



The Cayman Islands Constitution: *A Reflection of Who We Are*

EXPLANATORY NOTES

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EXPLANATORY NOTES

Introduction

The aim of this paper is to explain in more detail the PPM Government's vision and proposals for constitutional reform set out in the "Summary of Proposals" issued 12th January, 2008. The reasons for change are these:

- We do not want to seek independence from the United Kingdom. However, we believe that the present constitution fails to reflect the values of the modern state that we have become. We therefore propose a *modern relationship between the Cayman Islands and the United Kingdom*, based on principles of mutual respect and greater self-determination.
- We propose *making our nation more democratic* by placing greater responsibility on the elected representatives of the people and making our electoral system fairer.
- We believe that our status as a mature country will be raised by the ability to conduct some of our *external affairs and international agreements* ourselves and to show the world that future governments will always *respect everyone's fundamental human rights and freedoms enshrined in a Caymanian bill of rights, reflecting our heritage and values*.
- We wish to modernize the constitution by setting up checks and balances in order to prevent the abuse of power and safeguard our reputation for *honesty, integrity, efficiency and responsibility*.

Consultation, Referendum, Negotiation

Before we start negotiations with the United Kingdom Government to achieve these measures, it is important to give all members of the public an opportunity to discuss the modernization of the Cayman Islands' Constitution, and then to express their views in a national referendum.

To listen to your views, the government intends to engage people in all three islands in a discussion on the issues presented in this paper, which will entail holding a number of public meetings. As a means of measuring the sentiments of the citizens, it is our intention to hold a *national referendum* in May 2008. After that, the timetable will depend on negotiations between the United Kingdom and the Cayman governments.

We look forward to receiving constructive feedback on these proposals from you, the Caymanian people.

What is a constitution?

- A constitution sets out how we are governed. It establishes the respective powers of bodies such as the Governor, the Cabinet, the Legislative Assembly, the courts and other officers such as the Attorney General.
- A constitution therefore provides a framework for the decisions that are made about our lives, but it can also set out the rights and freedoms that we possess, both as a nation and as individuals.
- A constitution therefore reflects our identity and the values we hold, which in turn fundamentally impact our social, economic and political success.

Our Present Constitution

- Under the present constitution the Governor (rather than the Legislative Assembly or the Cabinet) has the ultimate power to make laws for the Islands. And the Cabinet is not fully democratic in that it has three members (the Chief Secretary, the Financial Secretary and the Attorney General) who are not elected but are civil servants appointed to Cabinet by the Governor in his discretion.
- Although in some cases the Governor must heed the advice of the Legislative Assembly and consult the Leader and the Cabinet, in other matters the Governor has unrestricted power. These matters are: defence, external affairs, internal security, the police and appointments to public office, including the judiciary.
- Under the present constitution there is no restraint on the power of government. In other modern democracies the majority is expected to respect and uphold the fundamental rights of every individual in matters such as property, liberty and freedom of expression and religion.
- The present constitution says nothing about issues such as environmental protection or the need for good governance of the highest integrity.

Keeping Things the Same

Continuing as a United Kingdom Overseas Territory

We believe that there is no desire in the Islands to seek independence from the United Kingdom. Rather, our aim is to *improve* the relationship with the United Kingdom, with a view to making our local government more democratic, efficient and accountable, and to prevent any recurrence of the unfortunate incidents that have in the past strained our relationship with the Mother Country.

Keeping the “Westminster system” of government

In proposing constitutional reform, we wish to develop and *improve* the current system of government and not to introduce institutions that are foreign to our present system.

There have been suggestions that we should radically change our existing system of government, for example, by introducing a Senate comprising non-elected members. Others have suggested a US-style presidential system under which executive authority would be given to unelected persons chosen by the president, rather than to elected representatives, as in the Westminster system.

