



Freedom of Information Request for Records Relating to the 2020 Amendment to the Cayman Islands Constitution

Summary

During its engagements with the public, the Cayman Islands Constitutional Commission (“the Commission”) is frequently asked about how the Cayman Islands Constitution Order 2009 (“the Constitution”) is amended. To better understand this process, the Commission has sought to obtain records relating to how the Constitution was last amended in 2020. Accordingly, a number of requests for records were submitted in March 2023 to various government entities in the Cayman Islands under the Freedom of Information Act, as well as to the Foreign, Commonwealth and Development Office (“FCDO”) (previously the Foreign and Commonwealth Office or “FCO”) under the equivalent legislation in the United Kingdom (“UK”). This document summarises the Commission’s requests and provides details of the responses received.

Background

In 2018, the Commission was invited by the then Premier, Sir Alden McLaughlin, and the then Leader of the Opposition, Mr. Ezzard Miller, to make suggestions for additional minor amendments to the Constitution, which could be considered alongside other potential amendments that were already under discussion. At the same time the Commission was also tasked by the then Governor, Mr. Anwar Choudhury, to undertake research into the potential amendments that were being considered and to report on whether such amendments had been encompassed in the constitutional arrangements of any other UK Overseas Territories.

The Commission was pleased to be engaged and duly respond to both enquiries in its paper dated 27 June 2018. In this paper, the Commission: (i) highlighted the six potential revisions to the Constitution that were already under consideration, and commented on the same, with reference to the experiences of other UK Overseas Territories; (ii) accepted the limitation that any additional proposals had to be restricted to relatively minor amendments at this time, and therefore focussed on those aspects of the new Constitution that had given rise to confusion and uncertainties and which, in the Commission’s view, would therefore benefit from clarification and greater precision; and (iii) recommended consideration of six other matters for potential amendment, which notably included the process by which the Constitution may be altered in the future.

It is not clear to the Commission what, if anything, happened with its recommendations; whether they were considered at the ensuing constitutional talks with the FCDO; or indeed, whether they were even presented at this time. The Commission has followed up with all relevant parties since then, not just in order to ascertain the position with respect to its recommendations, but also in an effort to obtain all relevant records relating to the process that ultimately resulted in the Cayman Islands Constitution (Amendment) Order 2020 (“the 2020 Amendment”). On 1 November 2022, the Commission was advised by His Excellency, the Governor, Mr. Martyn Roper, that there was: “no

additional documentation about the 2019/20 Constitutional negotiations from the UK or Cayman Governments that can be shared other than that which is already in the public domain.”

The Commission believes that it has a legitimate interest in the process that resulted in the 2020 Amendment, because: (i) the Commission was requested to provide input into the process; (ii) the Commission was also expressly engaged by the UK's representative in the Cayman Islands in matters that were subsequently the subject of constitutional amendment in the 2020 Amendment; and (iii) not least because of the Commission's constitutional mandate “to advise the Government on questions concerning constitutional status and development in the Cayman Islands”. Moreover, and in light of the sentiments regularly expressed to the Commission from members of the general public, the Commission takes the view that the people of the Cayman Islands ought to have access to all relevant documentation relating to an amendment of their Constitution and the Commission therefore resolved to submit requests for information in an effort to finally gain access to the same.

Requests

On 16 March 2023, requests for records relating to the above concerns were submitted to various entities. In the Cayman Islands, these entities were: (i) the Office of the Premier; (ii) the Cabinet Office; (iii) the Portfolio of Legal Affairs; and (iv) the Governor's Office. A request for records was also made to the FCDO in the UK.

The Commission requested:

“... all relevant documentation relating to the process by which the Cayman Islands Constitution was amended with the enactment of The Cayman Islands Constitution (Amendment) Order 2020, including the records of the constitutional talks that were held at the United Kingdom Government's Foreign and Commonwealth Office in December 2018 and all related documents and correspondence produced both before and after this meeting and dating back to the inception of the proposals to amend the Cayman Islands Constitution following the passing of the Sanctions and Anti-Money Laundering Act 2018 by the United Kingdom Parliament. For the avoidance of any doubt, the records requested include, but are not necessarily limited to, correspondence (both internal to the UK and Cayman Islands Governments, between the UK Government and the Cayman Islands Government, and between the UK or Cayman Islands Government and any third parties); documentation relating to any related meetings, including minutes, notes, transcripts and other such records; and any notes, memoranda or other record produced in connection with this process and the amendment of the Cayman Islands Constitution.”

