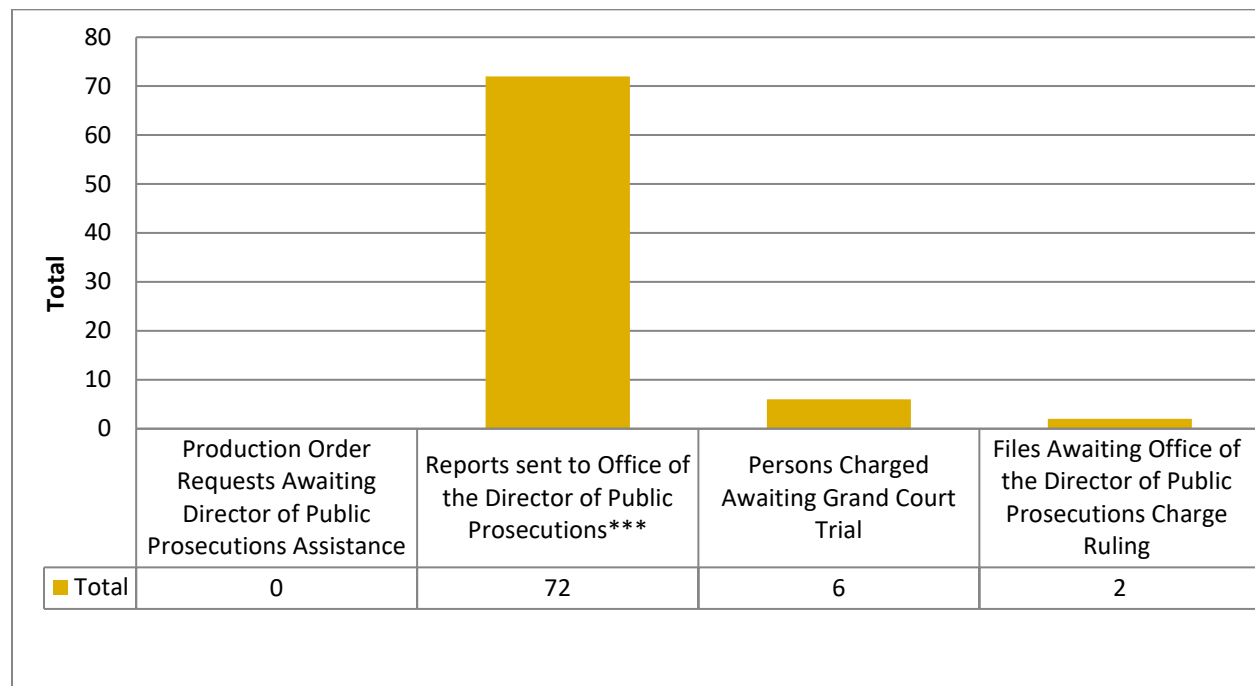


**Includes 1 disclosure on a matter not previously known to the ACC

Interactions with Overseas Entities 2020-2021



Interactions with the Office of the Director of Public Prosecutions 2020 – 2021



***Amendment to Methodology: Prior methodology for calculating the number of 'reports sent to 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 has therefore been adjusted to take these factors into account.

Section Five – Topical Issues

5.1 Legislation

The Commission continued to consider desirable amendments to the Act. On 13 November 2020, 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's finalised responses relating to the Draft Anti-Corruption (Amendment) Bill, 2020 (the "Bill") were submitted to the Attorney General's Chambers for further incorporation into the Bill on 12 January 2021. In conjunction with these amendments, it was agreed that an assessment of the ACC utilising the Jakarta Principles will be undertaken by the Commissions Secretariat with the assistance of the Attorney General's Chambers. The Commission reviewed the Anti-Corruption (Amendment) Bill, 2021 (second draft) dated 31 May 2021. The comments of the Commission on this draft were submitted after this reporting period and the Commission awaits an update from Legal Drafting. However, the ACC continues to work on the Amendment Bill to progress the amendments through the drafting process. The ACC will follow-up during the next reporting period.

5.2 ACC Policy Re: Responses

Members discussed whether the responses to complainants who make reports/complaints to the ACC should contain more detailed information related to the decision of the ACC, where appropriate. It was agreed that the decisions should continue to be drafted on a case-by-case basis, providing specific details where necessary and appropriate.

5.3 Memorandums of Understanding ("MOU")

Members were provided with copies of all MOUs signed between the ACC and other law enforcement entities. The agreement of these MOUs serves to enhance the work of the ACC.

Members also met with the Ombudsman, on 13 April 2021, to discuss the signing of an MOU between the two entities which would allow for collaboration as and when needed. Discussions continued beyond the reporting period.

