

## **CONSTITUTIONAL COMMISSION PRESS BRIEFING**

**19 October 2010 at 10:30am, Commissions Secretariat Boardroom**

### **1. Greetings**

Members of the media, good morning. My fellow commissioners and I welcome you to our second official press conference to mark the completion and release of the first report of the activities of the Constitutional Commission. *[A copy of the first report can be found [here](#)].*

Today we announce the release of the Commission's 1<sup>st</sup> report, detailing our work over the last nine months and addressing key areas for action over the duration of our appointment as commissioners. We will share and discuss this report and urge you to release the findings for public review as soon as possible. You will each receive a copy of our report following my introductory comments and after we respond to any questions you may have.

### **2. Overview of the Report**

The –report includes four categories. Section one details the appointment of the Commission, following the enactment of the 2009 Constitution and describes our mandate, work plan and media engagement initiatives to date. Section two provides a progress report on the implementation of the Constitution. Section three focuses on the action plan for the Commission in the months ahead. Section four summarizes the findings of the report. Additional sections provide a detailed summary of stakeholder meetings and some biographical information about the Commissioners.

Although the Commission places equal value on all aspects of the Report, we feel it is worth taking a few minutes to draw your attention to the achievements made following the establishment of the modernized Constitution in November 2009.

Since the introduction of the new Constitution, the following milestones have occurred:

#### Part II: The Governor

The Advisory District Committee on the Prerogative of Mercy (ACPM) was appointed by HE Governor (section 40) with its inaugural meeting taking place on 23 September 2010.

#### Part II: The Executive

18 May, 2010 -the Cabinet welcomed Mr. Arden McLean, MLA and Mr. Ezzard Miller, MLA to a meeting of the Cabinet (section 47) for the purpose of making representations with respect to matters affecting their districts.

1 December 2009 -the Premier chaired a meeting of the Cabinet in the absence of the Governor.

24 February 2010 -the National Security Council was appointed by the Governor (Section 58). The Council is responsible for advising the Governor on matters related to internal security, with the exception of operational and staffing matters.

September 2010 -the Council had met a total of six times and is currently in the process of creating a National Crime Prevention Strategy.

#### Part IV: The Legislature

25 November, 2009 -the Electoral Boundary Commission (EBC) was appointed by HE the Governor in accordance (section 88). The EBC began its work in March 2010 and submitted its report to the Governor and the Legislative Assembly. The report of the EBC can be found at [www.gov.ky](http://www.gov.ky).

#### Part V: The Judicature

1 August, 2010 --the Judicial and Legal Services Commission (JLSC) was appointed by the Governor in accordance with section 105.

30 -31 August 2010 - the JLSC held their inaugural meeting. The JLSC is creating a policies and procedures manual which will include a code of conduct for the judiciary and procedures for dealing with both recruitment and complaints regarding those positions (section 106 (4)).

#### Part VIII: Institutions Supporting Democracy

In addition to the Constitutional Commission, the following appointments have been made:

2 January, 2010 -the Human Rights Commission (HRC) was appointed by the Governor (section 116). The HRC's primary responsibility is to promote understanding and observance of human rights in the Cayman Islands. For more information on the HRC and human rights in general please visit their website at [www.humanrightscommission.ky](http://www.humanrightscommission.ky).

15 January, 2010 the Commission for Standards in Public Life (CSPL) was appointed by the Governor (section 117). The CSPL recently submitted its six-month report, as mandated by the Constitution, which can be found at [www.constitution.gov.ky](http://www.constitution.gov.ky).

### **3. The Commission's Short Term Action Plan**

In the coming months the Commission is dedicated to tackling new initiatives and to continuing to strengthen its collaborative efforts. The Commission has requested that a number of individuals and groups produce discussion/ information papers on the topics of People Initiated Referendums and Advisory District Councils. Once these papers have been reviewed, they will be posted on the Commission's website and a series of public meetings will be held to educate the public on the available options and to gather public feedback which will then form the basis of a report that will be submitted to the Legislative Assembly.