Responses

Over the ensuing nine months, the various entities targeted provided their responses to the requests, with the last final response received from the FCDO in December 2023. These responses are all available in full on the Commission's website, but, for ease of reference, the responses have been catalogued and summarised in the following table:

Entities Requested to Provide Information	Date Final Response Received	Response and Reasons	Full Original Responses
Portfolio of Legal Affairs	27 March 2023	The records requested are not within the subject matter of this Public Authority.	Appendix 1
Office of the Premier	20 July 2023	The Office of the Premier does not hold any records relevant to the request.	Appendix 2
Cabinet Office	3 August 2023	This public authority does not hold any relevant record(s).	Appendix 3
Governor's Office	3 August 2023	The Governor's Office holds some records which are responsive to the request. However, the records belong to another jurisdiction, or are claimed to be exempt for another reason. See original correspondence for full details.	Appendix 4
Foreign, Commonwealth and Development Office (UK)	14 December 2023	The FCDO holds information relevant to the request. However, the records provided are redacted, or are withheld for other reasons. See original correspondence for full details.	Appendix 5

Insofar as the local entities are concerned, the Commission's attempt to obtain additional documentation relating to the 2020 Amendment has proved unsuccessful. While the Portfolio of Legal Affairs advised that the records requested were not within its remit, both the Office of the Premier and the Cabinet Office reported that their Offices did not hold any records that were relevant to the requests. The net result therefore was that, notwithstanding that the Commission had been invited to propose potential amendments to the Constitution, none of these local entities possessed any relevant records.

The Governor's Office did indicate that it had some records that were responsive to the request, but despite the Commission having been tasked by the former Governor in connection with research on amendments that were already being considered, the Commission was notified that these records

could not be made available because they belonged to another jurisdiction (namely the UK) or were claimed to be exempt for another reason.

Any hope of obtaining additional information regarding the 2020 Amendment therefore rested on the final response from the FCDO, which arrived on 14 December 2023; and, although the FCDO did release some correspondence, this content of the documentation released was still disappointing. The correspondence provided was heavily redacted and none of the attachments referenced in the correspondence were released. Moreover, there were apparently no records of the constitutional talks at all, which took place between the Governments of the UK and the Cayman Islands, and which resulted in the 2020 Amendment, that could be released.

The only information of any note that was released by the FCDO was a draft Parliamentary Statement concerning the Overseas Territories, which reads:

“I wish to give the following assurance to the Governments of the British overseas territories. Before it is proposed to legislate for an overseas territory by Act of Parliament or Order in Council, or to impose an international obligation on an overseas territory, the United Kingdom Government will normally consult the Government of that territory unless circumstances make it impracticable to do so. The United Kingdom Government will take due account of any views expressed by the Government of the territory concerned.”

The FCDO’s explanation for the limited release of records was fourfold. Firstly, it was stated that some relevant information was already available on the Cayman Islands Government website. Secondly, the FCDO relied upon an international relations exemption, which recognises that the UK’s effective conduct of international relations depends upon maintaining trust and confidence between governments; and so, while there may have been a public interest in releasing this information, the public interest in maintaining this exemption was found to outweigh the public interest in disclosing it. Thirdly, redactions were also made to protect personal information; and, lastly, information that was considered to be subject to legal professional privilege was also withheld. On this final point, the FCDO explained that:

“It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must therefore, feel confident that it can disclose all relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public.”

Conclusion

Given the importance of the Constitution, the Commission believes that any amendments to this fundamental document should be undertaken in manner that is as open and transparent as possible. In line with this belief, the Commission submitted a series of requests for records relating to the process by which the 2020 Amendment came into effect. These submissions did not, however, result in the release of any significant additional documentation relating to the 2020 Amendment.

Unfortunately, the Commission was not able to consider pursuing appeals of the final decisions of any of the entities targeted in these requests for records because the Commission has not been properly constituted since January 2023. It may be that in due course, once the Commission is reconstituted, this is a matter that could be revisited in fulfilment of the Commission's remit to promote understanding and awareness of the Constitution and its values. In any event, what the limited responses to the Commission's request do nevertheless indicate is that there is clearly a need for greater transparency in the process by which the Constitution is amended.



27 March 2023

FOI Reference: **102031**

Constitutional Commission

By email only: info@constitutionalcommission.ky

Re: Freedom of Information Request dated 16 March 2023

We write further to your request dated 16 March 2023, and further to our letter of 20 March 2023. Your request is being dealt with under the Freedom of Information Act.

Please be advised that the records requested are not within the subject matter of this Public Authority. We identified that the Cabinet Office would be better able to handle your request and therefore intended to transfer your request accordingly. However, we have been informed that your request was also sent directly to the Cabinet Office and as such, we will administratively close this request.

If you have any queries regarding this letter, please contact the undersigned. Please remember to quote the reference number above in your correspondence.

Yours sincerely,

Information Manager
Portfolio of Legal Affairs

Email: FOI.PLG@gov.ky

Appendix 2

From: [FOI.OTP](#)
To: [Constitutional Commission](#)
Cc: [FOI.CAB](#)
Subject: RE: Follow up to FOI Request of 16 March 2023
Date: Thursday, July 20, 2023 4:41:57 PM
Attachments: [image001.jpg.html](#)
[Records relating to the 2020 Cayman Islands constitutional amendment.msg.html](#)
Importance: High

Good Afternoon,

Apologies for the delay in responding to the below mentioned request for information relating to the 2020 Cayman Islands Constitutional amendment. I advise that the Office of the Premier does not hold any records relevant to your request.

I further note that I have been notified that this request was also received by the Cabinet Office and I understand that they are preparing a response which should be received in due course.