We are not in favour of these suggestions. We feel that adequate and positive constitutional reform can take place within the present system of government that has been operating in the Cayman Islands since 1972 and comprises a Legislative Assembly and the Cabinet (formerly the Executive Council).

Specific Proposals for Change

Preamble

The present constitution does not have a preamble (introductory statement of its purpose and the values of the nation). Although a preamble cannot be enforced directly, it informs the interpretation of the constitution and we therefore propose to start the new constitution with a preamble which proclaims our *historical context, fundamental values and aspirations*. Some of these were set out in the 2003 Draft Constitution, the preamble of which is annexed to this document.

Human Rights

In democratic societies certain rights and freedoms are recognized as being essential to reflect the *moral, spiritual and democratic values of the nation*. Enshrining these rights in the constitution highlights their importance and gives them special protection.

Our present constitution does not specifically protect the individual from government interference with his or her fundamental liberties. The 1991 and 2001 Constitutional Commissions recommended a constitutional bill of rights and the United Kingdom government has requested it.

Many rights are enshrined in international conventions to which the Cayman Islands have been a party for many years. Recently, Caymanians have been given the right to petition the European Court of Human Rights, in Strasbourg, France, for breach of the European Convention on Human Rights. However, we believe that *these rights should be 'brought home'*, so as to be applied in these Islands in accordance with our own values and traditions.

The basic rights that are protected in virtually every democratic constitution seek two objectives. First, they protect the dignity of the individual and ensure equal respect to everyone irrespective of race, creed, sex or colour. Secondly, they protect the integrity of the democratic system by allowing the free flow of information and informed debate.

Rights protecting dignity include:

- the right to life;
- the right to not be subject to cruel or degrading treatment, including torture or slavery;
- the right to a fair trial;
- the right to property;
- the right to religion; to marriage between members of the opposite sex; to family life and the privacy of one's home and correspondence

Rights promoting democratic integrity include:

- the right to free speech; and
- the right to lawful and peaceful demonstration.

Some rights are *absolute* (such as the right to not be tortured or not to be submitted to slavery). Others can be *limited* to protect other rights or public morals or national security etc. In this way the right of free speech does not permit pornography, or defamation.

Another advantage of having our own bill of rights is *the opportunity to add rights that are*

particularly Caymanian. As has been done in other countries which have recently changed their constitutions, we would suggest:

- the right to *the protection of our environment*, our heritage, our oceans, our wildlife and the bio-diversity of our land. Such a right would of course be subject to appropriate social and economic development;
- the *rights of children* in our society to be free of abuse or exploitation;
- the *right of reply*. Everyone should have the right to reply to false allegations made about them, and
- the right of *access to government information* and to *good administrative practice*, that is, decisions from public officials which are fair, lawful and reasonable.

Where rights are breached by the decisions of public officials, everyone should have access to the courts to challenge the decision. Where the challenge is against a law passed by the Legislative Assembly, the courts should only have power to *declare* that the law has offended the right in question, but it should be up to the legislature to decide whether and how to put it right. As in other countries (such as the United Kingdom, New Zealand and Canada) it is expected that the legislature will normally follow the court's judgment, but its ultimate sovereignty not to do so would be preserved.

Upgrading the Role of Representatives

Our present constitution provides that:

- Although the Leader of Government Business is the head of the largest party in the Legislative Assembly and forms a Cabinet which administers policy, the *Governor* presides over the Cabinet and sets the Cabinet's agenda.
- The *Cabinet is not fully democratic* as it includes three non-elected members (the Chief Secretary, the Financial Secretary and the Attorney General) - all of whom are civil servants appointed to Cabinet by the Governor in his discretion.
- Although in general the Governor must consult the Cabinet and act with its consent (or with the advice and consent of the Legislative Assembly), the Governor is nominally responsible for making policy for the people of these Islands and may in a number of circumstances act *without consulting or following the advice of the Legislative Assembly or Cabinet*.