Continuing on the educational theme, the Commission is currently in talks with local artists in an effort to produce a series of educational booklets on constitutional matters. The Commission intends to utilize the information contained in the Constitution Guide, (produced by the student chapter of the Cayman Bar Association) in these educational booklets. We are hopeful that providing easy to read booklets to the public and in our schools will serve as a mechanism to further educate and engage all members on the purpose and values of the Constitution.

The Commission is in the process of creating a website - [www.knowyourconstitution.ky](http://www.knowyourconstitution.ky). We hope this website will serve as a resource tool offering educational material for the public and will include copies of any reports written by the Commission, minutes of meetings and responses to public enquiries.

### **4. Key Areas**

The Commission has identified the following key areas for action which we wish to discuss with you briefly. These issues were raised at our stakeholder's meetings whereby we received feedback that led us to the following conclusions:

The Commission believes that the Government may be vulnerable to unseen liabilities if it does not close the existing constitutional gaps by completely and effectively implementing all the sections of the Constitution. Therefore the Commission, in the course of its work, will do its best to assist and advise where necessary.

#### **I. Advisory District Councils (Section 119)**

The need for legislation establishing and regulating Advisory District Councils was expressed to the Commission. This is an issue that needs public participation before any legislation is passed. The two

suggested methodologies discussed by the stakeholders citing appointments or membership to the ADC were

- a. to be made by the Premier and Leader of the Opposition, approved by His Excellency the Governor or;
- b. By election of the District Council in each district.

## II. Referendums

The role of the Commission includes ensuring that proper processes are in place to address any amendments, revisions or advancements to the 2009 Constitution. The Constitution itself includes mechanisms such as referendums which would ensure public participation in the decision making process. The Commission is of the view that the design of the process and procedures determines the quality of the outcome and thus it is necessary to ensure that the public has been consulted and afforded the opportunity to give feedback on any legislation being promulgated to govern the referendum processes.

Sections 69 and 70 provides for a law to be enacted by the Legislature to make provision to hold referendum among registered voters. Section 69 provides for two types of referendum –(i) an optional government initiated referendum triggered by a majority of elected members on a matter or matters of national importance and (ii) a mandatory (required) referendum on the question of any amendment to the Constitution that may result in the independence of the Cayman Islands. Section 70 allows for a people initiated referendum on a matter or matters of national importance that do not contravene any part of the Bill of Rights or any other part of the Constitution.

The Commission is committed to working in an independent and consultative way to educate the populace and seek public participation in matters of national importance. Included in these discussions is the question whether there should be other pre-determined issues of national importance included in the supporting legislation for referendums.

## III. Options for Constitutional Advancement

Some key stakeholders expressed the view that the question of independence from the United Kingdom is an inevitable step that must be considered for the future and urged the Commission to regard this issue as a matter of priority in its education campaign. It was suggested that the Commission undertake research to identify the various aspects that must be considered by the people of the Cayman Islands before any movements toward independence are seriously contemplated and sought. The Commission has taken these suggestions seriously and will look to addressing these issues accordingly through its public education and public participation initiatives in the near future.

The Commission met with key stakeholders (as part of our public education phase) and discussed the 2009 Constitution, the role of the Commission and any issues/ actions the stakeholder wished to raise in this regard. The discussions were both lively and beneficial and have proved invaluable to the Commission. *[A summary of all discussion points have been included in Appendices' 2 of the Commission's Report.]*

### **5. Closing Remarks**

We express our gratitude to all those who met with us and provided an outstanding forum for discussion.

We plan to announce the scheduling of public meetings in the near future in order to create a forum through which the public may join in with the Commission in its discussion of these key areas for action highlighted today.

We take the opportunity to extend our sincere thanks to all members of the media here today. We hope you found this session informative and we look forward to an ongoing and open dialogue with you regarding any issues regarding the constitution. The floor is now open for questions.