Regards,

Jana Pouchie-Bush
Information Manager

From: Constitutional Commission
Sent: Thursday, July 6, 2023 3:15 PM
To: FOI.OTP <FOI.OTP@gov.ky>
Subject: Follow up to FOI Request of 16 March 2023

Dear Sir / Madam,

The attached request for information was submitted on 16 March 2023, but the Commission has not yet received any reply to this submission. Notwithstanding the significant delay, the Commission is prepared to wait another 14 days for a substantive response, failing which the Commission reserves the right to pursue any and all other remedies available under the Freedom of Information Act.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.



Appendix 3

CABINET OFFICE
CAYMAN ISLANDS GOVERNMENT

Government Administration Building
133 Elgin Avenue, Box 105 Grand Cayman KY1-9000
CAYMAN ISLANDS
t. (345) 244 2208 f. (345) 946 1652
www.cabinetoffice.gov.ky

3rd August 2023

Reference Number: FOI/104075

Constitutional Commission
Email: info@constitutionalcommission.ky

Dear Constitutional Commission,

Reference is made to your email dated 16th March 2023 and received by the Cabinet Office on the same date. Your request is for the following:

“The Commission requests all relevant documentation relating to the process by which the Cayman Islands Constitution was amended with the enactment of The Cayman Islands Constitution (Amendment) Order 2020, including the records of the constitutional talks were held at the United Kingdom Government’s Foreign and Commonwealth Office in December 2018 and all related documents and correspondence produced both before and after this meeting and dating back to the inception of the proposals to amend the Cayman Islands Constitution following the passing of the Sanctions and Anti-Money Laundering Act 2018 by the United Kingdom Parliament. For the avoidance of any doubt, the records requested include, but are not necessarily limited to, correspondence (both internal to the UK and Cayman Islands Governments, between the UK Government and the Cayman Islands Government, and between the UK or Cayman Islands Government and any third parties); documentation relating to any related meetings, including minutes, notes, transcripts and other such records; and any notes, memoranda or other record produced in connection with this process and the amendment of the Cayman Islands Constitution.”

We have carefully considered your request for information under the Freedom of Information Act and following a thorough search of our records and those of the entities which fall under the Cabinet Office’s remit, we regretfully advise that this public authority does not hold any relevant record(s).

We would recommend that the Commission reach out to the Foreign, Commonwealth and Development Office’s Information Rights Unit to ascertain if they may hold the records being sought. Their contact information is as follows: Information Rights Unit, Foreign, Commonwealth & Development Office, email: information.rights@fcdo.gov.ky .

Under section 33 of the FOI Act, you may ask for an Internal Review of this decision. You have 30 calendar days after receiving this notice to request an Internal Review of this decision. Any request for Internal Review must be in writing, including email, and can be sent to foi.cab@gov.ky. While you may include the basis on which you are requesting an Internal Review, this is not required.

If, upon Internal Review, this public authority's decision is still not favourable to you, you have the right under section 42 of the FOI Act to appeal to the Ombudsman within 30 days of:

- the date of notification of the decision taken at Internal Review; or
- the date on which you should have been notified of the decision taken at Internal Review if you receive no notification.

You can find information on how to appeal to the Ombudsman at ombudsman.ky/foi. To contact the Ombudsman, please email info@ombudsman.ky or call +1 345 946 6283.

If you have any queries about this letter, please contact me. Remember to quote your reference number above in any future correspondence.

Yours sincerely,

A handwritten signature in black ink that reads "Kim Bullings". The signature is written in a cursive, flowing style.

Kim Bullings
Information Manager

Appendix 4

From: [Lisa Carroll](#)
To: [Constitutional Commission](#)
Cc: [Christine Rowlands](#); [Lisa Carroll](#)
Subject: [EXTERNAL] RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117
Date: Thursday, August 24, 2023 2:14:58 PM
Attachments: [image001.jpg.html](#)
[image008.png.html](#)
[image009.png.html](#)
[image010.png.html](#)

Good afternoon – I write with regard to your application under the FOI Act for records relating to the 2020 Cayman Islands constitutional amendment – FOI Request 102117.

The Governor’s Office does hold some records which are responsive to your request.

However, the Freedom of Information Act (2021 Revision)(“the FOI Act”) does not apply to records that belong to the Government of the United Kingdom and Northern Ireland whether they are created or held in the Cayman Islands or elsewhere (see section 3(5)(d) of the FOI Act).

I understand a similar request has also been made to the UK Government which will be dealt with by the UK authorities pursuant to the UK Freedom of Information Act 2000. It may follow that the records will be released by them.

There are three further documents which have been identified as responsive to your request. Following an internal review carried out by the Head of the Governor’s Office these letters are exempt under section 15 (b) of the Act : *“records contain information communicated in confidence to the Government by or on behalf of a foreign government or by an international Organisation”*.

If this decision is not favourable to you, you have the right under section 42 of the FOI Act to appeal to the Ombudsman within 30 days of the date of notification of the decision taken at Internal Review.

