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Faulkner at the Front -
The Demonstration of 1949: Its Beginning, Golden Jubilee and Implications

By Quincy F. Lettsome, Ph. D

Published in "The Nation Builders", Historical Supplement
in the June-July 2016 issue of the Virgin Islands Life & Style Magazine

The 24th of November, 2015 will be the 66th Anniversary of the historic Demonstration which took place in Road Town, Tortola, V.I. This huge march, even by today's standards, is of great significance in the annals of the history of this community of islands. In process of time, it was the flame that lit the path to constitutional, political, economical and social development during the better half of the twentieth century.

In order to better understand the far reaching ramifications of this Demonstration of 1949, it is important to place this historic milestone in proper perspective.

The Legislative Council of the Virgin Islands was abolished in 1901. The Presidency was then administered by the Commissioner, who was assisted by Executive Council. The Cottage Hospital, now known as Peebles Hospital, was opened in Road Town in 1922. The cotton industry collapsed in 1923 and the colony was severely struck by the 'gale' (hurricane) of 1924. By the 1930's and 1940's agriculture and fishing were thriving industries. The Civic League was initiated by a Tortolian, Hope Stevens was organised and this drew a petition, which requested the Secretary of State to restore the Legislative Council. Unfortunately, this request was not granted.

Matters came to head from the most unlikely source. One Theodore H. Faulkner, a fisherman from Anegada came to Road Town with his wife. She was expecting a child at Peebles Hospital and some disagreement rose between Mr. Faulkner and the physician. In frustration he spoke against the Government in the market place, where he articulated many of the social ills and discontent. This was the embryonic beginnings of a movement, which was supported by Virgin Islanders in the United States Virgin Islands the U.S.A.

The St. Thomas Daily News expressed the happenings in October 1949:

> *"A rambling sound is coming out of the British Virgin Islands which may soon attract the attention of No. 10 Downing Street"* Harrigan, Norwell and Varlack, Pearl.

Thus, the stage was set. The curtains were being drawn for the historic Demonstration, sometimes referred to as simply the March of 1949. This huge Demonstration took place on 24th November, 1949 when some 1,500 persons from all over the archipelago of the V.I. gathered together in Road Town. This sleepy seaside capital echoed with the marching feet of demonstrators and the instructions shouted by the organizers. The three leaders were Theodore H. Faulkner, Isaac G. Fonseca and Carlton L. de Castro.

The demonstrators marched through the street to the Commissioner's Office and presented a petition, which indicated their grievances against the political system and the manner in which presidency was being administered. The first portion of the document read:

> *"We the people of the British Virgin Islands, theoretically a free people by reasons of the fact that we are supposed to be British subjects and citizens of the British empire, are today in numbers assembled as a Demonstration of Protest against certain conditions under which we have witherto been forced to live...One of the purposes of this Demonstration today is for us to achieve a measure of political freedom for ourselves and the generation of the future."*

The Demonstration of 1949 is indeed one of the most significant milestones in the history of the B.V.I., during this the 21st Century. The tramps and shouts of the demonstrators will echo forever down the ages in the destiny of this Archipelago Territory.

In forty-nine some challenged this decree: With placards they boldly marched through Road Town. They wanted the fruits of democracy! They demanded the spoils of real freedom for themselves and their own children to come.

History will do justice to recall that the mass Demonstration of 1949, proved to be the catalyst which set in train a series of political and constitutional developments which still impact on the Virgin Islands. These included the elections of 1950, which resulted in the restoration of the Legislative Council in 1950 and subsequently General Elections, including of course that which was held as recently as June 8th, 2015.

The mass gathering also set the stage for monumental political decisions, such as the Virgin Islands to remain outside the West Indian Federation in 1958 and the introduction of the Ministerial System of Government in 1967. Such political advances also resulted in general progress, economically and socially.

The late Theodore Faulkner could be regarded as the 'Father of Modern Politics' in the V.I. In historical perspective, the Demonstration on 1949 and the Election which followed in 1950 are so crucial to the history and the development of the Virgin Islands that both events should be made more permanent and visible.

It was the Demonstration that brought about the first election of the 20th Century. It is most crucial also that the true significance of the Demonstration is clearly understood, appreciated and forever etched in the consciousness of Virgin Islanders.



Partnership for Progress and Prosperity

Britain and the Overseas Territories

Presented to Parliament by the Secretary of State

for Foreign and Commonwealth Affairs

by Command of Her Majesty March 1999

Cm 4264

£12

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Foreword by the Foreign and Commonwealth Secretary

Soon after becoming Foreign Secretary I announced a thorough review of the relationship between Britain and what were then called the Dependent Territories. The review has been a recognition of the importance which the Government places on that relationship, and a sign of our determination to get it in the best possible shape for the future.

During the review we have consulted widely. We have spoken with governments, opposition leaders and governors of the Overseas Territories. We have taken advice from Parliamentary Select Committees and others.

At the Dependent Territories Association Conference last February I gave a progress report and listened carefully to the concerns of other delegates. I made clear that we wanted to make our relationship work better.

The review is now complete. Its aim is a renewed contract between Britain and the Overseas Territories. Its recommendations are contained in this White Paper. They cover a range of issues fundamental to both Britain and the Overseas Territories – the constitutional link; citizenship; the environment; financial standards; good governance and human rights.

The basis for our partnership remains the same as it has for generations – the deep bond of affection and respect that exists between the people of Britain and the peoples of the Overseas Territories.

It is a bond that Britain values highly. It shows how a modern and effective partnership can be built on the foundation of ties that go back centuries.

The principles that underlie our partnership are clear:

- First, our partnership must be founded on self-determination. Our Overseas Territories are British for as long as they wish to remain British. Britain has willingly granted independence where it has been requested; and we will continue to do so where this is an option. It says a lot about the strength of our partnership that all the Overseas Territories want the constitutional link to continue. And Britain remains committed to those territories which choose to retain the British connection.
- Second, the partnership creates responsibilities on both sides. Britain is pledged to defend the Overseas Territories, to encourage their sustainable development and to look after their interests internationally. In return, Britain has the right to expect the highest standards of probity, law and order, good government and observance of Britain's international commitments.
- Third, the people of the Overseas Territories must exercise the greatest possible control over their own lives. We are proud that our Overseas Territories are beacons of democracy. We applaud their achievements, and want them to have the autonomy they need to continue to flourish.

- Fourth, Britain will continue to provide help to the Overseas Territories that need it. It is a source of much pride that the effectiveness of their governments' policies has meant that budgetary help is necessary only for Montserrat and St Helena – both for special circumstances.

It is against the background of these four principles that we have conducted our review. I believe many of its recommendations will be welcomed by the people of the Overseas Territories.

We are offering British citizenship to those who do not wish to retain their present status, which will give them proper recognition of their British connection.

We are reforming the way that we handle the needs of the Overseas Territories, making sure they have proper points of contact and a clear voice in London and Brussels.

We have appointed a Minister in the Foreign and Commonwealth Office who has specific responsibility for looking after Overseas Territories' issues, and we will be setting up a Consultative Council with the territories.

We have set out the ways in which the Overseas Territories can ensure good government, a flourishing environment and a growing economy.

Britain welcomes the economic prosperity and development built up by many of the Overseas Territories. Some are among the world leaders in the financial industry. We want those Overseas Territories with financial industries to operate and regulate them to internationally accepted standards. This will enable Britain to meet its own international obligations. It will ensure that we put up a common front against fraudsters, tax evaders, money launderers, regulatory abuse and the drugs trade. And by doing so, we will be securing the future strength of the financial industries of Britain and the Overseas Territories and safeguarding the global financial system.

The publication of this White Paper is a milestone in Britain's relationship with the Overseas Territories. There is still some detail to be worked out on the proposals it contains, particularly where legislation will be needed to put its ideas into effect.

We are looking forward to continuing our dialogue with the governments and peoples of the Overseas Territories. Working together to implement the proposals in this White Paper, I believe we can lay the basis for a modern partnership.





Robin Cook
Secretary of State for Foreign and Commonwealth Affairs
March 1999

Executive summary

A new partnership

- Britain and the Overseas Territories need a new partnership for progress and prosperity.
- The new partnership should reflect not only the close and long-standing links between the Overseas Territories and the UK – but also the new dynamics of a changing and forward-looking relationship.
- Modernisation is the key to the new partnership: modernisation of the structures and practices of the relationship in both Britain and the Overseas Territories.
- But fundamental to the new partnership will remain the right of each territory to remain British if that is the wish – freely and democratically expressed – of their people.
- New structures to reflect that new partnership are being put in place within the UK Government: Overseas Territory governments need to examine their own structures to make the new partnership effective.

British citizenship

- British citizenship – and so the right of abode – will be offered to those citizens of the Overseas Territories who do not already enjoy it, and who meet certain conditions. Those who do not wish to have it will be able to say so and remain British Dependent Territories citizens.

Encouraging good government

- Some of the Overseas Territories need to make progress in reforming and modernising human rights provisions – notably judicial corporal punishment, capital punishment and laws affecting homosexual conduct. We would prefer to see Overseas Territory governments enact the necessary reforms themselves.
- Regulation of offshore financial service industries in the Overseas Territories needs to be improved to meet internationally accepted standards and to combat financial crime and regulatory abuse. Other measures are needed to ensure that regulators and law enforcers in the Overseas Territories are able to cooperate properly with counterparts elsewhere, and to provide for tighter audit and financial accountability.

Sustainable development

- We shall continue to help the Overseas Territories achieve sustainable development in ways which contribute effectively towards the elimination of poverty.
- We will work with Overseas Territory governments increasingly to conserve, manage and protect the rich natural environment of the territories. An Environment Charter will be negotiated to clarify the roles of the partners in this important work.

Chapter One

Britain and the Overseas Territories – a modern partnership

Hamilton, Bermuda: International 10 km race



Government of Bermuda Information Service

1.1 Britain's links with the Overseas Territories are long-standing and important. The relationship is rooted in a shared history: but it moves forward, too, in partnership. For Britain, the Overseas Territories are a significant element in its national and international identity, and an important responsibility. For the Overseas Territories, their links with Britain are significant too: but so is their individual character and diversity. This intertwined relationship is strong and constant. But it is subtle and changing too. A new and modern partnership between Britain and the Overseas Territories must reflect this relationship. It must be a partnership for progress and prosperity.

1.2 The Government is committed to modernisation. Modernisation is at the core of its vision, its direction, and its policies. We are applying this process of modernisation systematically – to the economy, to the health service, to education, to crime prevention and to jobs. Modernisation is at the heart of our approach to renewing the framework of Britain: to new representational arrangements in Scotland, Wales, Northern Ireland and London, and to new administrative arrangements in England. We are recasting the constitutional settlement to bring power closer to people.

1.3 We are also reforming our relations with the rest of the world. We have ended Britain's isolation in Europe, with increasingly tangible results. We have re-established Britain as a leading international player, prepared to take tough decisions to deal with complex and pointed international difficulties – and where necessary, to back them up with action.

1.4 Britain's mutual relationship with the Overseas Territories must be seen in this context: within the overall framework of modernisation and reform, and within Britain's new international role. As participants in the new global order and the new global economy, the Overseas Territories themselves must embrace reform and modernisation. And in its relationships with the Overseas Territories, Britain must ensure that its structures and its practices are reformed and modernised. The relationship between Britain and the Overseas Territories needs to be effective and efficient, free and fair. It needs to be based on decency and democracy. Both Britain and the Overseas Territories have much to contribute to each other. They have done so in the past. They must continue to do so now, and in the future.

The territories

1.5 The British Overseas Territories comprise Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, the Pitcairn Islands, St Helena and its dependencies Ascension and Tristan da Cunha, and the Turks and Caicos Islands; the territories of the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands, which have no indigenous population; and the Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus

1.6 The Overseas Territories retain their connection with the UK because it is the express wish of their peoples that they do so. They have a substantial measure of responsibility for the conduct of their own affairs. Local self-government is generally provided by an Executive Council and elected legislature. Governors or Commissioners are appointed by the Crown on the advice of the Foreign Secretary, and retain responsibility for external affairs, defence and, usually, internal security and the public service.

A new partnership

1.7 In August 1997 we began a review of Britain's relationships with what were then called the Dependent Territories. In addition to the arrival of a new government following the election result of May 1997, a number of specific factors combined to prompt this fresh look. These included:

- escalating volcanic activity on Montserrat;
- increased awareness of the isolation and economic problems of some of the poorer territories – notably St Helena;
- the growing significance of the offshore financial centres in some territories – in particular, Bermuda, the Cayman Islands and the British Virgin Islands.

1.8 The purpose of the review was to ensure that the relationship reflected the needs of the territories and Britain alike, and to give the territories confidence in our commitment to their future. The review covered policy towards all the remaining territories, although particular circumstances applied in the cases of Gibraltar and the Falkland Islands. The Sovereign Base Areas in Cyprus were excluded from the review because of their specific character as military bases and are therefore not included within the scope of this White Paper.