Believing that those who are elected by our people are in the best position to make decisions for the benefit of the people, *we make the following proposals:*

The Parliament

- *The freely elected Legislative Assembly and the Cabinet* (and not the United Kingdom, through the Governor), should be primarily responsible for making the laws and policy for the Cayman Islands. To reflect this enhanced status, the Legislative Assembly should be called *Parliament* and members referred to as *Members of Parliament*. To avoid confusion, this paper uses the proposed titles.

The Premier

- In line with modern international practice, the Leader of Government Business should be known as the *Premier*. He or she should not serve more than two successive terms and should be the Member of Parliament who has the support of the majority of members of the winning party or, if no party wins, the majority of all members.

- In view of the altered relationship between our elected representatives and the Governor, the Premier (rather than the Governor) should set the agenda for Cabinet meetings and should act as chair of the Cabinet.

Emergency powers

- We recognise that the Governor should continue to exercise some reserved and emergency powers. However, we propose that the constitution should expressly state that *the Governor should always act as trustee of, and in the interests of, these Islands*. He should therefore always seek to reconcile our interests with those of the United Kingdom, and any intervention by the Governor should only be exercised when absolutely necessary and *in proportion* to the extent of the problem. When he fails to follow the advice of the Premier or Cabinet he should always provide full reasons for not doing so.

Judicial Review of the Governor's powers

- At present some of the Governor's actions are protected from legal challenge. We believe that the Governor's decisions, like those of the Cabinet and all public officials, should conform with the rule of law. We therefore propose that *the Governor's actions should be subject to judicial review in all cases*.

Keeping the Premier fully informed

- The Premier should at all times be *kept fully informed* of the Governor's special responsibilities and should be *consulted* on matters such as the dissolution of Parliament, the appointment of the Cabinet Secretary and other senior appointments.

Full Ministerial government

- There should be *full ministerial government*. This means that non-elected members should no longer be members of Cabinet. There should be seven (7) elected members in the Cabinet, known as Ministers, including the Premier. Provision should be made for the appointment of one of the Ministers as *Deputy Premier*.

Exercising Power in the interest of the country

- Ministers and all public officials should exercise their powers in the interest of and for the benefit of the country and not for their private interest or benefit.

Role of the Opposition

- It is important to recognise the role of the Opposition. Standing Orders should therefore establish *fair procedures in the legislature*, ensuring that all members have adequate notice of all Bills and Motions etc., so they can properly prepare for and contribute to debate. Standing Orders should not be suspended without good and sufficient reason.

The Speaker

- In order to ensure impartiality the *Speaker should not be a Member of Parliament*.

Modernising the Governor's Special Powers

The Governor's overriding powers to make laws

Under the present constitution the Governor has wide discretionary powers to exercise in *emergency* situations and the United Kingdom generally can intervene in order to maintain "*peace, order and good government*" in the Cayman Islands.

We have above proposed that the Governor in all cases act for the benefit of the Islands and in a way that is justified and proportionate. In addition, we propose that:

- The overriding powers of the Governor and of Her Majesty to make laws for the Cayman Islands without the assent of the Parliament should be exercisable only in situations of emergency, and only *after consultation with the Cabinet*, unless consultation is impracticable.

Delegation of special responsibilities

In particular, the Governor is given special responsibilities in the areas of *defence, external affairs, internal security, the police and public service appointments*.

Unlike some other British Overseas Territories with new constitutions, the Governor *cannot delegate* any of these special responsibilities to our elected representatives and is not even required to consult the Premier or Cabinet on these questions.

We believe that such powers are out of place today and instead propose:

- The Governor's *discretion to delegate* responsibilities to members of Cabinet should be *extended to all his responsibilities and powers*.
- There should, therefore, be greater *lines of accountability and co-ordination between the Governor, the Commissioner of Police and the Cabinet* on matters of internal security and police. This view is supported by the recent report of the United Kingdom National Audit Office entitled *Managing Risk in the Overseas Territories*. You may find an extract of the report which is annexed to this document.