You can find information on how to appeal to the Ombudsman at ombudsman.ky/foi. To contact the Ombudsman, please email info@ombudsman.ky or call +1 345 946 6283.

If you have any queries about this letter, please contact me. Remember to quote your reference number above in any future correspondence.

Regards

Lisa Carroll | Information Manager and CSM |
Governor’s Office | Cayman Islands
Suite 101, Fifth floor, Government Administration Building, Grand Cayman, KY1-9000
Tel: + 1 345 244 2406 Email: Lisa.Carroll@fcdo.gov.uk



From: Lisa Carroll
Sent: 11 August 2023 10:01

To: Constitutional Commission <info@constitutionalcommission.ky>
Cc: Lisa Carroll <Lisa.Carroll@fcdo.gov.uk>
Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Good afternoon – my sincere apologies for this late reply. This is largely due to annual leave and staffing in our office.

I had hoped to be able to provide you with a response on my return to office but it has taken longer for the relevant processes to be completed.

I now anticipate having a response for you by Friday 25th August.

Regards Lisa

From: Constitutional Commission <info@constitutionalcommission.ky>
Sent: 03 August 2023 12:03
To: Lisa Carroll <Lisa.Carroll@fcdo.gov.uk>
Cc: FOI.GOV <FOI.GOV@gov.ky>
Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Good Morning,

The Constitutional Commission now writes in connection with its outstanding request for information (reference 102117) in order to request an internal review of the same. The Constitutional Commission is advised that a failure to give a decision within the required statutory timeframe is regarded as a refusal to do so, pursuant to section 33(2) of the FOI Act, and that since this is the case with the present application, it is appropriate to escalate the outstanding application by way of a request for an internal review. The Constitutional Commission is further advised that an internal review may take up to 30 days (without extension), and accordingly, it is anticipated that the information, which was first sought on 16 March 2023, can now be provided within this timeframe.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.

From: Constitutional Commission
Sent: Thursday, July 6, 2023 3:05 PM

To: 'Lisa Carroll (Sensitive)' <Lisa.Carroll@fcdo.gov.uk>

Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Dear Sir / Madam,

The below request for information was submitted on 16 March 2023. Initially, the Commission was advised that additional time beyond the initial 30 days was required, and that the response would be delayed until 14 May 2023 in order to facilitate a search of the UK archives for records. Subsequently, the Commission has further been advised, in the first instance, that the response would be delayed until 13 June 2023, once again in order to facilitate the search of the UK archives; and, latterly, that the response would be delayed until 13 July 2023 in order to seek legal advice.

While the Commission is not averse to this third extension, the Commission would be grateful if you could advise by return as to the legal basis upon which this further extension is sought so that this is on record. In any event, please also be advised that if a substantive response to the request for information is not provided by 13 July 2023, the Commission reserves the right to pursue any and all other remedies available under the Freedom of Information Act.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.

From: Constitutional Commission

Sent: Thursday, June 15, 2023 9:15 AM

To: 'Lisa Carroll (Sensitive)' <Lisa.Carroll@fcdo.gov.uk>

Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Dear Ms Carroll,

Thank you for your email, the contents of which are noted.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.

From: Lisa Carroll (Sensitive) [<mailto:Lisa.Carroll@fcdo.gov.uk>]
Sent: Tuesday, June 13, 2023 5:53 PM
To: Constitutional Commission <info@constitutionalcommission.ky>
Cc: Lisa Carroll (Sensitive) <Lisa.Carroll@fcdo.gov.uk>
Subject: [EXTERNAL] RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Good afternoon – I write again with regard to your Freedom of Information request concerning the Constitutional amendment in 2020 - our reference 102117.

I now need to seek legal advice so I am again extending the period for my response a further 30 calendar days (a total of 90 days since your original application received on Friday 14th April 2023).

I apologise for the delay.

I hope to provide notice of our decision by Thursday 13th July at the latest.

If you have any queries about this letter, please contact me.

Regards

Lisa Carroll | Corporate Services Manager and Policy Officer | Governor's Office | Cayman Islands

Suite 101, Fifth floor, Government Administration Building, Grand Cayman, KY1-9000

Tel: + 1 345 244 2406 | Email: Lisa.Carroll@fcdo.gov.uk



[Facebook](#)



[@govcaymanislands](#)



[@martynroper](#)

From: Constitutional Commission <info@constitutionalcommission.ky>
Sent: 12 May 2023 16:50
To: Lisa Carroll (Sensitive) <Lisa.Carroll@fcdo.gov.uk>
Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Dear Ms Carroll,

Thank you for your email, the contents of which are noted.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.

From: Lisa Carroll (Sensitive) [<mailto:Lisa.Carroll@fcdo.gov.uk>]
Sent: Friday, May 12, 2023 12:20 PM
To: Constitutional Commission <info@constitutionalcommission.ky>
Cc: Lisa Carroll (Sensitive) <Lisa.Carroll@fcdo.gov.uk>
Subject: [EXTERNAL] RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

Good morning – further to my email to you below, I write again to inform you it is taking longer than expected to answer your request for information. I have to extend the period for response for a further 30 calendar days (a total of 60 days since your original application received on Friday 14th April 2023).