1.9 The basis of the review was that Britain's links to the Dependent Territories should be based on a partnership, with obligations and responsibilities for both sides. The territories should administer themselves in accordance with their constitutions and in full respect for those of the UK's international obligations relevant to them. Within that framework the UK should uphold the right of the individual territories to determine their own future and to enjoy a high degree of autonomy, while assuring their defence and external relations and providing governance of high quality.

(From left to right) Pippa Lang, Mark Gilbert, Chris Rogers (*Newsround* presenter), Sian Davies and Bonnie Curtis. The students 'guest-edited' the BBC news programme for children, *Newsround*.



Keene Public Affairs Consultants Limited? BBC? TES?

Falkland Islands Community School students turn BBC editors for a day

Students at the Community School in Stanley won the International section of the *Times Educational Supplement (TES)* Newsday Competition for the second year running. This involved producing a newspaper, *Falkland Focus*, in just one day.

In August 1998, four of the editorial team, Bonnie Curtis, Sian Davies, Mark Gilbert and Pippa Lang flew the 8,000 miles to the UK to be shown around the TES offices. They also featured on the BBC children's news programme, *Newsround*, where they acted as guest editors for the day.

The day of the programme was spent with the production team selecting items for inclusion and deciding which pictures were to be used.

All thoughts of a leisurely day vanished as deadlines quickly approached and last minute decisions had to be taken. But five o'clock came and the whole day was condensed into eight minutes of live, seamless and exciting airtime.

1.10 The last major review of policy towards the territories took place in 1987, but was limited to the Caribbean Dependent Territories and Bermuda. The review concluded that the UK should not seek to influence opinion in the territories about independence, but should remain ready to respond positively when independence was the clearly and constitutionally expressed wish of the people. The reasonable needs of the Dependent Territories would continue to be a first charge on the UK's aid funds.

1.11 We sought views on three principal issues:

Citizenship

Whether people in the Dependent Territories who did not have it wanted British citizenship (carrying with it the right of abode in the UK) and if so on what basis – whether or not people in Britain and people in the territories should have reciprocal rights, including the right of abode? The consultation found that there was interest in British citizenship – but only on the basis of non-reciprocity.

Constitutional status

What degree of interest was there in changing the territories' constitutional relationship with the UK? Apart from some limited reference to Crown Dependency status similar to that of the Channel Islands, there was no widespread interest in a change in the current constitutional relationship.

Name

Was there significant support for changing the name of the countries concerned from 'British Dependent Territories'? The consultation found there was support for a change of name to British Overseas Territories, or something similar.

1.12 A number of other exercises have contributed to the preparation of this White Paper.

NAO Report on Contingent Liabilities in the Dependent Territories

1.13 On 30 May 1997 the National Audit Office (NAO) published an updated *Report on Contingent Liabilities in the Dependent Territories*. The report identified a wide range of areas in which there had been progress since its last report in 1992, but called for continuing action to minimise future risks to the Exchequer.

1.14 As in 1992, the Public Accounts Committee (PAC) held hearings on the basis of the NAO report. The Permanent Under Secretary of the FCO, Sir John Kerr, gave evidence. The PAC published its conclusions and recommendations in a report to Parliament on 21 May 1998.

1.15 The timing and substance of this review were a considerable help in the preparation of this White Paper. Its recommendations – particularly those relating to financial regulation and the control of public borrowing – have been addressed.

Foreign Affairs Select Committee enquiry into the Overseas Territories

1.16 Separately, the House of Commons Select Committee on Foreign Affairs (FAC) embarked on its own review of the territories. It took evidence from Baroness Symons on 25 November 1997. The FCO also submitted two memoranda to the FAC. The Committee published its interim report on 3 February 1998, recommending that:

- the Government's review should cover the difficulties Dependent Territory passport holders experience when travelling and others related to education and training;
- coordination in Whitehall should be strengthened;
- good governance and the rule of law in the territories should be promoted and their constitutions revised;
- the proposal to change the name to Overseas Territory was right.

The Government's response to the enquiry was published on 13 May 1998.

Select Committee on International Development enquiry into Montserrat

1.17 In the light of the continuing threat to Montserrat from volcanic activity, the International Development Committee of the House of Commons announced in August 1997 its intention to conduct an enquiry into the Government's conduct of the crisis. The Committee published its conclusions on 27 November 1997. The Government's response was forwarded to the Chairman of the Committee by the International Development Secretary on 2 February 1998. The Committee produced a further report on 28 July 1998. The Government's response was published on 29 October 1998.

A new partnership – the new way forward

1.18 We announced the interim findings of the review in February 1998. In a speech to the then Dependent Territories Association – now known as the UK Overseas Territories Association – the Foreign Secretary set out the principal elements of the new relationship between Britain and the Overseas Territories.

1.19 The new relationship would be a modern partnership tailored to the needs of both sides, and based on four fundamental principles:

- self-determination;
- mutual obligations and responsibilities;
- freedom for the territories to run their own affairs to the greatest degree possible;
- a firm commitment from the UK to help the territories develop economically and to assist them in emergencies.

1.20 The key areas for change in the new relationship would be:

Coordination

The Foreign Secretary would work with the International Development Secretary on the details of new arrangements to ensure the best possible management of the UK's links with, and responsibilities for, its territories. A Minister for the Overseas Territories would be appointed. There would be a new structured dialogue between the Overseas Territories and the Government.

Name

The territories would in future be known as United Kingdom Overseas Territories – for short, Overseas Territories.

Citizenship

The sense of injustice felt in many Overseas Territories from not enjoying British citizenship was understood. We would look sympathetically at the possibility of extending citizenship.

Financial regulation

A check-list of regulatory measures for the territories to bring their financial regulation up to internationally accepted standards would be drawn up. The Overseas Territories would be invited to present proposals for independent and properly resourced regulatory authorities.

Human rights

The record of many Overseas Territories was positive, but further work would be needed to ensure compatibility with the commitments which Britain has made on their behalf.

1.21 We said we would press ahead with action in priority areas, like better regulation of offshore activities. Separately, it was decided that action would also be taken to deal with harmful tax competition issues, which were attracting increased international attention. The Foreign Secretary said that the next stage would be to develop the details of these proposals in a White Paper.

Chapter Two

Partnership for progress and prosperity

2.1 Britain's policy towards the Overseas Territories rests on the basis that it is the citizens of each territory who determine whether they wish to stay linked to Britain or not. We have no intention of imposing independence against the will of the peoples concerned. But the established policy of successive British governments has been to give every help and encouragement to those territories which wished to proceed to independence, where it is an option. The issue was most recently reviewed in Bermuda in August 1995, when a referendum produced a 73 per cent vote in favour of retaining the link with Britain.

2.2 Britain is helping to develop the Overseas Territories, both economically and politically. This is a high priority for the Government, and is in line with Britain's commitments under the terms of the UN Charter.

2.3 To improve the links between the UK and the territories, we have for the first time appointed a dedicated Minister for the Overseas Territories in the FCO to oversee and develop the new partnership.

2.4 The partnership will be based on consultation and mutual understanding. A new political forum, the Overseas Territories Consultative Council, will be set up bringing together British Ministers and Chief Ministers and, where there is no ministerial system, elected members of Legislative Councils from the Overseas Territories to discuss matters of common concern. It will meet annually. Every other year, the Council will meet immediately before the Commonwealth Heads of Government Meeting, to allow our representatives to attend in full knowledge of the views of the governments of the Overseas Territories. We plan to hold the first meeting of the Council in September/October 1999.

Constitutional relations

2.5 We are committed to ensuring good government, sustainable political, economic and social development in the Overseas Territories and to guaranteeing their security and defence. The commitment to the defence of the Overseas Territories was reiterated in the *Strategic Defence Review* published in July 1998. It has substance: a garrison in the Falklands, for example, and guard-ships in the Caribbean and South Atlantic. In return, we expect high standards of probity, governance and adherence to the international agreements to which the UK and the Overseas Territories are party; and we expect to minimise the extent to which the UK is exposed to contingent liabilities.



Helen Roscoe

Stanley: Falkland Islands

2.6 Consultation with the territories showed a clear expression of their wish to retain the connection with Britain. We concluded that neither integration into the UK, nor Crown Dependency status, offer more appropriate alternatives to the present arrangements. But these arrangements need to be revisited, reviewed and where necessary revised.

2.7 The link between the UK and the Overseas Territories is enshrined in the constitution of each territory. The Overseas Territories believe that their constitutions need to be kept up to date and where necessary modernised. Each Overseas Territory is unique and needs a constitutional framework to suit its own circumstances. Suggestions from Overseas Territory governments for specific proposals for constitutional change will be considered carefully.

2.8 The governance of the territories must have a firm base. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and expectations, and both should be clearly and explicitly set out. Future action will focus on:

- measures promoting more open, transparent and accountable government;
- improvements to the composition of legislatures and their operation;
- improving the effectiveness, efficiency, accountability and impartiality of the public service;
- the role of Overseas Territory Ministers and Executive Councils and their exercise of collective responsibility for government policy and decisions;
- respect for the rule of law and the constitution;
- the promotion of representative and participative government;
- freedom of speech and information;
- the provision of high standards of justice;
- adoption of modern standards of respect for human rights.

2.9 Discussion of constitutional change is already under way. We are planning, for example, to consult the people of St Helena and its Dependencies about how to develop the democratic and civil rights of people living on Ascension Island. Some territories are already actively modernising the machinery of government: in the Cayman Islands, for example, an extensive programme of public sector reform and rejuvenation is in place.



BVI Tourist Board

Devil's Bay, the British Virgin Islands

Making partnership work

2.10 Important changes have already been introduced to make the new partnership work. The Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID) have put in place new administrative arrangements to ensure better management of the UK's links with, and responsibilities for, the Overseas Territories.

2.11 After close consultation between the two Secretaries of State, it was decided that there should be parallel departments for the Overseas Territories in both the FCO and DFID. These have been set up. A ministerial joint liaison committee has also been established to coordinate the departments' activities and policies towards the aid-receiving Overseas Territories.

2.12 In the FCO, the new Overseas Territories Department is responsible for all issues relating to the Overseas Territories and reports to the Minister for the Overseas Territories. Special arrangements apply for issues relating to Gibraltar and the Falkland Islands. Because Gibraltar is within the European Union (EU) as part of the UK membership under the Treaty of Rome – the only Overseas Territory with this status – it will continue to be handled principally by the FCO's European Departments, reporting to the Minister responsible for Europe.

2.13 Following a review of the management of the aid programme in the Caribbean region, DFID decided early in 1998 to concentrate all support work for the Overseas Territories in London and the Parliamentary Under Secretary of State in DFID was given specific responsibility for overseeing the aid relationship with the Overseas Territories. At the same time, the FCO decided to transfer back to London responsibility for its Good Government funding and most of the other work hitherto done by the joint FCO/DFID Dependent Territories Regional Secretariat in Bridgetown. The Secretariat consequently has been closed. To reflect changing organisational and structural needs the Overseas Territories Department is, however, keeping some advisory expertise in Barbados.

2.14 These new arrangements are already providing greater coherence in policy making, raising the profile of the UK Government's work on behalf of the Overseas Territories in Britain, and helping to create a better dialogue with the Overseas Territories themselves.

2.15 There is great diversity within the Overseas Territories in terms of their size, their populations, their economic development and other factors. But there is a degree of coherence and similarity in the constitutional and institutional arrangements in place for their government and administration. We would like to see individual territories review their own structures and arrangements in line with the idea of a new partnership. Local changes may be needed to make the partnership work fully, and to improve the dialogue between the territories and the UK.

2.16 In response to representations from several Overseas Territory governments, we have reviewed the arrangements in Brussels for ensuring that Overseas Territory interests are properly looked after within the EU, given the direct impact of many Brussels-based decisions and regulations on their economies. The EU Command in the FCO will continue to liaise closely with the Overseas Territories Department and Southern European Department as well as other government departments over issues which affect the territories. A First Secretary in the office of the UK Permanent Representative to the EU in Brussels has been designated as a point of contact for the Overseas Territories covered by the Overseas Countries and Territories (OCT) Decision. The UK Permanent Representation to the EU remains in close touch with the Government of Gibraltar through the latter's office in Brussels.

All UK Overseas Territories except Bermuda, Gibraltar and the Sovereign Base Areas, enjoy an association with the EU under Articles 131 to 136 of the EC Treaty and the Overseas Countries & Territories (OCT) Decision. These provisions offer very favourable market access to the Community for Overseas Territory products, aid allocations and a dialogue with the EU on areas of mutual interest. The current Decision expires in 2000; the Government will consult the Overseas Territories and reflect their concerns in the renegotiation of the Decision.