Internal Security and the Police

To help achieve this, there should be a *National Security Council* chaired by the Governor, and comprising the Premier, the Attorney General, the Commissioner of Police and two other Ministers appointed by the Governor on the advice of the Premier. Its purpose would be to advise the Governor on questions concerning internal security or the police. The Governor should act in accordance with this advice unless he considers it would be contrary to Her Majesty's interests. The Commissioner of Police should provide the National Security Council with regular briefings.

External Affairs

- In the area of *external affairs*, the Cabinet should always be *consulted in advance of any international agreement* which affects these Islands. Any agreement which would affect internal policy or require implementation by legislation should be approved by Cabinet.
- In addition, we should have *the power to enter into some international agreements* ourselves. This is because there is no reason for the United Kingdom to have power over our relationships with other countries when these are of no significant interest to the United Kingdom or do not prejudice the United Kingdom. It is also important for our status in the world to show that we are responsible and able enough to represent ourselves in key international venues and to help fashion key regional treaties.
- We should seek to limit the circumstances in which the United Kingdom may *extend legislation applicable to the Cayman Islands*, and establish consultative procedures for so doing.

Deputy Governor

Provision should be made for a *Deputy Governor*, who shall be a Caymanian.

The Civil Service

The PPM government respects the long-standing principle that there needs to be **an independent civil service** in order for government to continue to function properly for the benefit of the Islands, irrespective of which party is in control of the Parliament.

To this end, the PPM government in no way wishes to interfere with the appointment, discipline or dismissal of public servants. This responsibility should be that of the Governor or of public officers in accordance with suitable legislation.

However, we do stress that the constitution should recognise that it is the elected representatives who are obliged to make the laws and policy for the country and that it should therefore be made clear that it is the role of civil servants to implement to the best of their abilities the policies of the elected government of the day.

The Cabinet Secretary

Although the office of Cabinet Secretary is an established position in the Cayman Islands Government, it is not entrenched in the current constitution.

In line with the 2001 Constitutional Review and the 2003 Draft Constitution, it is proposed that the constitution *establishes the Office of the Cabinet Secretary* and outlines the responsibilities of that office.

The Cabinet Secretary would be a Caymanian, appointed by the Governor after consultation with the Premier to be responsible for:

- providing free, frank and politically neutral policy advice to the Cabinet and where appropriate, the Premier;
- coordinating the development and implementation of policy between ministries and portfolios and across the wider government sector to ensure that government policy is developed coherently and implemented as agreed;
- providing administrative and secretarial support to the Cabinet and Premier to allow high quality and effective process of decision making by government.

The Judiciary and the Judicial & Legal Services Commission

The Cayman Islands' reputation rests greatly on the existence of the rule of law, access to prompt justice and a high quality and independent judiciary. The constitution must endorse and seek to continue this. It should therefore provide that:

- The Cabinet must provide adequate support to the judicial administration and all public officers must at all times preserve the independence of the judiciary and the rule of law.

At present the judges in our Court of Appeal are appointed by the Governor on advice from the United Kingdom and the judges of the Grand Court are appointed by the Governor in his discretion. Most countries nowadays (including the United Kingdom) appoint judges by an independent commission which seeks to ensure that the judges are both *highly competent and independent*. We therefore propose that:

- all our judges and magistrates, in future, be appointed by a new *Judicial and Legal Services Commission*, headed by the Chief Justice and comprising also the President of the Court of

Appeal, one member each from the Cayman Islands Bar Association and Law Society, and two non-lawyer members appointed by the Governor and recommended by the Premier and Leader of the Opposition, respectively. The commission would also consider whether there should be divisions of the courts.

Revisiting the Role of the Attorney General to Prevent Conflict of Duties

The Attorney General is currently appointed by the Governor in his discretion, and has a multiplicity of potentially conflicting roles.