The reason for this extension is to continue the search for relevant documents in the UK archive.

I apologise for the delay.

You will be provided with notice of our decision by Tuesday 13th June at the latest (please note the date below should've read Friday 12th May)

If you have any queries about this letter, please contact me.

Regards

Lisa Carroll | Corporate Services Manager and Policy Officer | Governor's Office | Cayman Islands

Suite 101, Fifth floor, Government Administration Building, Grand Cayman, KY1-9000

Tel: + 1 345 244 2406 | Email: Lisa.Carroll@fcdo.gov.uk



Facebook



@govcaymanislands



@martyroper

From: Lisa Carroll (Sensitive) <Lisa.Carroll@fcdo.gov.uk>
Sent: 13 April 2023 12:37
To: Constitutional Commission <info@constitutionalcommission.ky>
Cc: Lisa Carroll (Sensitive) <Lisa.Carroll@fcdo.gov.uk>
Subject: RE: Records relating to the 2020 Cayman Islands constitutional amendment: FOI Request 102117

To whom it may concern

Further to your email below received on Thursday 16th March requesting:

“All relevant documentation relating to the process by which the Cayman Islands Constitution was amended with the enactment of The Cayman Islands Constitution (Amendment) Order 2020, including the records of the constitutional talks were held at the United Kingdom Government’s Foreign and Commonwealth Office in December 2018 and all related documents and correspondence produced both before and after this meeting and dating back to the inception of the proposals to amend the Cayman Islands Constitution following the passing of the Sanctions and Anti-Money Laundering Act 2018 by the United Kingdom Parliament. For the avoidance of any doubt, the records requested include, but are not necessarily limited to, correspondence (both internal to the UK and Cayman Islands Governments, between the UK Government and the Cayman Islands Government, and between the UK or Cayman Islands Government and any third parties); documentation relating to any related meetings, including minutes, notes, transcripts and other such records; and any notes, memoranda or other record produced in connection with this process and the amendment of the Cayman Islands Constitution.”

I now write to inform you it is taking longer than expected to answer your request for information. I have to extend the period for response for a further 30 calendar days beyond the date you should have originally received a response, which was Friday 14th April 2023

The reason for this extension is to continue the search for relevant documents in the UK archive.

I apologise for the delay.

You will be provided with notice of our decision by Friday 14th May at the latest.

If you have any queries about this letter, please contact me.

Regards

Lisa Carroll | Corporate Services Manager and Policy Officer | Governor’s Office | Cayman Islands

Suite 101, Fifth floor, Government Administration Building, Grand Cayman, KY1-9000
Tel: + 1 345 244 2406 | Email: Lisa.Carroll@fcdo.gov.uk



From: Constitutional Commission <info@constitutionalcommission.ky>
Sent: 16 March 2023 16:04
To: FOI.GOV <FOI.GOV@gov.ky>
Subject: Records relating to the 2020 Cayman Islands constitutional amendment

Dear Information Manager,

Background

In 2018, the Cayman Islands Constitutional Commission ("the Commission") was invited by the then Premier and then Leader of the Opposition to make additional suggestions for amendments to the 2009 Cayman Islands Constitution ("the Constitution") to supplement certain potential amendments that were already under discussion. At approximately the same time, the Commission was also tasked by the then Governor to provide research and context into those potential amendments being considered.

The Commission was pleased to provide this input and did so in its Paper dated 27 June 2018. It is not clear to the Commission what, if anything, happened with its recommendations therein. The Commission has consequently followed up repeatedly with all relevant parties in the interim period, in order to ascertain not just what happened with its recommendations, but also in an effort to obtain all relevant records relating to the ensuing process that ultimately resulted in the amendment of the Cayman Islands Constitution (The Cayman Islands Constitution (Amendment) Order 2020).

Most recently, these requests were encompassed within the Commission's correspondence of 15 October 2021, which dealt with a range of important constitutional matters, and which was, by convention, addressed to His Excellency, the Governor, the Hon. Premier and the Hon. Leader of the Opposition. On 1 November 2022, the Commission received a reply from His Excellency, the Governor, which in this regard advised that; "there is no additional documentation about the 2019/20 Constitutional negotiations from the UK or Cayman Governments that can be shared other than that which is already in the public domain."

The Commission believes that it has a legitimate interest in what happened to the recommendations that it was requested to provide by Cayman representatives. The Commission further maintains that this interest is underscored by the express engagement of the Commission by the UK's representative in the Cayman Islands in certain matters that were in fact subsequently the subject of constitutional amendment. Moreover, and in light of the sentiments regularly expressed to the Commission from members of the general public, the Commission takes the view that the people of the Cayman Islands ought to have access to all relevant documentation relating to an amendment of their Constitution and the Commission has therefore resolved to submit the following requests for information in an effort to finally gain access to the same.