2.17 We were also asked by leaders of the Overseas Territories whether closer links might be possible between the territories and the Commonwealth. Full membership of the Commonwealth is open only to independent countries, which limits the scope for Overseas Territory participation in Commonwealth affairs. However, members of the legislatures of the Overseas Territories have long enjoyed membership of the Commonwealth Parliamentary Association on an equal footing with full Commonwealth members. We will work to extend this collaboration to Overseas Territory participation in other Commonwealth organisations. Bermuda and other Overseas Territory governments are regular participants, as members of the UK delegation, in Commonwealth Finance Ministers' meetings. The Cayman Islands will host the 1999 meeting. Overseas Territory representatives have also attended meetings of Commonwealth Law Ministers. In 1998, for the first time, Overseas Territory representatives were included as members of the British delegation to the Commonwealth Senior Officials' meeting and the Commonwealth Health Ministers' meeting in Barbados. In collaboration with the Commonwealth Secretariat, we are exploring the scope for extending the practice of representatives from the Overseas Territories attending Commonwealth meetings as members of the British delegation.

Chapter Three

Citizenship

3.1 Access to Britain for people from the Overseas Territories is governed by a range of legal controls. The Government's review has examined closely whether this legal framework should now be modernised, as a key element of the new partnership.

3.2 The Commonwealth Immigrants Acts of 1962 and 1968 introduced controls which greatly restricted the ability of Commonwealth citizens and citizens of the United Kingdom and Colonies from the Dependent Territories to settle in the UK.

Sara MacKay



Swimming gala: Cayman Islands

3.3 These Acts were succeeded by the Immigration Act 1971, introducing the concept of the right of abode in the UK and ending the right of free movement to the UK of Commonwealth citizens, including people from the Dependent Territories.

3.4 A 1977 consultative paper on British nationality proposed that the status of citizenship of the United Kingdom and Colonies be divided into two new categories: British citizenship for citizens of the UK and Colonies with the right of abode in the UK, and British Overseas citizenship for those who were subject to control under the Immigration Act 1971. Following representations received on behalf of the Overseas Territories, it was agreed that an additional category should be introduced in recognition of their special status.

3.5 The British Nationality Act 1981 accordingly replaced citizenship of the UK and Colonies with three new forms of status:

- British citizenship, for those with the right of abode in the UK;
- British Dependent Territories citizenship, for those belonging to the Dependent Territories;
- British Overseas citizenship, for people not connected with either the UK itself or any of the remaining Dependent Territories.

The 1981 Act also made provision for people from Gibraltar to acquire British citizenship, and a separate Act gave British citizenship to Falkland Islanders in 1983.

The people of St Helena harbour a sense of injustice about their citizenship status. They point to a Royal Charter granted by King Charles II in 1673. This gave the people of St Helena liberties

'. . . as if they had been abiding and borne within this our realme of England . . .'

St Helenians feel a strong sense of British identity by birth, language, history and culture. They have never known any other sovereignty. They consider that modern immigration and nationality legislation has cut them off from the UK and has added to their isolation. Some say that St Helena has become as much a prison for them as it was for Napoleon. They want to be able to travel freely to and from Britain.

Such was the strength of local sentiment that the Bishop of St Helena set up the 'Bishop's Commission on Citizenship' in 1992 '. . . to support restoration of the full rights of citizenship of those British subjects who are St Helenians'.

In 1997 a Bill to give British citizenship (and thereby right of abode in the UK) to St Helenians was introduced in the House of Lords. But the House of Commons considered that the issue of British citizenship for residents of all UK Overseas Territories who do not already have it was best considered as part of the review of Overseas Territories.

New rights of citizenship

3.6 Many people in the Overseas Territories who have British Dependent Territories citizenship but who do not have the status of British citizens, and thus the right of abode in the UK, clearly feel a sense of grievance. For some people this is an irritant affecting the ease with which they can travel.

For others the issue goes deeper. Some territories have only ever known British sovereignty. They feel British, and their populations have never been anything other than British. But legislation enacted in the 1960s and 1970s imposed controls on their entry to the UK either for settlement or for visits.

There is a strong desire for these controls to be relaxed and rights restored. We sympathise with those in the Overseas Territories who feel this sense of grievance, and intend to address it.

3.7 We have examined the options carefully. We have decided that British citizenship – and so the right of abode – should be offered to those British Dependent Territories citizens who do not already enjoy it and who want to take it up (but see paragraphs 3.12 and 3.13). Any who do not want to take it up will be able to say so and remain British Dependent Territories citizens. This is a significant step forward for people in the Overseas Territories. It will offer them the opportunity many have sought for many years. The Government considers this is the right thing to do as a point of principle. We will introduce, when parliamentary time allows, the legislation required to put this principle into practice.

3.8 In making this decision the Government has taken into account representations made by people in many territories – not least those made on behalf of the people of St Helena (see box).



Government Information Services, Cayman Islands

Cayman high school graduates

What new citizenship rights will mean

3.9 We have considered carefully the argument that a grant of British citizenship to people with British Dependent Territories citizenship would lead to a new wave of primary immigration. We expect few people from the Overseas Territories would wish to emigrate permanently to Britain. Roughly 70 per cent of the total population of the Overseas Territories live in territories with a higher income per head than Britain, and residents of the larger and richer territories such as Bermuda, the British Virgin Islands and the Cayman Islands might well be more likely to want to stay where they are. But some, for example, may like to come to Britain for training and work experience, and will be welcome. We would not expect large numbers of those currently resident in the less prosperous, smaller territories to take up the option of coming to live and work permanently in the UK. Effective and sustainable development within the Overseas Territories will continue to provide opportunity and choice and reduce the need for people to seek these elsewhere.

3.10 Another point made by some governments of the Overseas Territories is that they would not welcome a grant of British citizenship if this came with conditions attached to it, such as an obligation to introduce British tax rates and regimes. There are no such conditions attached to the Government's proposal on citizenship. Nor will this offer of British citizenship imply in any way a threat to the right of the people of these territories to determine their own constitutional relationship with the UK. The new grant of British citizenship will not be a barrier, therefore, to those Overseas Territories choosing to become independent of Britain. Nor will British Dependent Territories citizenship status be abolished.

3.11 Many people from the Overseas Territories have made it clear that they want British citizenship so that they can travel more freely. It is right that they should be able to do so. They should be able to enter Britain through our ports through the same channels as British citizens and other European Union (EU) nationals – who at present include inhabitants of French and Dutch territories, but not those of our own except Gibraltar and the Falkland Islands.

3.12 We do not intend to offer British citizenship to British Overseas Citizens. Many have access to or have acquired dual nationality. Many have access to the UK through our voucher scheme. Moreover we have a particular responsibility to people in areas for which we have sovereign responsibility.

3.13 Nor does the Government propose to extend the offer of citizenship to British Dependent Territories citizens who owe their status to their association with the Sovereign Base Areas in Cyprus or with the British Indian Ocean Territory. Both are special cases. British usage of these territories is defence-related.

Reciprocity

3.14 It is our intention that the offer of British citizenship should be on a non-reciprocal basis as far as the right of abode is concerned. Our consultations with the territories showed that there is a fear among these mostly small communities that reciprocity would give unrestricted access to not only British but also other EU citizens. This would, potentially, make possible an inflow of people on a scale that could dramatically alter the social cohesion and character of the communities. The Government regards this concern as legitimate. Precedents have already been set for British citizenship being offered without reciprocity in the case of the Falklands and Gibraltar. Within the EU, neither France nor the Netherlands nor Portugal require reciprocity in exchange for full metropolitan citizenship.

3.15 A non-reciprocal offer of British citizenship would be wholly consistent with the importance the Government attaches to the emergence of a vibrant multiracial and multicultural Britain.

3.16 Under European Community law, giving British Dependent Territories citizens British citizenship will mean giving them certain European Community rights of free movement and residence in EU and European Economic Area member states.

3.17 Once the appropriate legislation has been passed, all those who were British Dependent Territories citizens by connection with any qualifying Overseas Territory (see paragraph 3.13 above) at the time the legislation entered into force would automatically become British citizens.

We shall make provisions for children born to qualifying parents to become British citizens at birth or adoption. But we shall also make it possible for those who do not want to become British citizens to give up that status and remain British Dependent Territories citizens.

3.18 As now, newcomers to the Overseas Territories will be subject in the first instance to regulations on rights of residence in the Overseas Territory in which they wish to live. These regulations differ from territory to territory and often prescribe lengthy periods of legal residence and other qualifications for the grant of 'belonger status'. We shall put in place arrangements which will make it possible for any such people who acquire British Dependent Territories citizenship through legal residence in an Overseas Territory to be granted British citizenship.

UK Overseas Territories – population*

Anguilla	11,915
Bermuda	61,545
British Virgin Islands	19,107
Cayman Islands	36,600
Falkland Islands	2,221
Gibraltar	27,192
Montserrat (pre-volcano 11,000)	4,500
Pitcairn, Henderson, Ducie and Oeno Islands	54
St Helena and its Dependencies	6,397
Turks & Caicos Islands	20,000
Total	**189,531**

** For a full list of Overseas Territories see paragraph 1.5.*

Chapter Four

Encouraging good government – human rights

4.1 We regard the establishment and maintenance of high standards of observance of human rights as an important aspect of our partnership with the Overseas Territories. Our objective is that those territories which choose to remain British should abide by the same basic standards of human rights, openness and good government that British people expect of their Government. This means that Overseas Territory legislation should comply with the same international obligations to which Britain is subject, such as the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights. The Overseas Territories have a well-deserved reputation for their respect for and observance of human rights, but changes are still necessary in some territories to ensure consistency.

Pitcairn Police Officer Meralda Warren with WPC Gail Cox, seconded to advise on law and order



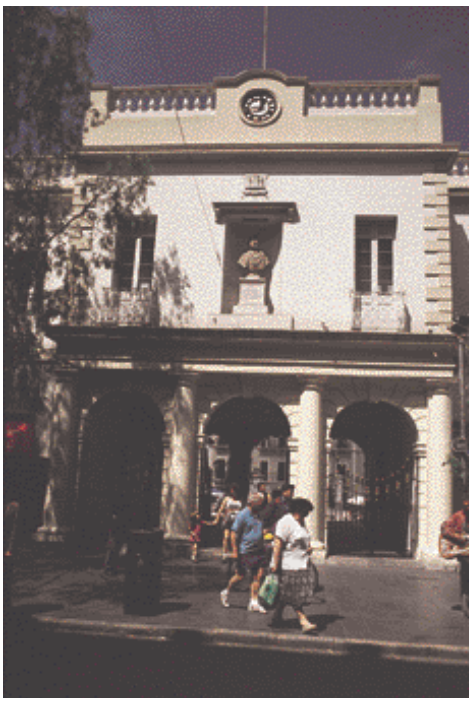
Gail Cox/Dennis Christian

4.2 There are three human rights issues on which we have indicated we would like to see reforms in some of the Overseas Territories:

- judicial corporal punishment, which remains on the statute books of two Overseas Territories;
- legislation in some of the Overseas Territories which outlaws homosexual acts between consenting adults in private;
- capital punishment, which is still available to the courts in Bermuda.

4.3 While its territories retain this legislation the Government risks being in breach of important and fundamental international agreements, including the European Convention on Human Rights and the International Covenant on Civil and Political Rights. In addition, this exposes the UK to an avoidable contingent liability of costs and possibly damages. In keeping with our commitment to a modern relationship with the Overseas Territories based on partnership and responsible self-government, our preference is that the Overseas Territories should enact the necessary reforms themselves. But in the absence of local action, legislation could be imposed on the Caribbean territories by Orders in Council.

House of Assembly, Gibraltar



Gibraltar Information Bureau

Judicial corporal punishment

4.4 Judicial corporal punishment remains on the statute books of the British Virgin Islands and Bermuda. It was abolished in Montserrat in 1991 and in Anguilla and the Turks and Caicos Islands in 1998. In the Cayman Islands abolition was begun in 1995 and completed in 1998. There is a belief in those territories which retain it that it provides a deterrent, particularly against hooliganism and juvenile crime. But in recent years, it has only been handed down as a sentence in the British Virgin Islands, the last time in 1996.

Homosexuality

4.5 We believe that all of the Overseas Territories should enact legislation similar to the UK Sexual Offences Act 1967, which legalised homosexual acts between consenting adults in private. None of the Caribbean Overseas Territories has brought its legislation into line with the Act, though prosecutions in recent years have been rare. In some of the Caribbean communities there is particularly strong opposition to homosexuality, based upon firmly held religious beliefs.

Capital punishment

4.6 In 1991 the UK abolished capital punishment for murder in the Caribbean Dependent Territories by Order in Council. Subsequently the UK has abolished capital punishment for treason and piracy in domestic legislation.

The only Overseas Territory which has retained the death penalty for murder is Bermuda, though the last time it was carried out there was in 1977 (twice). Since then, of a small number of death sentences handed down for premeditated murder, only one was not reduced on appeal to a lesser conviction not carrying the death penalty; and that case was subsequently commuted to life imprisonment.

4.7 We have raised our concerns with the Government of Bermuda about the continuing existence of capital punishment for murder. We hope that the Bermuda legislature will take early steps towards removing this punishment from the statute book. Bermuda's degree of constitutional autonomy prevents us from imposing the abolition of the death penalty there by Order in Council. But if local action is not taken, we will consider whether to impose abolition by means of an Act of Parliament.

4.8 We also expect all Overseas Territories to remove capital punishment for treason and piracy from their statute books.