At present the Constitution says that he is the principal legal adviser to the government. One difficulty is that our government has two elements, the elected part (Legislative Assembly and Cabinet) and the non elected part (the Governor). Therefore, the Attorney General may be subjected to conflicting duties. Some Attorneys General have operated on the basis that their primary duty is to the Governor, though this is not what the constitution says. To add to the confusion of his roles, the Attorney General is also a voting member of both the Cabinet and the Legislative Assembly, and he is also responsible for criminal prosecutions.

In order to remove *the conflict of duties*, which could dent confidence in the Attorney General's impartiality, we propose that:

- The Attorney General should *no longer be a member of the Cabinet or Parliament*. However, he should *remain as the principal legal adviser* to the Cabinet and for that purpose alone should be required to attend both the Cabinet and Parliament.
- The Attorney General *no longer be responsible for criminal prosecutions*;
- A new office of the *Director of Public Prosecutions* be established, responsible for all criminal prosecutions in the Islands and should be appointed by the Judicial and Legal Services Commission;
- The Attorney General *be appointed by the Governor, on the advice of the Premier*. His or her qualifications, independence and suitability for the office must however be endorsed by the Judicial and Legal Services Commission.

Oversight bodies

It is good practice in a democracy to provide independent checks on the efficiency, fairness and integrity of all our institutions.

Caymanians have seen that the creation of the office of the *Complaints Commissioner* has had a profound effect in investigating government agencies whose practices contravene the principles of fairness, efficiency and good administration. The PPM government believes that the Office of the Complaints Commissioner should be just the first step towards promoting transparency and integrity in government and ensuring that decisions are made in the best public interest. It is on this premise therefore, that the PPM government proposes the creation of the following independent bodies in the Cayman Islands Constitution:

- **The Human Rights Commission**

Like the existing Human Rights Committee, this new commission would seek to ensure that *human rights (as set out in international treaties to which the Cayman Islands is a party, as well as in the new Bill of Rights), are respected*. It would also help individuals with credible complaints about breaches of human rights by mediating those disputes or, if necessary, *help them bring their complaints* to the courts or other appropriate bodies.

- **Commission for Standards in Public Life**

This commission would lay down standards for public life to ensure the *prevention of conflict of interest or corruption*.

The Commission should immediately assist the drafting of a law to impose sanctions on any Minister or public official who employs his or her power, or seeks to influence any person to use their power, for the purpose of obtaining or conferring any material benefit or advantage for the private gain of any Minister or public official.

The Commission would be responsible for *monitoring standards of ethical conduct*, particularly by the holders of certain offices such as members of Parliament, Chief Officers, etc. The commission would supervise *Registers of Interest, and investigate potentially corrupt or dishonest practices*.

We suggest that membership of the commission should include a Chair and some four (4) members, all appointed by the Governor after consultation with both the Premier and Leader of the Opposition. One member should be an experienced lawyer and one an experienced chartered accountant.

Elections

Constituencies & one person, one vote

Although this has been a controversial issue, we believe there is widespread support for the *one person, one vote principle*. For Grand Cayman it is proposed that there be single-member constituencies throughout. It is proposed that the Sister Islands remain a single constituency, sending two members to the Parliament, but that each voter should have only one vote. So the two candidates who received the greatest number of votes would be elected. The effect of these proposals is that the number of MPs would increase from 15 to 17.

The boundaries of the new constituencies in Grand Cayman will need to be reconsidered by the Boundaries Commission to take into account the demographic changes since its first report in 2003.

The revised constitution also needs to enable suitable representation of the Sister Islands if no Sister Islands MP is in the Cabinet.

For reasons of what is practical and what is fair, these changes to constituencies and voting rights may not come into effect before the 2009 election; but, if not, they would apply to all subsequent elections.