Request

Therefore, the Commission requests all relevant documentation relating to the process by which the Cayman Islands Constitution was amended with the enactment of The Cayman Islands Constitution (Amendment) Order 2020, including the records of the constitutional talks were held at the United Kingdom Government's Foreign and Commonwealth Office in December 2018 and all related documents and correspondence produced both before and after this meeting and dating back to the inception of the proposals to amend the Cayman Islands Constitution following the passing of the Sanctions and Anti-Money Laundering Act 2018 by the United Kingdom Parliament. For the avoidance of any doubt, the records requested include, but are not necessarily limited to, correspondence (both internal to the UK and Cayman Islands Governments, between the UK Government and the Cayman Islands Government, and between the UK or Cayman Islands Government and any third parties); documentation relating to any related meetings, including minutes, notes, transcripts and other such records; and any notes, memoranda or other record produced in connection with

this process and the amendment of the Cayman Islands Constitution.

Kind regards,



Constitutional Commission | P.O. Box 391 | George Town | Grand Cayman | KY1-1106
T +1 345 244 3685 | E info@constitutionalcommission.ky

NOTICE:

The contents of this email and any attachments to it may contain privileged and confidential information from the Constitutional Commission in the Cayman Islands. This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to the Constitutional Commission or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof. If you have received this e-mail in error, please notify the Constitutional Commission by e-mail immediately.

Follow us online: www.gov.uk/fcdo

This email is intended for the addressee(s) only: All messages sent and received by the Foreign, Commonwealth & Development Office may be monitored in line with relevant [UK legislation](#)

Follow us online: www.gov.uk/fcdo

This email is intended for the addressee(s) only: All messages sent and received by the Foreign, Commonwealth & Development Office may be monitored in line with relevant [UK legislation](#)

Follow us online: www.gov.uk/fcdo

This email is intended for the addressee(s) only: All messages sent and received by the Foreign, Commonwealth & Development Office may be monitored in line with relevant [UK legislation](#)

Appendix 5

From: [Information Rights Unit](#)
To: [Constitutional Commission](#)
Subject: [EXTERNAL] FOI Request - Ref: FOI2023/05785
Date: Thursday, December 14, 2023 8:07:28 AM
Attachments: [FOI2023 05785 Response letter.pdf](#)
[FOI2023 05785 Digest.pdf](#)

Dear Vaughan Carter,

I am writing in response to your Freedom of Information request FOI2023/05785, received 17th March. Please find our response attached.

We apologise for the time this has taken.

Yours sincerely,

Information Rights Unit

Foreign, Commonwealth & Development Office



Foreign, Commonwealth
& Development Office

Information Rights Unit

WG.75
King Charles Street
London
SW1A 2AH

Email: information.rights@fcdo.gov.uk

www.gov.uk/fcdo

Vaughan Carter
info@constitutionalcommission.ky

14 December 2023

Dear Vaughan Carter,

FREEDOM OF INFORMATION ACT 2000 - REQUEST REF: FOI2023/05785

Thank you for your email of 17th March asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

Background

In 2018, the Cayman Islands Constitutional Commission ("the Commission") was invited by the then Premier and then Leader of the Opposition to make additional suggestions for amendments to the 2009 Cayman Islands Constitution ("the Constitution") to supplement certain potential amendments that were already under discussion. At approximately the same time, the Commission was also tasked by the then Governor to provide research and context into those potential amendments being considered.

The Commission was pleased to provide this input and did so in its Paper dated 27 June 2018. It is not clear to the Commission what, if anything, happened with its recommendations therein. The Commission has consequently followed up repeatedly with all relevant parties in the interim period, in order to ascertain not just what happened with its recommendations, but also in an effort to obtain all relevant records relating to the ensuing process that ultimately resulted in the amendment of the Cayman Islands Constitution (The Cayman Islands Constitution (Amendment) Order 2020).

Most recently, these requests were encompassed within the Commission's correspondence of 15 October 2021, which dealt with a range of important constitutional matters, and which was, by convention, addressed to His Excellency, the Governor, the Hon. Premier and the Hon. Leader of the Opposition. On 1 November 2022, the Commission received a reply from His Excellency, the Governor, which in this regard advised that; "there is no additional documentation about the 2019/20 Constitutional negotiations from the UK or Cayman Governments that can be shared other than that which is already in the public domain."

The Commission believes that it has a legitimate interest in what happened to the recommendations that it was requested to provide by Cayman representatives. The Commission further maintains that this interest is underscored by the express engagement of the Commission by the UK's representative in the Cayman Islands in certain matters that were in fact subsequently the subject of constitutional amendment. Moreover, and in light of the sentiments regularly expressed to the Commission from members of the general public, the Commission takes the view that the people of the Cayman Islands ought to have access to all relevant documentation relating to an amendment of their Constitution and the Commission has therefore resolved to submit

the following requests for information in an effort to finally gain access to the same.