Chapter Five

Encouraging good government – finance

5.1 We see several reforms as essential to improving standards in this key area of government activity:

- financial services;
- auditing;
- borrowing;
- tax issues.

Financial services – development and regulation

5.2 The international financial services industry has grown dramatically in recent decades. A significant number of the Overseas Territories, especially those in the Caribbean but also Bermuda and Gibraltar, have developed successful offshore financial sectors, and so diversified their economies. In some, the earnings from this sector now contribute significantly to government revenue and to GDP.

5.3 The success of the Overseas Territories has been built upon by their reputation for sound administration, effective legal systems, political stability and public order, and their association with the UK. These provide reassurance to would-be investors and business partners. It is essential for the future of the sector that this reputation for honest administration and probity be preserved and enhanced.



Overseas Territories Handbook

Business district, Bermuda

5.4 The development of sizeable financial sectors brings risks of abuse. There have already been a number of problems. Where these have surfaced, they have been dealt with, and steps taken to strengthen the systems to prevent any recurrence. The process of building suitable defences against abuse is dynamic. As markets develop and techniques for laundering money, fraud, tax evasion and regulatory abuse evolve, so financial regulatory systems must improve, be updated, and be responsive to ever tighter international standards.

5.5 The Caribbean Overseas Territories in particular are a potential target for money launderers because of their offshore financial business, their proximity to major drug producing and consuming countries and, in some cases, their inadequate standard of regulation and strict confidentiality rules. They are also at risk from attempted fraud. In some cases, the small size of their public sectors makes it difficult to provide adequate regulation, particularly if the offshore sector has grown more rapidly than regulatory capacity. International financial crime and regulatory abuse arising in the Overseas Territories is mainly targeted at other countries.

Since 1988 the UK has had a regional intelligence unit gathering and disseminating information among the Caribbean Overseas Territories to assist in the prevention, detection and investigation of major crime, particularly fraud, money laundering and drugs-related crime.

In 1994 a joint UK/US team was established to investigate and assist in the prosecution of cases of financial crime (except drugs-related) which occur principally in the US and Caribbean Overseas Territories.

All the Caribbean Overseas Territories are members of the Caribbean Financial Action Task Force (CFATF), the regional anti-money laundering body, of which the Cayman Islands is the current chair. A number of Caribbean Overseas Territory financial, legal and law enforcement experts have participated as examiners in the CFATF's mutual evaluation process.

5.6 In the wake of problems in the banking sector in Montserrat in 1989, and the BCCI banking scandal in 1991, the regulation of financial sectors has been tightened. Regulators with relevant overseas experience have been recruited, and more comprehensive financial legislation introduced. Revised banking guidelines have been issued which restrict the granting of offshore licences to branches or subsidiaries of international banks which are supervised in their home country. Provisions have been made to allow improved cooperation with overseas regulators and law enforcement agencies; and modern all crimes money laundering legislation has been enacted or will be adopted shortly in the Caribbean Overseas Territories, Bermuda and Gibraltar. The focus should now be on using these powers effectively.

5.7 None the less, as the May 1997 National Audit Office *Report on Contingent Liabilities in the Dependent Territories* noted, overall progress in the Caribbean Overseas Territories in introducing regulatory legislation has been slow. Many Overseas Territories do not yet fully meet internationally acceptable standards. Failure to tighten regulation could affect the stability of and confidence in financial markets and expose the UK to international criticism and to potential contingent liabilities. Furthermore, it could undermine our ability to combat financial fraud, money laundering, terrorist funding and tax evasion, and undermine the effectiveness of financial sanctions. It could also undermine the UK's ability to press for higher standards of global financial regulation, and to encourage greater regulatory cooperation.

5.8 Any participants in the international financial services industry must meet the corresponding international standards of good practice. The globalisation of international finance means that the whole system has to be protected. It is in all our interests to ensure that the Overseas Territories are not the subjects of complaints and that they have proper regulatory regimes in place. In the long run, it is the quality jurisdictions that will prosper best. There must be no weak links which can help to undermine the international financial system.

5.9 Gibraltar is required to implement all European Community Directives related to financial regulation. Gibraltar has made a commitment not just to implement the necessary measures to the minimum standard required within the European Union (EU), but also to match UK standards of financial regulation. Gibraltar's standards of financial regulation are assessed formally and rigorously by the UK Government on a regular basis. This should ensure that Gibraltar will match the regulatory requirements set out in this White Paper.

5.10 Action is necessary in all Overseas Territories with financial centres or ambitions to develop such a sector, to improve standards. Overseas Territory governments must speed up the work they have in hand so that all measures are in place by the end of 1999. We shall be asking Governors to provide regular progress reports. We shall conduct an in-depth independent review by regulatory experts in 1999 to assess progress made in implementing these measures and make recommendations on how to deal with issues outstanding and to what timetable. This is essential to ensure both adequate regulation and that the same conditions apply in all Overseas Territories.

5.11 The key components of the regulatory package (see Appendix Two) we wish to see in place by the end of 1999 are:

- legislation for the effective regulation of the offshore sector which fully meets accepted international standards;
- comprehensive measures to combat money laundering, which extend to all financial institutions, and the introduction of legislation to improve regulation of company formation agents and managers;
- powers to ensure that, whatever the secrecy laws, regulators and law enforcement in those Overseas Territories with financial sectors can cooperate properly with their overseas counterparts, including on investigation and enforcement matters;
- licensing and regulatory regimes for all financial activity that creates conditions for fair competition between the Overseas Territories;
- the establishment of independent regulatory authorities meeting accepted international standards.

5.12 In most Overseas Territories the offshore finance sector is the responsibility of the Governor. We have considered whether there would be an advantage in having uniformity of powers. We have decided that this is not essential. Where authority has been devolved, it is the responsibility of those concerned to ensure that the jurisdiction achieves the highest standards. We will monitor all Overseas Territories concerned and indicate what standards are expected. If, when the implementation of the check-list is monitored, some territories are found to have been inactive and to be behind, we will consider seriously whether to use our powers to ensure that the required standards are met.

Gibraltar Information Bureau



Europort Finance Centre, Gibraltar

Auditing and financial accountability

5.13 The existence of proper financial procedures and controls, including the availability of timely audited accounts of public sector activities, is necessary for the proper administration of public expenditure. The Overseas Territories' past record with both the standard and timeliness of draft and audited accounts has been mixed.

5.14 We will give high priority to ensuring that Overseas Territories have in place sound procedures for administering government finances, with adequate internal audits. Overseas Territories will be required to produce timely, independently audited annual accounts for all public sector activities to UK standards, with full identification of contingent financial liabilities. The accounts should be subject to scrutiny by the territory's legislature, and where appropriate by a fully functioning Public Accounts Committee. In some Overseas Territories, accounting and auditing legislation will need to be updated to underpin this process. We stand ready to give expert advice and assistance to help the Overseas Territories bring their audit and statistical systems up to the required standard.

Financial control – borrowing

5.15 Borrowing is a legitimate tool of government policy but must be used prudently. We therefore intend to agree strengthened procedures and guidelines with Overseas Territory governments. This will ensure borrowing is properly used, within sensible prudent limits and will assist Overseas Territory governments to obtain the greatest economic benefit from their borrowing and to borrow on the best terms. Many of the guidelines will be based on existing practice and will cover all means of raising finance.

5.16 In general, borrowing should only be considered for discrete capital investment projects. It should be restricted to investments which have a calculable and reasonably certain financial and economic rate of return. All investment projects, however financed, should be appraised by suitably qualified professionals against technical, economic, financial, social and (where appropriate) environmental criteria. Concessional sources of funding should be sought first and, in principle, projects with social objectives and low financial returns should be financed from recurrent budget surpluses.

5.17 In considering particular projects due attention should be given to the impact of new commitments on overall levels of borrowing, and to the territory's debt management record. While a rigid framework should not be applied, each territory wishing to borrow will be required to agree with us an overall level of borrowing, and in the case of some territories approval will be required for individual loans. Borrowing in excess of agreed limits would only be approved in exceptional circumstances, or if the economic situation had changed substantially since the limit was set.

Leaders, politicians and officials from the Overseas Territories attended a seminar in London on harmful tax competition on 7 September 1998. Baroness Symons opened the seminar. The seminar's objective was to examine the EU, OECD and G7 harmful tax competition initiatives. By the end of a wide-ranging discussion representatives from the territories and UK officials had a clearer understanding of each other's concerns and interests in the initiatives. The seminar was part of a continuing dialogue on harmful tax competition between the UK Government and the Overseas Territories to ensure that mutual interests are understood and promoted.

5.18 Overseas Territory governments take on contingent liabilities themselves when they guarantee loans to other organisations, and these should be given only when the risk of default has been properly evaluated. Our approval for such guarantees will be required case-by-case.

5.19 We will provide neither explicit nor implicit guarantees for commercial borrowing by Overseas Territory governments. When negotiating borrowing arrangements Overseas Territory governments should not say or do anything which is likely to be interpreted as suggesting anything to the contrary.

Tax issues

5.20 There is growing international concern about the economic side-effects of harmful tax competition between states. Work on this has recently been undertaken by the Organisation for Economic Cooperation and Development (OECD) and the EU, and endorsed strongly by the G7. Given the international mobility of capital, both organisations concluded it was hard to tackle this issue on a purely regional basis. A global approach was needed, as for tax evasion, fraud and money laundering.

5.21 The Government supports the initiatives taken by the EU, OECD and G7. Promoting economic stability and fairness, as well as improving the integrity and security of financial markets, are high priorities. Irrespective of size, all jurisdictions are potential beneficiaries from a healthier world economy. They have a responsibility to ensure that their regulatory regimes are effective, transparent and offer adequate accessibility for the legitimate investigation of criminal activity, including tax fraud and evasion.

5.22 These initiatives have implications for some Overseas Territories. It is important, therefore, that Overseas Territory governments cooperate with them. We will continue to consult closely with Overseas Territory governments over the initiatives, and ensure that international discussions of harmful tax competition take account of their interests. We stand ready to offer advice and expertise to the Overseas Territories in connection with these initiatives.

5.23 In the EU Code of Conduct for business taxation agreed on 1 December 1997, member states committed themselves not to introduce harmful tax measures and to re-examine laws and practices with a view to eliminating existing harmful measures. Member states with associated or dependent territories are committed, within the framework of the constitutional arrangements, to ensuring the principles of the Code are adopted in those territories.

5.24 The EU is also considering a draft directive which would require member states to operate a withholding tax on cross-border income from savings by individuals, or to provide information on savings income to other member states. It is proposed that member states should commit themselves within the framework of their constitutional arrangements to ensure equivalent measures are applied in dependent or associated territories.

5.25 Following the publication of a report by the OECD on 28 April 1998 on harmful tax competition, a Forum on Harmful Tax Practices has been established to consider how the OECD report's recommendations can be implemented. The Forum invited a number of jurisdictions, including some Overseas Territories, to provide details of their tax regimes. The Forum, through dialogue with the jurisdictions concerned, will assess whether their tax regimes match the OECD criteria for defining a tax haven. Those jurisdictions which meet the OECD criteria will be included on an OECD list of tax havens. The list will guide OECD members' efforts to persuade tax haven jurisdictions to modify their fiscal regimes and increase their international cooperation on fiscal matters.

5.26 In a recent communiqué, the G7 urged the OECD to give particular attention to the development of a comprehensive programme to improve the availability of information to tax authorities to curb international tax evasion and avoidance through tax havens and preferential regimes. It also encouraged action to ensure that suspicious transaction reporting requirements apply to tax offences and for money laundering authorities to pass information to tax authorities in support of the investigation of tax related crimes in ways which would allow it to be shared internationally. The G7 also committed itself to further these objectives in all territories for which it has international responsibilities.

5.27 Work in this area is at an early stage. There are still issues, including some of definition, to be resolved. Overseas Territory governments need, and are entitled to, clear guidance as to which aspects of their offshore financial industries are likely to continue to be able to flourish, and which may be subject to change. We will work closely with them as the initiatives unfold. These initiatives will require greater international cooperation through, for example, the exchange of information on tax matters and improved transparency. A study of the possible economic impact of the initiatives on some of the Overseas Territories will be undertaken to help us determine the best way forward. Our interest is to ensure that offshore financial industries in the Overseas Territories flourish, and do so on the basis of compliance with standards and practices consistent with internationally agreed norms.

Chapter Six

Encouraging good government – combating drug trafficking and drugs-related crime

6.1 Drug trafficking and drugs-related crime are a serious threat to stability in the Caribbean: our Overseas Territories in the region are targeted by drug traffickers as potential trans-shipment points. This type of crime knows no boundaries. We are pleased therefore to support the territories in the Caribbean as they collaborate in regional efforts to counter the drugs trade. Amongst our other Overseas Territories the only significant problem had been drug trafficking using fast boats based in Gibraltar: but local legislation in 1995 and 1996, including banning such boats, has solved the problem.

