



Constitutional Commission Policies and Procedures Manual

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Preface

The purpose of this manual is to act as an operational guide for the members of the Constitutional Commission (the Commission).

It specifies the internal procedures, rules and processes that the Commission has established to govern its operation. In furtherance of transparency and good governance this manual will be published on the Commission's website to assist the members of the public to understand the operation of the Commission including the process of public participation and the opportunity to be involved in strengthening the democratic process.

The Constitution of the Cayman Islands was accepted by the people of the Cayman Islands by Referendum Vote on 20th May, 2009 and established by the Cayman Islands Constitution Order 2009. (*Statutory Instrument 2009 No. 1379, made on 10th June, 2009 at the Court at Buckingham Palace by Her Majesty, Queen Elizabeth II with the advice of The Queen's Most Excellent Majesty in Council (Privy Council) in exercise of powers conferred by sections 5 and 7 of the West Indies Act 1962 and all other powers enabling Her to do so*). The Instrument was laid before the UK Parliament on the 17th June, 2009. This instrument revokes and replaces the Cayman Islands Constitutional Order 1972 and its amending orders, following constitutional negotiations between the United Kingdom Government and the Cayman Islands Government.

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1. Constitutional Guidelines

The constitutional guidelines for the Constitutional Commission (the Commission) are found in Section 118 of the Cayman Islands Constitution Order 2009 (the Constitution) and reads as follows:

- 118.**-(1) There shall be in and for the Cayman Islands a Constitutional Commission.
- (2) The Constitutional Commission shall consist of a Chairman and two other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least one of whom shall be an experienced lawyer.
- (3) The functions of the Constitutional Commission shall be –
- (a) to advise the Government on questions concerning constitutional status and development in the Cayman Islands;
 - (b) to publish reports, discussion papers, information papers and other documents on constitutional matters affecting the Cayman Islands;
 - (c) to promote understanding and awareness of this Constitution and its values;
and
 - (d) to exercise such other functions as may be prescribed by a law enacted by the Legislature.
- (4) In the exercise of their functions, the Constitutional Commission and its members shall not be subject to the direction or control of any other person or authority.
- (5) Subject to this Constitution, further provision relating to the establishment and operation of the Constitutional Commission may be made by the Legislature.

2. The Role and Work of the Commission

2.1 Role

In accordance with Section 118 of the Constitution, the Commission has been formally created to take responsibility for promoting the understanding and awareness of the Constitution by publishing reports, discussion papers, information papers and other documents on constitutional matters affecting the Cayman Islands. Additionally the Commission is to act as an advisory body to the Government on questions concerning constitutional status and development in the Cayman Islands. In exercising its functions, the Commission will be guided by the principle that all matters at hand must have input from interested or concerned residents as appropriate in order to make an informed decision. It will maintain clear and open governance and ensure that open, non-partisan debate is an integral part of its process.

2.2 Control

The Commission is a wholly independent body that is not subject to the direction or control of any other person or authority. Furthermore the Commission is non-partisan, non-profit making and non-sectarian.

2.3 Working Phases

The work plan of the Constitutional Commission will be divided into the following phases, which may operate concurrently:

- Organisational phase - during which the Commission will adopt its rules of procedure and work plan and form thematic committees;
- Public Education Phase - will inform the public about the work of the Commission and its process. This will include promoting understanding and awareness of the Constitution and its provisions through various media;
- Public Consultation Phase - during which the Commissioners will meet with key stakeholders and members of the public to engage in discussions to gain feedback/solicit and determine the views of the public on Constitutional matters;
- Research and Expert Consultation Phase – during which the Commissioners will consult with experts for clarification of constitutional matters;
- Report Writing Phase - during which the Commissioners will analyse the views expressed by the public and prepare reports, papers and other documents as appropriate in response to those views; and
- Advisory Phase - during which the Commissioners will advise the Government, either at the request of Government or on the initiative of the Commission, on matters concerning constitutional status and development in the Cayman Islands.