Request

Therefore, the Commission requests all relevant documentation relating to the process by which the Cayman Islands Constitution was amended with the enactment of The Cayman Islands Constitution (Amendment) Order 2020, including the records of the constitutional talks were held at the United Kingdom Government's Foreign and Commonwealth Office in December 2018 and all related documents and correspondence produced both before and after this meeting and dating back to the inception of the proposals to amend the Cayman Islands Constitution following the passing of the Sanctions and Anti-Money Laundering Act 2018 by the United Kingdom Parliament. For the avoidance of any doubt, the records requested include, but are not necessarily limited to, correspondence (both internal to the UK and Cayman Islands Governments, between the UK Government and the Cayman Islands Government, and between the UK or Cayman Islands Government and any third parties); documentation relating to any related meetings, including minutes, notes, transcripts and other such records; and any notes, memoranda or other record produced in connection with this process and the amendment of the Cayman Islands Constitution.

I am writing to confirm that we have now completed the search for the information which you requested.

I can confirm that the Foreign, Commonwealth & Development Office (FCDO) does hold information relevant to your request. The information to which you are entitled is contained in the attached digest. Some information is being withheld under Section 21 (Information accessible to the applicant by other means).

We have made some redactions to the digest and withheld further information under Section 27 (International relations), Section 40 (Personal information) and S42 (Legal professional privilege) of the Freedom of Information Act 2000 and I have explained the reasons for this below.

Section 21 (Information accessible to the applicant by other means)

Some of the information is exempt from disclosure under section 21 (1) (Information accessible to the applicant by other means) of the Freedom of Information Act 2000. Some of the information you have requested is published on the Cayman Islands Government website and can be found [here](#).

Section 27 (International Relations)

Some of the information is exempt under Section 27(1)(a) of the Act. Section 27(1) (a) recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. The application of s27 (1) (a) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about our relations with these states. However, s.27(1) (a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest. For these reasons we consider that, the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Section 40 (Personal Information)

Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances sections 40(2) and 40 (3A) (a) of the FOIA apply. In this case, our view is that disclosure would breach the data protection principle that personal data should be processed lawfully, fairly and transparently. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. The personal information provided by the sending State to the FCDO (receiving State) is in confidence. In such circumstances, section 40 confers an absolute exemption on disclosure.

Section 42 (Legal Professional Privilege)

Some of the information you have requested is exempt under section 42(1). Section 42(1) of the Act recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which exists in order to encourage clients to be frank and open with their legal adviser. It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must therefore, feel confident that it can disclose all relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit. However, in the circumstances of this case, this public interest does not outweigh the opposing public interest in maintaining the current convention.

The copies of information being supplied to you continue to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including any non-commercial research you are doing and for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder. Most documents supplied by the FCDO will have been produced by government officials and will be protected by Crown Copyright. To re-use Crown Copyright documents please consult the [Open Government Licence v3](#) on the National Archives website.

Information you receive which is not subject to Crown Copyright continues to be protected by the copyright of the person, or organisation, from which the information originated. You must ensure that you gain their permission before reproducing any third party (non-Crown Copyright) information.

If you would like to request a review of our decision please email us at: information.rights@fcdo.gov.uk or write to: Information Rights Unit, Foreign, Commonwealth & Development Office, Room WG.75, King Charles Street, London, SW1A 2AH. Please note you have 40 working days to do so from the date of this letter

If you are not content with the outcome of your complaint, you may then apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the FCDO. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or online at: <https://ico.org.uk/make-a-complaint/>

Yours sincerely,

Information Rights Unit

For information about how the FCDO handles personal information please see our [Personal Information Charter](#)

From: [Redacted]

Sent: Monday, June 25, 2018 10:19 AM

To: [Redacted]

Cc: [Redacted]

Subject: ACTION by 1500 please: Cayman Islands: Constitutional Issues: Draft reply from Lord Ahmad

[Redacted]

The attached draft letter and submission incorporate comments from legal advisers, [Redacted] and CO.

Grateful for your comments/clearance. I'd like to get this into today's box at 1600.

Thanks

[Redacted]

[Redacted] Team | Overseas Territories Directorate | Room K2.58 | Foreign & Commonwealth Office | King Charles Street | London SW1A 2AH | [Redacted]

[Attachment redacted]

From [Redacted]

Sent: 21 June 2018 10:10

To: [Redacted]

Cc: [Redacted]

Subject: RE: Comments pl by COP Friday: Cayman Islands: Constitutional Issues: Draft reply from Lord Ahmad

[Redacted], all

Thanks for the comments so far, I'll update and recirculate the draft.

[Redacted]

[Redacted] | Overseas Territories Directorate | Room K2.58 | Foreign & Commonwealth Office | King Charles Street | London SW1A 2AH | [Redacted]

From: [Redacted]

Sent: 20 June 2018 19:38

To:[Redacted]

Cc: [Redacted]

Subject: Re: Comments pl by COP Friday: Cayman Islands: Constitutional Issues: Draft reply from Lord Ahmad

[Redacted]

Thank you for sharing these papers and the draft letter to the Caymans. On the draft letter I have two comments:

i) [Redacted]

ii) [Redacted]

[Redacted]

[Redacted]

On 20 June 2018 at 15:55, [Redacted]wrote:

Apologies, I sent the wrong attachments – correct ones now attached.