5.4 International Anti-Corruption Coordination Centre ("IACCC") Membership

The Commission was accepted for Associate Membership in the IACCC and the Chairman, along with the Manager and Senior Investigator, attended the Associate Membership Scheme Launch on 30 July 2020. Additionally, the Manager and Senior Investigator completed the IACCC's Learning Needs Analysis which enables the IACCC to determine training needs of all Associate Members.

On 23 September 2020, the ACC issued a press release, in conjunction with the IACCC, advising of the ACC's Associate Membership in the IACC. In the press release which was also published on the ACC's website, the Chairman commented:

"The Anti-Corruption Commission is proud to join the IACCC Associate Membership Scheme. The network will serve as a valuable resource to our investigators in furtherance of our efforts to fight corruption, which often requires cross border international assistance. An environment of international partner agencies will hopefully aid in our current as well as future investigations and facilitate quicker and timely exchange of intelligence to our investigators. We are delighted that the Commission is now an official Associate Member".

5.5 Caribbean Financial Action Task Force ("CFATF")

5.5.1 Anti-Money Laundering Steering Group ("AMLSG")

The Chairman attended her first meeting of the AMLSG on 2 September 2020. Members will receive an information/briefing note from the CIG CFATF Coordinator during the next reporting period.

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

On 13 October 2020, the Crown Counsel/National Coordinator of CFATF provided a high level overview of the CFATF and FATF timeline to date, focusing on those areas/recommendations which impact the ACC. The Crown Counsel/National Coordinator of CFATF was invited back to facilitate a presentation on international cooperation and civil recovery as options for the ACC.

5.5.3 CFATF Related Updates

The Chairman and the Senior Investigator have continued to attend CFATF meetings as required by the CFATF and the Cayman Islands Government awaits a response from the CFATF following the formal submission of responses to the recommendations. In addition both the Chairman and the Senior Investigator attended the Mock Assessments on 18 and 23-25 November 2020. A number of virtual CFATF meetings and workshops were held on 20 and 30 November 2020 as well as on 1, 3, and 4 December 2020. The Post Observation Report for Cayman took place in February 2021. The Secretariat submitted the 2020 statistics as required by 31 March 2021. The Cayman Islands Government continues to the work on outstanding matters related to the recommendations. The Secretariat will continue to submit statistics as required.

5.6 Meeting with Cayman Islands Bureau of Financial Investigations (CIBI)

Members discussed the newly formed Cayman Islands Bureau of Financial Investigations and its remit. The Bureau was established in March 2020 as a result of the CFATF recommendations. On 13 April 2021, Members met the Bureau Manager with a view to developing a working relationship between the two entities in accordance with each entity's legal remit.

5.7 Sixth Annual Caribbean Commonwealth Association of Integrity Commissions and Anti-Corruption Bodies (‘CCAICACB’) (Virtual) Conference (“the Conference”)

A number of Members attended the Conference held virtually on 10, 18, and 25 June 2020 under the theme: *All in: Promoting Integrity, Combating Corruption*. Members discussed various components of the presentations and the lessons learned.

5.8 CCAICACB Annual Senior Leadership and Management Regional Training Programme

ACC Members participated in the CCAICACB’s 2020 Virtual Centre for Excellence Series under the theme of *Towards Accountability and Integrity in the Grenada Public Sector Systems*. The programme was held from the 27-29 October.

5.9 UK CPA BIMR Election Expert Representatives (via Zoom)

On 13 April 2021, Members engaged in a general discussion with the Representatives who were conducting an assessment of the 2021 General Elections (which was conducted virtually due to the current global health pandemic). The Representatives reviewed the processes and procedures surrounding the election and were also interested in whether there were any changes to the framework based on the previous report following the 2017 General Elections.

5.10 National Risk Assessment (“NRA”) Related Updates

The Senior Investigator continued to attend the NRA meetings and submitted statistics and wording, with the approval of the Chairman, for the draft NRA Report on 19 May 2021.

5.11 United Nations Convention Against Corruption (UNCAC)

Members discussed the CI Government’s efforts to have the United Nations Convention Against Corruption extended to the Cayman Islands. Efforts were underway for an extended period of time and a renewed effort culminated in additional considerations being given to such an extension by the UK Government. It is noted that on 14 December 2020 UNCAC was extended to Cayman.

5.12 Educational Needs/Opportunities

The Commission discussed both the Jakarta Principles and the CCAICACB Conference as educational tools/opportunities. It was agreed that it was important for additional information to be made available to the public to gain additional support and understanding. Members were asked to consider the messages that are most important so that a plan can be formalised.

Members further agreed that there are separate target audiences and messages which needed to be formalised in a long-term public relations plan. On 23 February 2021, the Public Relations & Education Coordinator attended the meeting in order to discuss the work to date on the educational opportunities being pursued in conjunction with the Elections Office related to messaging for the General Election. The joint campaign took on a dual approach which targeted voters and candidates to take a stance by way of

a pledge to report and stand against corruption in the election process. The ACC published statements on 15 March 2021 and 12 April 2021 detailing the education campaign, under the tagline of 'ACT' which stands for 'Against Corruption Today'. Both statements are available on the ACC website.