6.2 Drug trafficking affects the Caribbean region as a whole, not just our Overseas Territories. The geography of the region makes it particularly vulnerable to trafficking and the associated problems of crime and violence, corruption and economic distortions. The UN International Drugs Control Programme (UNDCP) estimates that some 400 tonnes of cocaine transit through the Caribbean each year. Most of the cocaine transiting our Overseas Territories is believed to be destined for the US.

6.3 Each of our Caribbean Overseas Territories has taken steps to tackle drugs issues including both domestic narcotics consumption and the threat from drug trafficking and money laundering. They have also made arrangements to ensure that their anti-drugs strategies are coordinated properly. Typical is the Turks and Caicos Islands where a National Drugs Coordinator has been appointed and a National Drugs Committee coordinates the efforts of all the agencies involved in tackling trafficking and money laundering. In the Cayman Islands a National Drugs Council contributes to the working up of policies, while a Joint Police and Customs Drugs Task Force leads the enforcement action.

6.4 A regionwide Plan of Action was launched at a UNDCP meeting in Barbados in May 1996. The EU's substantial contribution to this five year programme has become known as the EU Caribbean Drugs Initiative – worth some £25 million.

The initiative is designed to help Caribbean governments, including the Overseas Territories, address the problems of drugs trade through improved regional cooperation and greater capacity to tackle all aspects of the control of drugs. We have played a leading role in the initiative and will continue to work to ensure that our territories are fully involved. Programmes under the initiative, many part-funded by the UK or with British experts participating in them, include maritime cooperation, judicial training, countering money-laundering, law enforcement training, chemical precursor control and demand reduction.

6.5 We also provide considerable bilateral assistance to the Caribbean for counter-drugs work from which the Caribbean Overseas Territories directly benefit:



Cayman Islands Government Information Services

Overseas Territories Minister Baroness Symons being briefed by a member of the Drugs Task Force aboard the Royal Cayman Islands' police vessel, *Protector*.

- The Royal Navy's West Indies Guard-ship (WIGS), supported by a fleet auxiliary vessel, conducts counter-drugs patrols. Joint operations involving ourselves, the Overseas Territories and the United States have enjoyed recent successes: in February 1998 cocaine worth at least US$200 million was seized by the Turks and Caicos Islands marine police.
- There is a network of Drugs Liaison Officers in the Caribbean and neighbouring countries. These officers have conducted many successful operations with the law enforcement authorities in the region.
- We are considering ways of developing the British Military Advisory and Training Team in the Eastern Caribbean into an even more effective counter-drugs asset.
- The Caribbean Customs Law Enforcement Council, which is partly funded by the UK, operates a regional training and information system.
- We are helping the Association of Caribbean Commissioners of Police to establish a regional secretariat.
- Since 1998 we have had a regional intelligence system (the Overseas Territories Regional Criminal Intelligence System – OTRCIS) gathering and disseminating information among the Caribbean Overseas Territories to assist in the prevention, detection and investigation of major crime, particularly fraud, money-laundering and drugs-related crime. OTRCIS works closely with other regional jurisdictions and with United States agencies (it is based in Miami).
- As part of our contribution towards the counter-narcotics programmes in the British Virgin Islands and the Turks and Caicos Islands, Royal Navy personnel assist with maritime operations, along with RAF flight and maintenance personnel who operate two UK-donated aircraft for anti-smuggling activities.
- We are funding a training vessel for counter-drugs training by coast guards in the Caribbean. The vessel will be based in Antigua and should be delivered by the middle of 1999.
- In July 1998, Baroness Symons signed a maritime cooperation agreement between the US, UK, the Caribbean Overseas Territories and Bermuda. This provides the framework for law enforcement officers to ship-ride on other parties' vessels. Simplified procedures allow vessels and aircraft engaged in counter-drugs operations to pursue drugs traffickers as they cross territorial and international waters. Implementing legislation is required in the Overseas Territories.

6.6 But we cannot be complacent. There is a need for our Overseas Territories in the Caribbean to take an even more active approach to the promotion of their counter-drugs programmes, to enhance their capability to defend themselves against this pernicious threat and make best use of resources available. We will continue to provide help, but we will also encourage and support the efforts of Overseas Territory governments to benefit from international assistance offered to them. Effective cooperation with their neighbours is the key to effective action by the Overseas Territories in the battle against the drugs menace in the Caribbean.

Chapter Seven

Sustainable development – economic and social development

7.1 Many of the Overseas Territories are financially independent of the United Kingdom. But six of them still receive UK development assistance: Anguilla, the British Virgin Islands, Montserrat, and the Turks and Caicos Islands in the Caribbean; Pitcairn, and St Helena. Even in these six territories, standards of living – as measured by social indicators and by conventional per capita income measures – are relatively high in comparison with other countries receiving development assistance. Most have already surpassed the international development targets in many areas.

David Gillett, DFID



New housing project, Montserrat

7.2 We recognise responsibility to help them achieve sustainable development, targeting the needs of the poorest and the vulnerable, and the special considerations that apply to the small island territories – for example their very limited resource base; their dependence on a limited range of economic activity; the fragility of their natural environments; the problems of physical access and isolation which apply in some cases; and the potential exposure to natural disasters, particularly in the Caribbean. We also recognise that we have a particular responsibility to ensure the well-being of sovereign British territories.

7.3 We have three objectives in providing development assistance to the Overseas Territories:

- to maximise economic growth and self-sufficiency through sensible economic and financial management, leading to graduation from such support where this objective is feasible;
- to ensure in the meantime that basic needs are met, including the provision of essential infrastructure;
- to support the good governance of the territories, including the proper management of contingent liabilities and the fulfilment of the UK's international obligations – particularly human rights and the multilateral environment obligations.

Selected social indicators for aid-recipient Overseas Territories

	Life expectancy (years)	Infant mortality (per 1,000 live births)	Adult illiteracy (%)	GDP per capita (£)
Anguilla	74	26	5	4,432
British Virgin Islands	72	13	1.5	17,226
Montserrat	76	12	3	N/K
St Helena	72	17	3	2,536
Turks & Caicos	75	19	1.5	3,602
Developing Countries	62	64	36	-
Industrialised Countries	74	14	>5	-

Sources: Pan American Health Organisation Basic Indicators, 1996; St Helena Government Statistics. Comparable figures are not available for Pitcairn.

7.4 The Government, acting through the Department for International Development (DFID), will continue to help the Overseas Territories to achieve sustainable development in ways which contribute effectively towards the elimination of poverty. The principles of social justice which we are pursuing at home should apply in the Overseas Territories too, including the achievement of better opportunities and security for all. We shall therefore support the development of sound policies for economic growth to benefit the whole population, on the basis of efficient and well regulated markets and access for all people, especially poor and marginalised people, to resources and sustainable livelihoods. We shall also continue to provide support for improving the efficiency, transparency and accountability of government in the territories, and for strengthening their planning and policy-making capacities, on the basis of the principles of partnership set out in the November 1997 White Paper on International Development.

7.5 One indicator of sustainable development is economic self-sufficiency. For some of the aid-recipient Overseas Territories this is an attainable objective in the foreseeable future: for others, continued reliance on the UK for development finance is likely to be required. The Government recognises its responsibility to provide necessary and appropriate development support to these territories, up to the stage when they can be said to have achieved economic self-sufficiency. In pursuit of this objective, we will help the Overseas Territories to mobilise their own resources for economic development and investment in infrastructure, and to attract inward investment. The provision of an appropriate legislative, regulatory and fiscal framework will be an important element in this process.



Mick Mitchell

The Victoria Public Library on Grand Turk

7.6 The importance of this can be seen in the field of aviation safety. Bermuda and the Cayman Islands, who have both achieved US Federal Aviation Administration Category I status, have shown how high standards in aviation safety regulation can help in the development of a successful tourist industry. But there is a need to improve standards in other Caribbean Overseas Territories to ensure that foreign airlines can continue to operate services to those territories. The Civil Aviation Authority has agreed individual action plans with the territories that should help them reach and maintain minimum International Civil Aviation Organisation safety standards and, ultimately, UK standards.

7.7 Similarly it is important that Overseas Territories with shipping registers should meet best international standards, both for safety reasons and to maintain an important source of revenue.

7.8 The White Paper on International Development explained that 'the reasonable assistance needs of the Dependent Territories are a first call on the development programme'. The main mechanism for establishing a partnership between the UK Government and individual territories to promote sustainable development is the agreed Country Policy Plan. In countries still in receipt of development assistance the Plan is generally linked to a specified UK commitment on development assistance.

7.9 This assistance, provided by DFID, takes a number of different forms:

- in the poorer Overseas Territories, help towards economic and social infrastructure – including schools, hospitals, roads, water, and power;
- skilled personnel to fill key administrative or technical posts for which no suitable local candidates are available, and training of their local successors;
- specialist skills and knowledge to support the development and implementation of policy and legislation, and help the Overseas Territories develop their own capabilities;
- for the two most economically dependent Overseas Territories – Montserrat and St Helena – budgetary support to meet the financing gap between recurrent government expenditure and locally generated resources.

Funds are also available from the Foreign and Commonwealth Office (FCO) to provide support for improved governance in the Overseas Territories. We have made substantial commitments to support those territories with the greatest needs, particularly Montserrat and St Helena.

7.10 We have committed £75 million to Montserrat for the three-year period 1998/99–2000/01. This is additional to the £59 million spent in the three years since the volcanic crisis started in 1995. Our support finances budgetary aid and the rebuilding of the north of the island where the remaining population live (4,500). We are also providing support for evacuees in the Caribbean region and have financed passages for evacuees to the Caribbean, the UK and North America. The costs of supporting evacuees once they arrive in Britain are met by the relevant Home Departments. We agreed with the Government of Montserrat in November 1998 a Sustainable Development Plan setting out the broad policies needed for economic and social recovery of the island. This formed the basis of the joint Country Policy Plan agreed in January 1999 which includes an indicative investment programme for the period to March 2001.

Ambrose Greenway



The RMS *St Helena,* providing passenger, mail and freight services to St Helena

7.11 For St Helena, our present three-year commitment amounts to £26 million. This finances infrastructure projects, expert personnel, and budgetary aid. We also finance the operating subsidy of the RMS *St Helena*, at present the sole regular means of physical access to the island (an examination of the economic feasibility of developing an eventual air link is currently under way, alongside our discussions with the US Government about opening up Wideawake Airfield on Ascension to civilian charter flights). We shall continue to look for other ways of expanding economic activity on St Helena, in partnership with the private sector.

7.12 DFID support to the other Overseas Territories is of a lower order of magnitude (£7–8 million a year in total). This is underpinned by a regional Caribbean Overseas Territories allocation which provides support for issues of regional importance and assistance with the efforts of those territories in regional integration.

7.13 Efforts will be made to diversify sources of assistance to the Overseas Territories. There is a potentially important role for the private sector in stimulating development, and we will work to establish mutually beneficial partnerships between the private and public sectors in the Overseas Territories, with particular emphasis on the tourism and financial services industries.

David Gillett, DFID



New hospital at St John's, Montserrat

7.14 The Overseas Territories also benefit from EC development assistance under the Overseas Countries and Territories (OCT) regulation of the Lomé Convention, financed from the European Development Fund. Our Overseas Territories are due to receive just over 19 million ecu (some £13 million) from this source for the present five year period up to 2000. European Community (EC) assistance has been used to help finance important infrastructure projects such as roads and water supply schemes in Anguilla and the Turks and Caicos Islands. Discussions are now under way for EC support for a number of projects including the proposed new wharf development in St Helena and for infrastructure support in Montserrat and Pitcairn. Funds are also available under the OCT regulation for Stabex payments (compensation for price fluctuations in basic export crops) and emergency aid.

The European Investment Bank has agreed recently to finance an important airport development scheme in the British Virgin Islands. The Overseas Territories also benefit from other sources of EC funding (for example emergency aid) and from trade opportunities arising from the preferential access granted in the OCT Decision.

7.15 We will continue to support efforts to attract additional non-EU donor support to the Overseas Territories. Montserrat, for example, is currently also receiving assistance from the Caribbean Development Bank, the Caribbean Community, the United Nations Development Programme, the United Nations Children's Fund, the United Nations Volunteer, and the Organisation of Eastern Caribbean States, and from the Canadian, Jamaican, and Japanese bilateral programmes.

7.16 The Overseas Territories need to be able to compete in the global economy. DFID, the FCO and other Government departments will continue to work closely together on a range of policy issues to help the Overseas Territories adapt to, and take advantage of, the global opportunities, and obligations, which now confront them.

Chapter Eight

Sustainable development – the environment

The natural history of the Overseas Territories

- So far about 500 endemic invertebrates are known to science from the Overseas Territories. Of the 256 beetle species on St Helena 61 per cent are endemic.
- Around the Falkland Islands 22 species of whales, porpoises and dolphins have been recorded.
- The Cayman Islands has 19 endemic taxa of reptiles including two sub-species of rock iguana which are subjects of a conservation programme.
- The British Indian Ocean Territory contains the Great Chagos Bank, one of the world's largest and richest atolls.
- There are more than 200 endemic plant species in the Overseas Territories. Most occur on St Helena (46) including olive, rosewood and ebony trees which are some of the rarest in the Overseas Territories.
- The Green Turtle nests in seven Overseas Territories: Anguilla, Ascension Island, the BIOT, the British Virgin Islands, the Cayman Islands, Henderson Island (Pitcairn), and the Turks and Caicos Islands.