Eligibility to vote and stand for election

We propose the compromise reflected in the 2003 draft of the Constitution. This would make several adjustments to the existing rules. Because of changes in the United Kingdom rules, the existing requirement of Caymanian Status and British Overseas Territories Citizenship by virtue of a connection with the Cayman Islands needs to be extended to include those with Caymanian Status who have British citizenship by virtue of a connection with the Cayman Islands.

As regards the right to be registered as an elector (voter), the existing requirements concerning residence, domicile and parentage would be replaced by a single residence requirement, for 2 out of the 4 years preceding registration. Of course, those who now have the right to be registered would not be affected.

As regards the right to stand for election, the domicile requirement would remain, but the parentage/residence rules would be adjusted. For those with a Caymanian parent, the residence

requirement would be 5 out of the 7 years preceding nomination. For those without a Caymanian parent the requirement would be Caymanian Status for at least 25 years, and residence for 20 years out of the 25 years preceding nomination.

The Elections Law

- The PPM government intends to amend the Elections Law prior to the constitutional revision, in part to *put back and reform the campaign finance rules which were largely undermined in 2004.*
- In future, significant changes *to the Elections Law should not be made without either:*
 - (i) the recommendation of the Supervisor of Elections,
 - (ii) a declaration by the Premier and the Leader of the Opposition that the change is minor or non controversial, or
 - (iii) a referendum.

Referendums

The revised constitution should provide for people-initiated referendums. This should require a petition signed by not less than 20% of the electorate. It would then be the duty of the Parliament to settle the wording of the referendum question(s) and cause the referendum to be held within a reasonable period.

The decision of the referendum should be binding (provided that there is no inconsistency with human rights or other parts of the constitution) if passed by more than 50% of the electorate – advisory if passed by a lower percentage.

Constitutional Amendments

Further amendments to the constitution should not be made without a referendum, except for amendments that the Premier and the Leader of the Opposition declare to be minor or non controversial.

Please Note

Copies of the 2003 Draft constitution are available at all public libraries and may be accessed on our website by referencing our [resources/ constitutional review 2001 links](#).

If you have any questions about these proposals, please contact the Constitutional Review Secretariat which can advise you of the public meeting dates. If you are not already a registered elector, and you do wish to vote on the referendum, you must get registered with the Elections Office no later than February 29, 2008.

Let's Shape Our Future Together!

Appendix 1

STATUTORY INSTRUMENTS

200[3] No. XXXX CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Cayman Islands Constitution Order 200[3]

Made - - - - [xxxxxx200[3]]

Laid before Parliament [xxxxxx200[3]]

Coming into force in accordance with section 1(2)

At the Court at Buckingham Palace, the ** day of ** 200[3]

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1. – (1) This Order may be cited as the Cayman Islands Constitution Order 200[3].
(2) This Order shall come into force on such day as the Governor, acting in his discretion, may appoint by proclamation published on a Government Notice.

Interpretation

2. – (1) In this Order –

“the appointed day” means the date on which the Legislative Assembly is next dissolved after the coming into force of this Order;

“the Constitution” means the Constitution set out in Schedule 2 to this Order.

(a) 1962.c.19

Whereas the people of the Cayman Islands, recalling the events that have shaped their history and made them what they are, and acknowledging their distinct history, culture and Christian heritage and its enduring influence and contribution in shaping the spiritual, moral and social values that have guided their development and brought peace, prosperity and stability to those islands, through the vision, forbearance, and leadership of their people,

Affirm their intention to be –

- A God-fearing country based on traditional Christian values.
- A caring community based on mutual respect for all individuals and their basic human rights.
- A community which practices honest and open dialogue to ensure mutual understanding and social harmony.
- A safe, secure and law abiding community.
- A country which is free from crime and drug abuse.
- A country with an educational system which identifies and develops on a continuing basis the abilities of each person, allowing them to reach their full potential and productivity.
- A community which encourages and prepares young people to assume leadership roles.
- A country which provides a comprehensive healthcare system.
- A community protective of traditional Caymanian heritage and the family unit.
- A country with a vibrant diversified economy, which provides full employment.
- A country which makes optimal use of modern technology.
- A country which manages growth and maintains prosperity, while protecting its social and natural environment.
- A country which respects, protects and defends its natural resources as the basis of its existence.
- A country with open, responsible and accountable government, which includes a working partnership with the private sector and continuing beneficial ties with the United Kingdom.
- A country with an immigration system which protects Caymanians and security to long-term residents.

