



**3rd MEETING OF 2016
61st MEETING OF
THE CONSTITUTIONAL COMMISSION
4 OCTOBER 2016
COMMISSIONS SECRETARIAT**

PRESENT: Vaughan Carter Chairman
 Olivaire Watler Member

APOLOGIES: Natalie Urquhart Member

Secretariat members present:
 Deborah Bodden Manager, Commissions Secretariat
 Sheila Alvarez Administrator/Analyst

1. Call to order

The meeting was called to order at 2:15pm.

2. Confirmation of Previous Minutes

The minutes of 12 July 2016 were approved.

3. Matters Arising from the Previous Minutes

Commission's Work Plan/Education Initiatives

Members discussed the development of both short and longer-term public education campaigns. It was agreed that an education campaign would begin in the near future that would focus on those constitutional provisions related to elections. Members will give consideration to what sections of the Constitution should be highlighted and by what methods for this purpose. In addition, it was agreed that the Commission's longer-term focus would be an education campaign, which seeks to develop general public education and awareness of the Constitution. Further to the plan already discussed, the Chairman agreed to draft a summary of this initiative, along with an invitation for input for review and comment by members.

4. New Business

a. Cayman Islands Constitution (Amendment) Order 2016

Members discussed the recent amendment to s.96 and s.106 of the Constitution and expressed an interest in the process of how Constitutional amendments are brought about.

Members queried the Commission's role in the process and noted that some clarity is needed to ensure the Commission fulfills any constitutional remit in relation to this. It was agreed that the Commission will write to Her Excellency the Governor, copied to the Honourable Premier, the Honourable Leader of the Opposition, the Honourable Attorney General and in this case the Judicial and Legal Services Commission (the "JLSC"), to seek clarification on the Commission's role in Constitutional amendments going forward. The Commission will also advise that they welcome the opportunity to comment, on become involved in, the process for any future amendments.

The Commission also discussed how the amendments affect the constitutional remit of the JSLC and agreed to write to the JLSC making such enquiries.

b. Upcoming Notable Dates

Members discussed the opportunity to raise awareness of the Commission and its work by highlighting any relevant dates/days which are recognised locally, regionally or globally. The Secretariat was asked to research such opportunities for the Commission to develop a 12 year calendar of such dates/days that the Commission could recognise going forward.

c. 2017 Elections

The Human Rights Commission (the "HRC") has copied the Constitutional Commission in to correspondence between the HRC and the Supervisor of Elections and the Director of Prisons regarding a complaint it is considering related to prisoners' voting rights. The specific issues relate to four distinct areas:

1. Ensuring that all prisoners who are eligible to vote are able to register to vote or update their registration information;
2. Guaranteeing that practical arrangements are in place to enable prisoners to vote by mobile or other absentee ballots;
3. Agreeing the electoral district in which each prisoner is able to cast his vote; and
4. Determining whether the provisions of our laws which disqualify certain prisoners from voting (namely those serving sentences of more than 12 months) are in breach of such person's human rights.

The Supervisor of Elections has satisfactorily remedied, or agreed to remedy the first three areas however the HRC believes, following a review of the relevant constitutional and legislative provisions, that it appears s.91(1)(a) of the Constitution, which places a blanket ban on voting for prisoners serving sentences exceeding 12 months' imprisonment, is incompatible with the requirements of the European Convention of Human Rights ("the ECHR"), namely Article 3 of Protocol No. 1 (the right to free elections).

The HRC has recommended that the Elections Office take legal advice on the question of incompatibility with a view of remedying the situation. The Supervisor of Elections has indicated that he has accepted this recommendation and begun the process. The HRC has

asked the Constitutional Commission, in accordance with their constitutional responsibilities, for their advice on the fourth area of the complaint.

Members had a general discussion about the relevant areas of the Constitution and agreed further research needed to be conducted before an opinion could be given.

5. Any Other Business

The Manager advised that the Secretariat is currently working on re-developing the websites of each of the Commissions it supports and it will soon be turning to the website of the Commission. Members were asked therefore to provide any feedback on the existing site and any future requirements.

6. Action List

The members were asked to:

- a. Give consideration to what sections of the Constitution should be highlighted and by what methods for the purposes of the short-term campaign focusing on the composition of the legislature prior to the upcoming elections;
- b. Draft a summary of the longer-term initiative together with an invitation for input (Chairman); and
- c. Review the Commission's existing website and provide feedback on the content to the Secretariat.

The Secretariat was asked to:

- a. Draft correspondence regarding the Cayman Islands Constitution (Amendment) Order 2016 as detailed above;
- b. Conduct research on relevant dates/days the Commission could highlight in a public education campaign over a 12 month period; and
- c. Conduct research on the issue related to prisoner's voting rights.

7. Items to be Discussed at the Next Meeting

- a. Commission's Work/Education Initiatives
- b. Upcoming Notable Dates
- c. 2017 Elections

8. Next Meeting

The date of the next meeting will be Tuesday, 1st November at 2pm.

9. Termination

The meeting was terminated at 3:35pm.

Vaughan Carter
CHAIRMAN
CONSTITUTIONAL COMMISSION