Source: UK Overseas Territories Conservation Forum

8.1 The natural environment of the Overseas Territories is a rich heritage, but a responsibility too. Henderson Island in the Pitcairn group is the Pacific's best large raised coral atoll. Gibraltar is a key migration route for birds of prey.
The British Antarctic Territory is a sensitive barometer for the effect of human actions on the world's climate and atmosphere.
The Overseas Territories contain a range of habitats and wildlife of global significance: many more species of animals and plants are found in the territories, and nowhere else in the world, than are found in Britain. Indeed, they contain at least 10 times as many endemic species as Britain.

8.2 The natural environment also provides a source of economic livelihood for many people in the Overseas Territories. The Cayman Islands, for example, relies heavily on the tourist industry, which in turn depends on the richness of the marine environment. The Falkland Islands and Tristan da Cunha, in particular, rely on sustainable fisheries.



Cayman Islands Department of Tourism

Diving in the Cayman Islands

United Nations Convention on the Law of the Sea (UNCLOS)

As islands, the Overseas Territories have wide ranging maritime interests. Britain's accession to UNCLOS in 1997 extended to all the territories. The Convention includes an important framework providing for the protection of the marine environment and conservation of living marine resources. Examples are:

- rights to exploit, and duties to conserve, living resources up to 200 miles from coastlines;
- obligations to prevent and control pollution from land-based sources, dumping or the operation of vessels;
- enforcement powers for states in respect of vessels which fly their flag, and those which enter their ports, territorial sea or exclusive economic zones.

8.3 But these habitats and environments are under pressure. Some are threatened by uncontrolled development of the economic activities they help to sustain; others by introduced species of animals and plants; still others by changing conditions such as rising sea temperature linked to global warming. And these pressures rarely exist in isolation – sea temperature rise, for example, can kill coral reefs, which in turn means the loss of marine animals and plants. This disrupts ecosystems and exacerbates damage to resources on which people rely, such as fish stocks – often already under pressure.



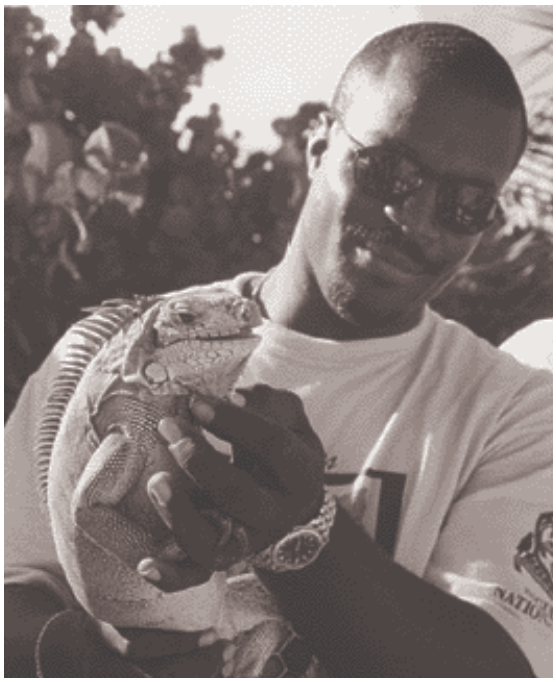
Low lying coral atoll: British Indian Ocean Territory

8.4 The environment of the Overseas Territories is of global significance. Overseas Territory governments, civil society groups, the private sector and the UK Government already work together to protect it. But there is more to be done. The common objective must be to use the environment of the Overseas Territories to provide benefits to people in them, and to conserve our global heritage by managing sustainably all the Overseas Territories' natural resources.

8.5 We support specific aims as part of this overall objective:

- to promote sustainable use and management of the Overseas Territories' natural and physical environment, for the benefit of local people;
- to protect fragile ecosystems such as coral reefs from further degradation and to conserve biodiversity in the Overseas Territories;
- to promote sustainable alternatives to scarce resources or species which are used for economic purposes;
- to enhance participation in and implementation of international agreements by Overseas Territories.

Mr Karim Hodge



Anguillian making the most of his Chevening Scholarship

Karim Hodge of Anguilla is doing a three year BSc degree course in Environmental Science at the University of Plymouth, courtesy of the British Chevening Scholarship programme.

'I was interested in pursuing this degree to enable me to return home to Anguilla and work for the Anguilla National Trust as staff scientist and environmental specialist.

'Anguilla's future depends on making informed decisions about the natural environment and how we choose to use it. Training in this field in the United Kingdom gives me direct access to international organisations, as well as first hand experience and knowledge of recent global environmental issues and other trends which can be tailored to fit small islands such as Anguilla.'

Mr Hodge has been employed by the Anguilla National Trust since 1985, and as Special Projects Coordinator, has played a key part in the continuing Iguana Monitoring and Conservation Programme. The main goal of the project is to establish a conservation strategy for the island's iguana population.

Role of the Overseas Territories

8.6 The role of Overseas Territory governments, supported by the UK Government, is to develop appropriate, applicable and affordable environmental policies, legislation and standards. These are the basis for integrated environmental management systems to enable them to monitor and evaluate progress towards achieving their environmental objectives; and lessons learnt can then be fed back into policy development. Industrial and other developments need effective environmental screening and appraisal so that benefits can be maximised and potential damage minimised early in the project design process. Some hotels, for example, pride themselves on developing safe disposal of waste matter; others create pollution. Tourism can benefit the local economy, but can also deplete and damage local natural resources (and development companies often look for pristine natural areas). Sustainable tourism must be the goal. Some Overseas Territories develop independent Environmental Impact Assessments (EIAs), ensuring that the public are fully consulted, before making decisions on new developments.

Endemic fern on St Helena



Cathy Hopkins

8.7 Policy decisions by Overseas Territory governments can affect the local, regional and even global environment, so they need to participate in appropriate international arrangements. Our ratification of the Convention on Biological Diversity has already been extended to the British Virgin Islands, the Cayman Islands, Gibraltar and St Helena (and other Overseas Territories are preparing to join). Most Overseas Territories have joined the Ramsar Convention on Wetlands of International Importance. At present, on the other hand, the UN Climate Change Convention has not been extended to any Overseas Territory. Overseas Territory governments may have to introduce laws and set up bodies to enforce the treaty obligations before extension takes place. For example, each Overseas Territory in which the Convention on International Trade in Endangered Species (CITES) applies, requires a national Management Authority.

Britain's role

8.8 We aim to integrate sustainable environmental management into the Government's decision-making. This policy is reflected in many agreements, from the 1992 Rio Declaration to the communiqué of the European Council in Cardiff in June 1998. But in Overseas Territories as elsewhere, short-term economic pressures can be severe and can undermine the goal of sustainable development. That makes it all the more important for the Government to give guidance and support on how to develop policies and practices to ensure that practice in the Overseas Territories is consistent with the objective of sustainable development.

8.9 We provide financial support for environmental work in the Overseas Territories, through the Department for International Development (DFID), the Department of Environment, Transport and the Regions (DETR) and the Foreign and Commonwealth Office (FCO). Since 1996 we have spent some £4.3 million on environment-related development assistance projects in the Overseas Territories; and around £850,000 has been committed under the Darwin Initiative (in support of biodiversity) and contributions to other environmental projects.

Some regional expenditure also benefits Overseas Territories: in October 1998 the UK arranged (in cooperation with Jamaica) and funded a Marine Biodiversity Workshop in Jamaica for all Caribbean countries and Overseas Territories. At the workshop we announced that we will ratify the Protocol concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW Protocol) of the Cartagena Convention; and will extend its ratification, in the first instance, to include the Cayman Islands.

8.10 We ensure that the interests of Overseas Territories are adequately represented and promoted in international environmental fora. The UK provides advice and encouragement to Overseas Territories to have international environmental agreements extended to them.

8.11 We achieve these aims by:

- helping to make sure Overseas Territories have the legislation, institutional capacity and mechanisms they need to meet their international obligations;
- using UK, regional and local expertise to give advice and improve knowledge of technical and scientific issues. This includes close and open consultation with interested Non-Governmental Organisation (NGO) groupings such as the UK Overseas Territories Conservation Forum;
- providing financial assistance to the Overseas Territories for integrated environmental management;
- promoting effective communication, exchange and dissemination of information with UK Overseas Territories;
- promoting sustainable development strategies, including commitments to clear environmental and sustainability targets.

Other partners

8.12 The limited resources available to the governments of most Overseas Territories mean that local communities, the private sector, the scientific community and NGOs have important roles in cooperation with us and the Overseas Territories themselves. These stakeholders have a wealth of experience, specialist knowledge and network of contacts for Overseas Territories and us to draw on. Some businesses and larger NGOs such as the World Wide Fund for Nature (WWF) help fund environmental projects in Overseas Territories. The private sector also plays an important role by trading and investing in an environmentally responsible way. We are keen to support projects and partnerships whose objective is sustainable development in the Overseas Territories.



C J Gilbert, British Antarctic Survey

Krill – *Euphausia superba* – the staple diet of baleen whales, and many fish, seal and seabirds in the Southern Ocean, abound in the seas around South Georgia and the South Sandwich Islands.

P Bucktrout, British Antarctic Survey



Rothera, Britain's southern-most research station in the British Antarctic Territory, has laboratories and accommodation for 100 scientists and support staff. Direct flights from the Falkland Islands take five hours using the BAS 'Dash-7' aircraft.

British Antarctic Territory – a global laboratory

- Scientists from the British Antarctic Survey (BAS) working in the British Antarctic Territory discovered the ozone hole in 1985, so triggering international concerns about the effects of atmospheric pollution.
- Antarctic's pristine environment is a critical barometer of the world's climatic health.
- Antarctica contains 70 per cent of the world's fresh water, and covers 10 per cent of the globe's surface. It drives world weather, ocean currents and has effects as far away as in the northern hemisphere (on the Gulf Stream and on the UK's weather, for example).
- Understanding the Polar Seas, ice sheets and atmosphere is crucial to the study of key global processes – climate change, ozone depletion, sea level rise and atmospheric pollution.
- The Antarctic ice sheets, kilometres thick, provide millions of years of history of past climatic change, and record more recent man-made pollution.
- Monitoring change in Antarctica allows us to predict possible changes in global conditions; if the West Antarctic ice sheet melts, sea level worldwide would rise six metres, wipe out some countries and cause major flooding elsewhere in the world.
- The continent acts as an early warning system; the UK, through BAS, is a key contributor to international science in Antarctica – a natural reserve devoted to peace and science.
- Antarctica is controlled by the 27 Parties to the Antarctic Treaty, an arrangement which for 40 years has maintained the Antarctic environment and the continent as the most important laboratory in the world.

Priorities for action

8.13 To reinforce sustainable environmental management in the Overseas Territories, we intend to:

- assist them to review and update environmental legislation;
- help build capacity to support and implement integrated environmental management which is consistent with the Overseas Territories' own development planning goals, for example by consultation with local communities, NGOs and the private sector, and by supporting training and public education and awareness programmes;
- help the Overseas Territories identify additional funding partners for environmental projects, including through donors/private sector/NGO partnerships;
- take account of their interests in regional and international environmental negotiations and agreements;
- promote better cooperation and lesson learning between Overseas Territories and small island states which face similar environmental problems.

8.14 We will encourage the Overseas Territories, for their part, to:

- integrate environmental concerns into all sectors of government work and develop strategies for sustainable development;
- consider economic incentives and mechanisms to encourage sustainable environmental management, such as cost recovery mechanisms to offset the cost of regulatory measures;

Overlooking the settlement at Adamstown – Pitcairn Island's 'capital' – from Ships' Landing Point



Gail Cox

- identify environmental priorities and integrate them into their sustainable development strategies: for example Biodiversity Action Plans to monitor changes to species and habitats. These plans should specify individual environmental protection targets, including endangered species and restoration of damaged ecosystems.

8.15 These responsibilities already exist, but the UK and its Overseas Territories have not always addressed these issues sufficiently consistently or systematically. Examples include damage to coral reefs and the effects of introduced species on native species and habitats. We intend bringing together the responsibilities, common objectives and cooperative approaches of the UK Government, Overseas Territory governments, the private sector, NGOs and local communities by drafting and agreeing an Environment Charter with the Overseas Territories. The Charter will clarify the roles and responsibilities of these stakeholders, set out in a shared vision which also takes account of the wide variety of circumstances and local resources in each territory. The exact form of the Charter and variations between territories will be determined in consultation with them.

8.16 To help address new problems and opportunities identified through the Charter, and to augment support from other donors and partners, we plan to enhance the funding available through the FCO for activities in support of the Charter. At the same time, the Government will provide additional assistance through DFID to support poorer Overseas Territories in addressing global environmental concerns. This is in part a reflection that such Overseas Territories, unlike independent developing country states, are not eligible for funding from the Global Environment Facility.

