

Constitutional Commission

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31st March, 2011

His Excellency the Governor,
Mr Duncan Taylor
Office of the Governor
Grand Cayman
Cayman Islands

via email

Your Excellency,

The Role of the Constitutional Commission

Thank you for your letter stating your concerns regarding the research undertaken by the Constitutional Commission. We now respond to the advice provided to you by the Government Legal Department which offers the view that there is no reasonable link between the objective of our study and the Commission's specific mandate in relation to Constitutional matters.

While we acknowledge that the choice of wording "an attempt to identify options to increase the efficiency" may be misleading, we believe that the analysis of a working constitution can and must include reference to certain norms and standards which lie beyond and outside the document itself. Support for this view is found in S E Finer's suggestion that the term "constitution" is to be understood in positivistic terms as a code of rules which aspire to regulate the allocation of functions, powers and duties among the various agencies and officers of government, and defines the relationship between these and the public.

In order to understand the practical application of the constitutional powers within the executive branch of the Cayman Islands and the relationship between central government and its advisory bodies and the benefit of that relationship to the wider community, we were of the view that it would be prudent to undertake a study of the existing governance structure and the manner in which advisory bodies functioned. We believe that seeking information of this nature is within our remit to "advise the Government on questions concerning constitutional status and development in the Cayman Islands." The information gained would be of valuable assistance in determining whether the aims of the constitution are being achieved and would in our opinion be extremely valuable in any educational campaign conducted to inform the public of ongoing Constitutional development. We believe that it is

timely to be so informed, especially when new provisions in the constitution are being followed through, e.g. legislation enabling Advisory District Councils (ADC).

While we have no desire to be overly intrusive or obstructive in any way, In light of the recent passage of Advisory District Councils into Law we felt we were indeed within our remit as the CC to be enquiring just exactly how the information from the ADC to their elected officials would be communicated to Cabinet and acted upon.

We had hoped that the information requested would have been easily accessible and readily available in furtherance of open and transparent governance. We are cognisant that a review of the PMFL is currently being conducted and are wondering if, rather than discontinuing the study undertaken by the Constitutional Commission, the questions we posed could be integrated into the review of the financial system. The key areas of interest for the Constitutional Commission is the organisational structure governing existing advisory bodies, the terms of reference for each body, the process by which advice is received and acted upon, and the means by which the body is assessed. When that process is completed, we would hope that we would be readily provided with the information requested.

We would appreciate meeting with you and anyone else that you would wish to include to discuss this matter and any other matter pertaining to the remit of the Constitutional Commission.

Yours sincerely,



CHAIRMAN OF THE CONSTITUTIONAL COMMISSION