3. Composition, Appointments and Responsibility of the Commissioners

3.1 Composition

The Commission must consist of a Chairman and two other members, at least one of whom shall be an experienced lawyer.

3.2 Appointments

All members of the Commission are appointed by the Governor, acting after consultation with the Premier and Leader of the Opposition.

3.3 Terms and Remuneration

Appointments to the Commission will be for renewable terms of between two to four years, with members serving for different periods, so that new appointments or re-appointments can take place in a staggered fashion. The members are volunteer members of the public who receive a stipend of \$100 per meeting with a maximum stipend of \$500 per month. The Chairman receives an additional \$100 per meeting for a total of \$200 per meeting with a maximum stipend of \$1000 per month.

3.4 Responsibilities

The Chairman and the other members are expected to attend each meeting and participate in the activities of the Commission. In addition to other administrative responsibilities, the Chairman presides at each meeting whilst overseeing the participation of all of the Commissioners in the activities of the Commission.

3.5 Concerns

Concerns regarding the behaviour of a Constitutional Commission member as it pertains to their role on the Commission must be submitted in writing to His Excellency the Governor.

4. Administrative Matters

4.1 Agendas

There shall be a standard format for the creation of an agenda for any meeting which shall include the following:

1. Call to order
2. Confirmation of Previous Minutes
3. Outstanding Business
4. New Business
5. Any Other Business
6. Action List
7. Items to be Discussed at the Next Meeting
8. Next Meeting
9. Adjournment

The agenda shall be created by the Commissions Secretariat for the approval of the Chairman a minimum of five business days prior to any meeting. Agenda's shall be distributed to Commission members a minimum of three business days prior to the said meeting. In the event that the Chairman is unable to attend any meeting of the Commission, the members shall choose an Acting Chairman as the need arises.

4.2 Meetings

4.2.1 Standard Commission Meetings

Standard Commission meetings will be held a minimum of twelve times per year.

4.2.2 Public Education Forums

The Commission endeavours to conduct a public education campaign which will include hosting public education forums. These forums will be advertised at least 30 days prior to the forum to provide the public with sufficient notice. The Chairman will preside over the forums and a member of the Commission will serve as a facilitator. Members of the public will be afforded an opportunity to express their views without interruption. All comments will be recorded by the Secretariat. The Commission may invite experts and/or speakers to address the forums.

4.2.3 Public Consultation Meetings

The Commission endeavours to receive public feedback by hosting public consultation meetings. These meetings will be advertised at least 30 days prior to the forum to provide the public with sufficient notice. The Chairman will preside over the forums and a member of the Commission will serve as a facilitator. Members of the public will be afforded an opportunity to express their views without interruption. All comments will be recorded by the Secretariat.

4.2.4 Sub Committee Meetings

The Commission will, at times, create Sub Committees to assist in the completion of the work of the Commission. The Sub Committee will be chaired by one member of the Commission and will act only on the direction of the Commission as a whole. The Sub Committee shall not make statements or issue reports on behalf of the Commission without the expressed written permission of the Commission.

4.2.5 Public Request for Meetings/Information

Members of the public wishing to have matters considered by the Commission must submit correspondence to the Secretariat who will consult with the Chair for inclusion in the Agenda.

4.2.6 Recordings of Public Meetings

The Commission reserves the right to record all discussions held during any public meeting. All recordings of public meetings will be accessible via the Commission's website and upon request to the Secretariat.

4.3 Minutes

The minutes of any meeting shall be recorded by an Analyst/Administrator and forwarded through the Manager to the Chairman within three business days of the said meeting and within five business days of the said meeting to the members of the Commission. The minutes of any meeting of the Commission shall be posted on the Commission's website within ten business days of confirmation. Any information that is sensitive and exempt under the Freedom of Information Law (2009) will be redacted prior to the posting of the said minutes.

4.4 Quorum

The quorum for any meeting of the Commission has been set at a minimum of two (2) members of the Commission.