[Redacted]

[Redacted] | Overseas Territories Directorate | Room K2.58 | Foreign & Commonwealth Office | King Charles Street | London SW1A 2AH | [Redacted]

From: [Redacted]

Sent: 20 June 2018 15:48

To:[Redacted]

Subject: Comments pl by COP Friday: Cayman Islands: Constitutional Issues: Draft reply from Lord Ahmad

Dear All,

Please see attached a draft reply and covering short submission on the constitutional issues raised by Cayman in the letter of 29 May and at the JMC. Grateful for your comments by COP Friday, thanks.

[Redacted]

[Redacted] | Overseas Territories Directorate | Room K2.58 | Foreign & Commonwealth Office | King Charles Street | London SW1A 2AH | [Redacted]

This email is intended for the addressee(s) only. All messages sent and received by the Foreign & Commonwealth Office may be monitored in line with relevant [UK legislation](#)

--



[Redacted]

Cabinet Office

1 Horse Guards Road, London, SW1A 2HQ

[Redacted]

[Attachments withheld]

From: [Redacted]

Sent: Thursday, May 9, 2019 11:29 AM

To: [Redacted]

Cc: [Redacted]

Subject: CAYMAN ISLANDS: RESPONSE TO LATEST CONSTITUTIONAL PROPOSALS

[Redacted]

Please see attached a submission on the Cayman Islands Government's latest constitutional proposals, as discussed. I'll walk round a hard copy.

[Attachment withheld]

[Redacted] | Overseas Territories Directorate | Room W2.75 | Foreign & Commonwealth Office | King Charles Street | London SW1A 2AH | [Redacted]

**DRAFT PARLIAMENTARY STATEMENT CONCERNING THE BRITISH
OVERSEAS TERRITORIES**

I wish to give the following assurance to the Governments of the British overseas territories.

Before it is proposed to legislate for an overseas territory by Act of Parliament or Order in Council, or to impose an international obligation on an overseas territory, the United Kingdom Government will normally consult the Government of that territory unless circumstances make it impracticable to do so. The United Kingdom Government will take due account of any views expressed by the Government of the territory concerned.

From: [Redacted]
Sent: Wednesday, November 7, 2018 8:39 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Cayman Islands Constitutional Reforms

Dear all,

I have added a few comments on top of [Redacted] I'd be grateful for your views on some of these where indicated.

Kind regards,

[Redacted]

[Redacted] | **Overseas Territories and Maritime Team** | FCO Legal Directorate | E2.111 (Old Library), Foreign and Commonwealth Office, King Charles Street, London SW1A 2AH | [Redacted]

It is the responsibility of the lead policy department to register legal advice. In line with FCO guidance, Legal Directorate will not register this email chain or any attachments. This email and any attachments may contain legally privileged material and should not be forwarded or disclosed to other recipients outside the FCO without Legal Directorate consent.

From: [Redacted]
Sent: 07 November 2018 13:38
To: [Redacted]
Cc: [Redacted]
Subject: Re: Cayman Islands Constitutional Reforms

Dear [Redacted]

I attach a paper analysing the Cayman proposals and offering advice on their acceptability. I assume you'll be consulting the Governor. I am copying this to [Redacted] in view of his legal interest.

All the best,

[Redacted]

Attachments withheld

From: [Redacted]
Sent: Thursday, November 8, 2018 10:44 AM
To: [Redacted]
Cc: [Redacted]
Subject: Re: Cayman Islands Constitutional Reforms

Dear all

I attach a revised version of my paper with a few changes to take account of [Redacted] helpful comments. This replaces the original paper.

[Redacted]

From: [Redacted]
Sent: 07 November 2018 20:38
To: [Redacted]
Cc: [Redacted]
Subject: RE: Cayman Islands Constitutional Reforms

Dear all,

I have added a few comments on top of [Redacted] I'd be grateful for your views on some of these where indicated.

Kind regards,

[Redacted]

[Redacted] **Overseas Territories and Maritime Team** | FCO Legal Directorate | E2.111 (Old Library), Foreign and Commonwealth Office, King Charles Street, London SW1A 2AH
| [Redacted]

It is the responsibility of the lead policy department to register legal advice. In line with FCO guidance, Legal Directorate will not register this email chain or any attachments. This email and any attachments may contain legally privileged material and should not be forwarded or disclosed to other recipients outside the FCO without Legal Directorate consent.

From: [Redacted]
Sent: 07 November 2018 13:38
To: [Redacted]
Cc: [Redacted]
Subject: Re: Cayman Islands Constitutional Reforms

Dear [Redacted]

I attach a paper analysing the Cayman proposals and offering advice on their acceptability. I assume you'll be consulting the Governor. I am copying this to [Redacted] in view of his legal interest.

All the best,

[Redacted]

From: [Redacted]
Sent: Wednesday, November 7, 2018 5:05 PM
To: [Redacted]

Cc: [Redacted]

Subject: FW: Cayman Islands Constitutional Reforms

[Redacted]

[Redacted]

has come back with the attached advice on Cayman's constitutional proposals. As we discussed yesterday, grateful if you could provide your and [Redacted] steer on the political/policy considerations of each proposal before we put up advice.

Thanks

[Redacted]

Attachments withheld