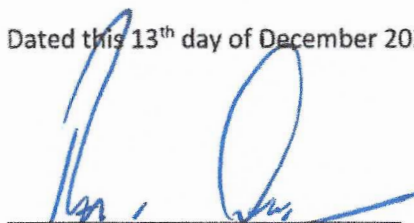
Members agreed that these were both examples of the need to increase education around the work of the Commission as well as its legislative remit.

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 Act;
- b. support the fulfilment of the CFATF recommendations;
- c. strive to enhance reporting of matters to the public; and
- d. continue to seek to enhance the independence and support of the Commission.

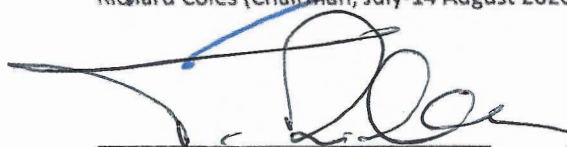
Dated this 13th day of December 2021.




Richard Coles (Chairman, July-14 August 2020)



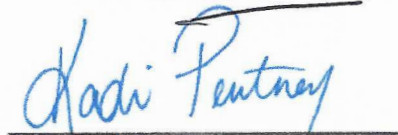
Sophia Harris (Chairman, 15 August-June 2021)



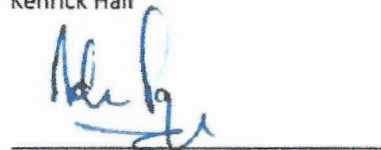
Timothy Ridley, OBE (Member, July-14 August 2020)



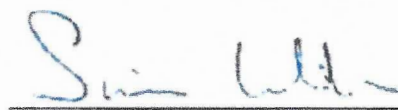
Kenrick Hall



Kadi Pentney



Adrian (Gus) Pope



Simon Whicker

Appendix 1 – Members’ Biographies

Mrs. Sophia-Ann Harris (née Solomon) (Chairman)



Sophia-Ann Harris (née Solomon) was the founder of the law firm Solomon Harris which was established in 1987 and of which she was the firm’s Managing Partner. The firm merged with Bedell Cristin in 2018 and Mrs. Harris continued as Managing Partner until her retirement from the firm on the 15th August 2020. Formerly, Ms Harris served as a council member of the Cayman Islands Law Society and the Caymanian Bar Association. Mrs. Harris’ specialties included banking, investment funds, corporate and commercial law, trusts (she is a Trust and Estate Planner), immigration and all aspects of local licensing law. She is a past Chairman of the Business Staffing Board and of the Immigration Appeals Tribunal. Mrs. Harris served as a past Chairwoman of the Board of Directors of Butterfield Bank (Cayman) Ltd but continues on its Board of Directors. 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 sits on the Cayman Islands Constitutional Commission and is also a member of the Board of Directors of the Caribbean Utilities Company. Mrs. Harris was first appointed as a Member of the Anti-Corruption Commission on 15 August 2016 for a three-year term and was re-appointed for a further three years. On 15 August 2020, Mrs. Harris was appointed as Chairman until the end of her current tenure.

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 Sagicor 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. 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. Adrian (Gus) Pope



Adrian (Gus) Pope retired in 2008 after more than twenty years with Maples and Calder, the largest law firm in the Cayman Islands. During his time with the firm, he served as global Managing Partner and head of its investment funds practice. Subsequently, he served on the Board of the Cayman Islands Monetary Authority from 2015 to 2018. Mr. Pope was called to the Bar of England and Wales and admitted as an attorney-at-law in the Cayman Islands in 1987. He holds law degrees from Cambridge University and the University of Pennsylvania. Mr. Pope was appointed to the Commission on 15 August 2020 for a three year term.

Mr. Simon Whicker



Simon Whicker retired in 2012 from his position as Partner of KPMG in the Cayman Islands. During his tenure with KPMG Mr. Whicker served as Head of Advisory Services for Cayman and also Head of Insolvency for KPMG Americas. Mr. Whicker has served as a Trustee of the Chamber Pension Plan, Council Member of the Cayman Islands Society of Professional Accountants, Head of the Insolvency Sub-Committee, and Trustee of the Central Caribbean Marine Institute. During his professional career, Mr. Whicker was appointed by the Grand Court various times over a large number of Cayman Islands Companies. Mr. Whicker was appointed as a Member on 24 August 2020 for a three year term.

Appendix 2 – Offences under the Act

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 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 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 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 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 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 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 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 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 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 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 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 Act, 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 Parliament while others can be committed by any member of the public.