4.5 Decision Making

Decisions of the Commission will be made by consensus and all members of the Commission will be given an equal opportunity to speak/discuss the matter at hand. If in the event there is no concordance, the Chairman may suggest or request modifications prior to putting the matter back to a vote. In the event that a consensus cannot be reached, decisions will be made by way of a majority vote. Members shall have the option of recording their dissenting opinions. In the event that the vote is tied due to the absence of one member the Chairman or Acting Chairman shall have a casting vote in addition to his or her original vote or the matter shall be relisted on the agenda of the next meeting.

4.6 Spokesperson

The Chairman shall act as the official spokesperson for the Commission. All positions expressed publicly by the Chairman shall be approved by the Commissioners prior to their release.

4.7 Publications

4.7.1 Reports

As in accordance with Section 118 (3) (b), the Commission will produce reports, discussion papers, information papers and other documents on Constitutional matters affecting the Cayman Islands. In the event that a matter within the Constitutional Commission's remit comes to its attention, in the first instance the Commission will highlight the issue to the relevant public

agency, department, unit, section, etc. and allow reasonable time for the entity to address the problem prior to the Commission publishing a report, discussion paper, etc. on the matter. These documents will be available to the public via the Commission's website and upon request to the Secretariat.

4.7.2 Activities of the Commission

The Commission will produce a report every six months, including an annual report, which details the work of the Commission during the preceding six months.

4.7.3 Requests for Advice

As in accordance with Section 118 (3) (a), the Commission will respond to requests for advice from the Government on questions concerning Constitutional status and development in the Cayman Islands.

4.7.4 Acknowledgement and Release of Reports

All reports and correspondence of the Commission will be acknowledged within seven to ten business days and will be made available to the public via the Commission's website thirty to sixty days after the recipient or requestor has received the said reports or correspondence. Any information that is sensitive and exempt under the Freedom of Information Law (2009) will be redacted prior to the posting of the reports/correspondence.

4.8 Confidentiality

All members of the Commission take the issue of confidentiality seriously and any matters related to the Commission and considered to be sensitive in accordance with the provisions of the Freedom of Information Law (2009) shall be discussed outside of the Commission meetings.

4.9 Conflicts of Interest

If at any time a conflict of interest arises between an issue being discussed and a member of the Commission, the member shall excuse him/herself from that portion of the said meeting and any further discussions or follow up.

5. Role of the Commissions Secretariat

5.1 Analytical/Administrative Support

Analytical and administrative support for the Commission is provided by the Commissions Secretariat, consisting of a Manager and up to five staff. The Secretariat has been established under the auspices of the Deputy Governor's Office. The Secretariat shall, at all times, ensure that the decisions of the Commission are followed up and implemented.

5.2 Resources

The Secretariat shall be responsible for procuring the arrangements of any resource the Commission deems as necessary including the use of office space for meetings.

5.3 Personnel Issues

All personnel issues are dealt with in accordance with the Public Service Management Law (2007 Revision). In the event that the Constitutional Commission has a concern regarding the conduct or performance of one of the Analysts/Administrators they shall bring this to the attention of the Manager. In the event that the Constitutional Commission has a concern regarding the conduct or performance of the Manager they shall first approach the Manager to discuss their concerns. The Commission may then note their concerns in writing and send them to the attention of the Deputy Governor.

5.4 Budget

The Secretariat will be responsible for managing the finances of the Commission which shall include working with the Chairman to create an appropriate budget for submission six months prior to the end of the fiscal year. The Secretariat shall ensure payment of the Commission's pre-approved invoices within thirty business days.

The Commission is not liable for any non payment of fees but should a situation be encountered in which this occurs the Commission will review the payment process of the Secretariat to make recommendations for change.

5.5 Records

The Secretariat will be responsible for maintaining and keeping custody of all records and property of the Commission in accordance with the Commissions policies and with the Freedom of Information Law (2009).