8.17 Failure to put the best arrangements in place now could mean that early in the next millennium much remaining human and natural diversity will be lost. A shared concern for discharge of our environmental responsibilities will be a key element in our new partnership. As a maritime nation Britain was central to the process of creating global markets, spreading industrialisation and developing distant territories, many of them ecologically fragile and vulnerable islands. Some elements of environmental degradation and reduced biodiversity have been a result of that history. Today we have the opportunity to set a new agenda for our stewardship of the rich natural heritage of the Overseas Territories.

Chapter Nine

A new partnership

9.1 Britain and the Overseas Territories face a new challenge as we enter the new millennium. We both need a new partnership to take our relationship forward – building on the best of what has gone before, but charting a new course for progress and prosperity for the future.

Emile Hughes



Primary school children – Anguilla

9.2 We believe that the proposals in this White Paper setting out that new relationship – and especially the new moves on rights of citizenship – will command widespread support. They offer a new direction for the relationship between Britain and the Overseas Territories which is modern, forward-looking, fair and effective. We now need to work together to put this new vision into place – to the benefit of the UK, and of the Overseas Territories. Together this new, modernised relationship will meet the challenge of the future: a new partnership for progress and prosperity.

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Security, Success and Sustainability





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The Overseas Territories

Security, Success and Sustainability

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Foreword by the Prime Minister

The United Kingdom's 14 Overseas Territories are an integral part of Britain's life and history. Today they include one of the world's richest communities (Bermuda) and the most remote community (Tristan da Cunha). They include thousands of small islands, vast areas of ocean, but also, in Antarctica, land six times the size of the United Kingdom.

Most of the people of the Territories are British and where they choose to remain British we will respect and welcome that choice. The relationship entails a balance of benefits and responsibilities which everyone must respect.

This Government is ambitious for our Territories as we are ambitious for the United Kingdom. We want to see our communities flourish in partnership, with strong and sustainable local economies. We see an important opportunity to set world standards in our stewardship of the extraordinary natural environments we have inherited.

> This Government is ambitious for our Territories as we are ambitious for the United Kingdom.

This White Paper sets out our commitment to work with the Territories to address the challenges we face together. This is a commitment from across the UK Government.

The White Paper also celebrates the diversity, successes and opportunities in the Territories.

2012 is the Centenary of Scott's heroic journey to the South Pole. It is the 30th Anniversary of the Falklands conflict when so many gave their lives to protect the islanders' right to choose their own future.



It is also Her Majesty The Queen's Diamond Jubilee. The Territories are a valued part of the Realm and recently joined in this celebration.

It is an ideal time to publish this White Paper and I hope it will raise awareness in the United Kingdom of these British communities, lands and seas around the world.



David Cameron
Prime Minister

Foreword by the Secretary of State for Foreign and Commonwealth Affairs

No historian can fail to be intrigued by the stories which tell how the United Kingdom's 14 Overseas Territories have been entwined in our national history and how they come to remain linked to Britain in the 21st Century. Each Territory is different. Each history is different. But today most of the people in the Territories are British and our continuing connections bring benefits to the UK and to the Territories.

The Coalition Government has a vision for the Territories: of flourishing communities, proudly retaining aspects of their British identity and creating new opportunities for young and future generations; of natural environments protected and managed to the highest international standards.

We and Territory Governments share significant challenges: building more diverse and resilient economies; cutting public sector deficits; regulating finance businesses effectively; and protecting biodiversity and natural resources. In many respects the Territories are more vulnerable than the UK. We have a broad responsibility to support them and to ensure their security and good governance.

The strategy set out in this White Paper is designed to meet these challenges and deliver the vision. It is a strategy of re-engagement. It builds on the 1999 White Paper (Partnership for Progress and Prosperity).

It is also a strategy of re-evaluation. We have not in the past devoted enough attention to the vast and pristine environments in the lands and seas of our Territories. We are stewards of these assets for future generations.



The scale of these challenges is beyond the means of one or two departments of Government. So I am bringing the whole of the UK Government, central and local, into this work. British public servants have much to offer, but also much to learn from working with the Territories.

And it doesn't stop with Government. The strategy aims to support coalitions and partnerships across and between the private sector, professional bodies and civil society in the UK and in the Territories. I particularly welcome the growing partnerships between the Territories and local authorities and with the NGO community on environmental and other issues.

The White Paper is broad ranging, but does not pretend to be comprehensive. It focuses on the security of the Territories, their economic development and their natural environment. It looks at how we can foster high standards of governance and build strong communities. It promotes the development of wider partnerships for the Territories.

The Government has taken care to consult widely in preparing this White Paper. Our dialogue with Territory Governments and the international public consultation we ran from September 2011 to January 2012 have helped us to identify priorities.

We have set these priorities out clearly in the Paper. This is an ambitious and broad agenda. The test of the commitment of all concerned will be delivery against this agenda. We plan to upgrade engagement between UK Ministers and Territory Governments into a Joint Ministerial Council tasked with monitoring and driving forward work to realise our vision.

We will report regularly on progress and welcome scrutiny from the public and parliaments.



William Hague
Foreign Secretary

≫ We and Territory Governments share significant challenges: building more diverse and resilient economies; cutting public sector deficits; regulating finance businesses effectively; and protecting biodiversity and natural resources ≪

Executive Summary

Valued Partnerships within the Realm

> The UK's Overseas Territories are highly diverse and each has its own relationship with the UK. The constitutional relationships continue to evolve. But the underlying constitutional structure between the UK and the Territories, which form an undivided realm, is common to all. The choice to remain a British Overseas Territory engages responsibilities and benefits for the Territories and for the UK.

> The Government, in consultation with the Territories and other stakeholders, has developed a strategy of re-engagement to help meet the challenges and the opportunities of the 21st century: strengthening links between the Territories and the UK; strengthening governance; and enhancing support to the Territories.

> As part of this strategy, all UK Government Departments are committed to engaging with and supporting the Territories.

Defence, Security and Safety

> The UK is committed to defend the Territories and protect their peoples from external threats, ensuring their right of self-determination.

> The UK helps the Territories protect themselves from international terrorism, organised crime and natural disasters.

> The Territories provide the UK and our allies with strategically located bases which support a wide range of security operations.

Successful and Resilient Economies

> The economic success of many Territories is a tribute to the endurance and ingenuity of their people. The UK is determined to support successful economic development, including through strengthened economic planning, management of public finances and the promotion of free trade.

> The UK remains committed to providing assistance to Territories in need and to supporting developments which will reduce aid dependency.

> The UK will encourage British businesses to pursue trade and investment opportunities in the Territories.

Cherishing the Environment

> The Territories are internationally recognised for their exceptionally rich and varied natural environments. They contain an estimated 90% of the biodiversity found within the UK and the Territories combined.

> The UK and Territory Governments are committed to working together to preserve the Territories' rich environmental heritage and to addressing the challenges of climate change. Together we have launched a programme to promote environmental mainstreaming in the formation of Territory Government policies.

> The UK aims to be a world leader in the environmental management of its uninhabited Territories which cover many millions of square kilometres. We are developing a strategic approach to large-scale marine management including through the establishment of the world's largest Marine Protected Areas.

> The UK welcomes the participation of civic society and the scientific community in this work.

Making Government Work Better

> The Government has responsibilities towards the people of the Territories and of the UK to ensure the good governance of the Territories. The Government acknowledges the sensitivity of this area of work but believes that those living in the Territories have a right to expect the same high standards of governance as in the UK, including in the areas of human rights, rule of law and integrity in public life.
> The Government expects high quality public financial management and financial services regulation as important contributors to building resilient economies and providing for the wellbeing of Territory communities.
> The UK is determined to tackle corruption in all its forms.
> The UK is committed to working closely with the Territories on these issues. To this end the UK is launching a long-term programme of support for the public services in the Territories.

Vibrant and Flourishing Communities

> Each Territory has a unique community and it is for the Territory to shape the future of its own community. But most Territories face challenges as a result of their small scale or isolation.
> UK Government Departments are supporting the Territories in a wide range of community issues such as education, health, labour, culture and sport.

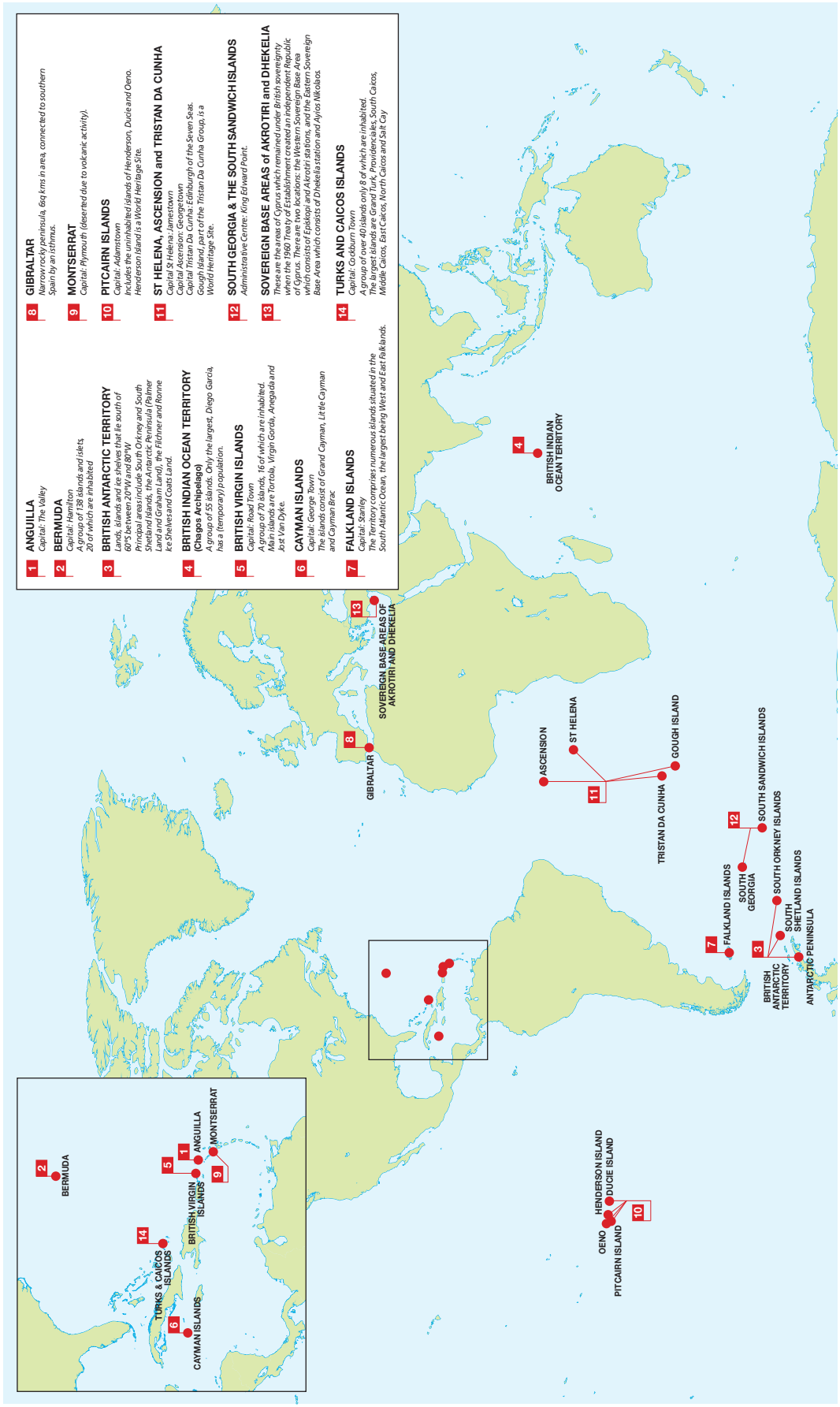
Links with the Wider World

> The UK is committed to supporting Territories which aim to strengthen their societies and economies by forming links with international and regional organisations or other countries. In some cases they can pursue these links themselves; in some cases the UK will represent the Territories.
> The Territories' links with the EU, Commonwealth and United Nations will continue to be important. The UK is committed to strengthening these links. The UK also welcomes initiatives to develop links with regional organisations and other countries. Individual countries, such as Canada and New Zealand, already play an important role in some Territories.

The Way Forward

> The White Paper sets out priorities for action at the end of each chapter. Taking forward this work will require a partnership between the UK Government and Territory Governments. The UK Government will work to strengthen political engagement between Ministers in the UK and the Territories, particularly through the proposed Joint Ministerial Council. Together we will address this agenda and report on progress, inviting public and parliamentary scrutiny.

Map of the Overseas Territories



Introduction: Small Communities, Big Societies

The Coalition Government came into office in 2010 determined to re-invigorate the United Kingdom's relationship with its 14 Overseas Territories. Our vision for the Territories is for them to be vibrant and flourishing communities, proudly retaining aspects of their British identity and generating wider opportunities for their people; and for the uninhabited Territories to be world leaders in environmental conservation and management. This White Paper sets out how we are working with the Territories to further this vision.