Now, therefore, the following provisions shall have effect as the Constitution of the Cayman Islands.

Appendix 2

Conceptual model: Recognising the optimal allocation of risks between the UK and Overseas Territories

Generally accepted rule for the efficient allocation of risks between parties usually incorporate two main principles:

Which party is best placed to influence the occurrence of the risk;

Which party would incur the consequence of the risk should it transpire, and is therefore best incentivised to prepare and mitigate.

In practice, determination is complicated due to “moral hazard”, the possibility that the party best placed to prepare will not in fact do so, expecting that the other party would meet any future costs of rectification or restoration.

Clearly the balance will vary between Territories according to their circumstances. But the overall conclusion from the analysis below is that in populated Territories, most risks are inherently shared between the local community and the UK.

Material Risks in the table below are derived from the output of the NAO survey of Governors and governments, as most significant in terms of probability and impact.

Risks	Constitutional Responsibility	Rationale for risk allocation in terms of managing occurrence and consequences	Implications for optimal allocation of responsibility
External Security/ Defence	UK – Governor	UK is best placed to manage the risk. Only the UK has sufficient specialist resources to mount a defence, and would face most costs if the risks transpired.	UK - Governor
Internal Security	UK- Governor	In practice, the great majority or resource for maintaining internal security are usually provided by Territory authorities. And the consequences of crime and insecurity, short of major civic disorder requiring UK intervention, would be incurred mainly by and within the Territories themselves. Some specialist expertise and technical support is likely to be best provided externally, from the UK.	RISKS SHARED. Approached to increase local participation in law enforcement issues are most likely to be effective.

Risks	Constitutional Responsibility	Rationale for risk allocation in terms of managing occurrence and consequences	Implications for optimal allocation of responsibility
Natural Disaster	Local governments	In practice, the great majority of resource for maintaining internal security are usually provided by Territory authorities. And the consequences of natural disaster, short of extreme and lasting economic damage, would be borne by the Territories themselves. To the point at which disaster would demand major UK assistance would vary according to each Territory's economic strength or range of capabilities.	Local government, except where local finances and contingencies are weak compared to the scale of the threat.
Transport Safety and Security	UK – Governor	The UK influences Territories' exposure to risk by entering into international commitments and standards on their behalf. It could also incur reputational and financial damage if local failures led to disasters. Some specialist expertise and technical support is likely to be best provided.	RISKS SHARED.
Offshore Financial Services	Government in four Territories. Governor in three Territories.	The UK influences Territories' exposure to risk by entering into international commitments and standards on their behalf. It could also incur reputational and financial damage if failures led to financial abuse or scandal. Conversely, the Territories, or firms within them, incur most of the costs of regulation, and face many of the commercial and economic risks if regulation fails, for example if their financial services were to be internationally blacklisted.	RISKS SHARED. A co-operative approach is likely to be most effective for both sides.
Deficit in Public Finances	The local government leads in most Territories with settled populations. UK elsewhere.	Except in DFID-assisted Montserrat, St Helena and Pitcairn, local governments raise and deploy their own financial resources. Consequences of poor financial management would initially be met locally, through budget cuts and other corrective measures. But in the case of more severe financial difficulties leading to widespread hardship and unrest there would be practical and moral pressures on the UK to provide at least temporary assistance.	Local government lead, but with UK oversight to prevent overstretch and to constrain short-termist decision making.



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