The UK Government's relationship with its Territories is a modern one based on partnership, shared values and the right of the people of each Territory to choose to remain British. Where the people of a Territory choose to remain British, we will maintain and deepen our special relationship. The UK and the Territories recognise that our relationship brings mutual benefits and responsibilities. It is time to strengthen our engagement to reflect the enduring nature of this relationship.

A picture of diversity

The UK is proud of its special links with the 14 Overseas Territories – Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; Cayman Islands; Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands (commonly known as the Pitcairn Islands); St Helena, Ascension and Tristan da Cunha; South Georgia & the South Sandwich Islands; Turks and Caicos Islands; and Virgin Islands (commonly known as the British Virgin Islands).

Our shared history

In the three decades after the Second World War most British colonies and dominions became new independent states and members of the Commonwealth. A number of small territories retained links of various kinds to the UK, including some territories directly dependent on the UK for budgetary aid, linked to the UK because of the wishes of the inhabitants or, in some cases, maintained as military bases or for their longer term strategic value. In 1997 Hong Kong passed to China. The 1999 White Paper *Partnership for Progress and Prosperity* set out a new relationship between the UK and its Overseas Territories based on the principles of self-determination, mutual responsibilities, and autonomy, and a pledge of UK help when needed. British citizenship was extended to most of the people of the Territories. The Coalition Government's strategy endorses and builds on this work.

Our relationship is rooted in four centuries of shared history. Bermuda, off the eastern coast of North America, became one of the first British territories in the Americas when it was settled by the survivors from a shipwreck in 1609. Bermuda's first capital, St George's, was founded in 1612. Bermuda is now the most populous Territory with a population of 66,000 and enjoys one of the highest per capita incomes in the world.

The five Caribbean territories – Anguilla, British Virgin Islands, Cayman Islands, Montserrat and Turks and Caicos Islands – became British territories during the 17th and 18th centuries when sugar plantations were established on many islands.

There are two populated Territories in the South Atlantic – the Territory of St Helena, Ascension and Tristan da Cunha; and the Falkland Islands. Both have for centuries played a role in our national history. Tristan da Cunha is the most remote permanently inhabited island in the world and is economically self-sufficient. St Helena is preparing to re-launch its economy with the construction of an international airport. Ascension is host to a range of UK/US military and communication assets. It has no permanent population, but depends largely on St Helena for its workforce. The Falkland Islands have been continuously inhabited and administered under British sovereignty since 1833. It has a thriving economy based on fishing, agriculture and tourism. More recently offshore oil exploration has begun to support diversification.

Gibraltar is the only Overseas Territory in the EU. It was ceded to Britain under the *Treaty of Utrecht* in 1713. Its economy is based largely on tourism, financial services, online gaming and shipping.

The Sovereign Base Areas in Cyprus are not formally part of the EU. They cover around 256 square kilometres and offer the UK a military base in a region of strategic importance. Much of this land is privately owned by around 10,000 Cypriot nationals.

Pitcairn in the South Pacific has the smallest population – around 50 permanent inhabitants, although there is a significant diaspora, mainly in New Zealand and Australia.

The British Antarctic Territory, British Indian Ocean Territory and South Georgia & the South Sandwich Islands have no permanent population. These are extensive Territories many times the size of the UK including some of the world's best preserved environments and the world's largest Marine Protected Areas. The British Antarctic Territory is also highly prized as a global laboratory. Scientists from the British Antarctic Survey discovered the ozone hole here in 1985. This triggered international concerns about the effects of atmospheric pollution.



HMS Iron Duke off the coast of Montserrat
Credit: Crown Copyright (Ministry of Defence)

The International Context

There is much to celebrate in the survival and success of these communities and the preservation of the natural environment through the vicissitudes of history. The 21st Century has brought and will continue to bring significant challenges: from economic and financial crises to climate change and extreme weather events. Our Territories can be more vulnerable to these pressures than the UK itself. Our strategy of re-engagement is designed to help us all meet the challenges and seize the opportunities of the 21st Century.

UK Benefits and Responsibilities

The relationship between the UK and the Overseas Territories is founded on mutual benefits and responsibilities.

The Territories offer the UK:

- A global presence: the global spread of our Territories gives us access and insights in diverse regions of the world;
- A set of strategic assets: some of the Territories host military bases or cover regions of significant current operational and long term strategic value;
- Economic and financial opportunities: there are multiple economic opportunities for a broad spectrum of UK companies as well as financial sector specialists. The international financial centres in the Territories can play a positive and complementary role to the UK-based financial services industry with particular strengths in providing services to fast growing economies in Asia and the Americas;
- Natural and environmental resources: these are of global significance, including fisheries, minerals and hydrocarbons, and biodiversity far exceeding that in the UK's home territory and waters. The diverse natural environments of the Territories provide UK and international scientists and specialists with unique opportunities for research, including into the evolution of the earth's climate and plant and animal life;
- Talent and diversity: the people of the Territories bring talents to the UK, as students at our universities and workers in our businesses. British nationals from the Overseas Territories also serve in the UK Armed Forces.

The UK Government's fundamental responsibility and objective is to ensure the security and good governance of the Territories and their peoples. This responsibility flows from international law including the Charter of the United Nations. It also flows from our shared history and political commitment to the wellbeing of all British nationals. This requires us, among other things, to promote the political, economic, social and educational advancement of the people of the Territories, to ensure their just treatment and their protection against abuses, and to develop self-government and free political institutions in the Territories. The reasonable assistance needs of the Territories are a first call on the UK's international development budget. A consequence of these responsibilities is that the UK Government carries significant contingent liabilities in respect of the Territories. The Government has a duty to manage these liabilities effectively and therefore maintains certain residual powers to ensure it is able to discharge this duty.



Grytviken Church, South Georgia
Credit: Oscar Castillo

In the case of the uninhabited Territories the UK Government has a responsibility to ensure that they are administered, and that their environmental and natural resources are protected and managed, to the highest standards.

Overseas Territory Benefits and Responsibilities

The Territories benefit from the relationship with the UK through:

- Defence and Security: the UK is committed to defend the Territories and contributes to their protection from crime and support in the event of natural disaster;
- Economic Assistance: the UK provides substantial budgetary assistance to Territories in need;
- Technical Support: the UK Government provides a broad range of technical assistance and support;
- International Support: the UK is responsible for the external relations of the Territories and uses its diplomatic resources and influence to promote their interests;
- Reputational Benefits: the reputations of Territory Governments and businesses are strengthened by their association with the UK.

Being an Overseas Territory entails responsibilities. We expect Territory Governments to meet the same high standards as the UK Government in maintaining the rule of law, respect for human rights and integrity in public life, delivering efficient public services, and building strong and successful communities. Territories in receipt of budgetary support are expected to do everything they can to reduce over time their reliance on subsidies from the UK taxpayer.

Our Constitutional Relationship

The UK, the Overseas Territories and the Crown Dependencies form one undivided Realm, which is distinct from the other States of which Her Majesty The Queen is monarch. Each Territory has its own Constitution and its own Government and has its own local laws. As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories. Territory Constitutions set out the powers and responsibilities of the institutions of government, which for most Territories include a Governor or Commissioner, an elected legislature and Ministers. Governors or Commissioners are appointed by Her Majesty The Queen on the advice of Her Ministers in the UK, and in general have responsibility for external affairs, defence, internal security (including the police) and the appointment, discipline and removal of public officers. Elected governments have a wide range of responsibilities.

We have reviewed the constitutional status of the Territories. Each Territory has its own unique constitution. The previous government launched in 1999 a process of modernising the constitutions of the inhabited Territories. We are continuing this work with a view to equipping each Territory with a modern constitution. We expect these constitutions to continue to evolve and to require adjustment in the light of circumstances. But we believe that the fundamental structure of our constitutional relationships is the right one: powers are devolved to the elected governments of the Territories to the maximum extent possible consistent with the UK retaining those powers necessary to discharge its sovereign responsibilities. We believe that at this point in the history of our relationships with the Territories, when a decade of constitutional revision is coming to a close, the time is not right to embark on a further round of constitutional change. Rather our strategy is to ensure the constitutional arrangements work effectively to promote the best interests of the Territories and of the UK. The Government

recognises that it is important to continue to reflect on the constitutional relationship. We will ensure that a dialogue on these issues is sustained with all those Territories which wish to engage.

The Government maintains the UK's long-standing position on independence for the Territories. Any decision to sever the constitutional link between the UK and a Territory should be on the basis of the clear and constitutionally expressed wish of the people of the Territory. Where independence is an option and it is the clear and constitutionally expressed wish of the people to pursue independence, the UK Government will meet its obligations to help the Territory to achieve it.

The Territories are involved in significant royal events. Their elected leaders attended the Royal Wedding in 2011. The Territories were also fully involved in the Diamond Jubilee in 2012. Many of the elected leaders or their representatives attended the celebrations in the UK during the main Diamond Jubilee weekend. The Territories also marked the occasion by holding special events and lighting beacons, including in the world's most remote community of Tristan da Cunha. We want to celebrate the Territories and ensure that they are appropriately recognised in the UK. The flags of the Territories will be flown at the Trooping the Colour ceremony and other ceremonial occasions, to bring representation of the Territories in line with Commonwealth Nations.

What are the Crown Dependencies?

The Crown Dependencies are the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. The Bailiwick of Guernsey includes the separate jurisdictions of Alderney and Sark and the islands of Herm, Jethou and Lihou. The island of Brecqhou is part of Sark.

Jersey, Guernsey and Isle of Man are not part of the UK but are internally self-governing dependencies of the Crown. This means they have their own directly elected legislative assemblies, administrative, fiscal and legal systems and their own courts of law. The Crown Dependencies are not represented in the UK Parliament. The Crown Dependencies have never been colonies of the UK. Neither are they members of the EU.

www.justice.gov.uk



Phone box, Gibraltar
Credit: iStockphoto

Our Strategy towards the Overseas Territories

In June 2010 the Foreign Secretary ordered a review of all policies towards the Overseas Territories. The UK Government quickly reasserted, through the Strategic Defence and Security Review later that year, that the defence of the Territories and their people was one of our most important defence responsibilities. The Department for International Development announced funding for an airport in St Helena. We committed ourselves to the objective of restoring the principles of good governance and sound public financial management to the Turks and Caicos Islands.

Henry Bellingham, Minister for the Overseas Territories, held a number of discussions with leaders of the Territories, including at the November 2010 Overseas Territories Consultative Council. Following this, the Prime Minister confirmed, through the National Security Council, the general principles of the Government's new strategy towards the Overseas Territories, which the Foreign Secretary announced to Parliament on 14 September 2011 HMG's strategy for the Overseas Territories www.publications.parliament.uk

The strategy recognises the political, social, economic and geographical diversity of the Territories and the need to develop policies that are tailored to support the needs and specific circumstances of each Territory. The strategy is designed to provide a framework in which these policies can be developed and implemented consistently and effectively.

The strategy focuses on three practical policy goals:

(i) to strengthen the engagement and interaction between the UK and the Territories;

(ii) to work with Territories to strengthen good governance arrangements, public financial management and economic planning where this is necessary; and

(iii) to improve the quality and range of support available to the Territories.

Stronger Engagement between the UK and the Territories

We want to see greater engagement between the UK and the Territories. We want to foster links between individuals, companies and Non-Governmental Organisations with their counterparts in the Territories. We want to strengthen interaction between the Territories and UK Government Departments and local government. Each UK Department has now assumed responsibility for supporting the Territories, as needed, in its own areas of competence and expertise. Departments have published papers setting out how they can provide support for and work with the Territories. Links to these papers are provided throughout this White Paper.

We also want to build stronger political links. Since 1999 the elected leaders of the Territories and UK Ministers have met in an annual consultative council. We will strengthen this into a Joint Ministerial Council and give it a clear mandate to lead work to review and implement the strategy and the commitments in this White Paper. The UK Government will provide a small secretariat to support the work of the Council including reporting to it on progress and developing action plans for implementation of specific proposals. We will also report progress regularly to the UK Parliament. We would welcome greater engagement between the UK Parliament and the elected bodies of the Territories. We propose that the Council consider options for taking this forward.

Strengthening Good Governance, Public Financial Management and Economic Planning

The UK and the Territories will continue their partnership to meet the high standards set out in this White Paper. The UK will provide support to the Territories, where necessary, to develop good governance, robust public financial management and sound economic planning. In particular we will support greater exchange of expertise between public servants in the Territories and the UK. We will do this by supporting Territory officials with opportunities to train and work with colleagues in the UK, and UK experts to work in the Territories. We particularly want to encourage long-term partnerships between the Territories and public bodies in the UK.

Improving the Quality and Range of Support to the Territories

"In this White Paper the Coalition Government has set out a compelling vision of flourishing and vibrant Overseas Territories, freer from financial dependence on Whitehall, proudly retaining aspects of their British identity and generating wider opportunities for their people. For our part, the Government remains committed to meeting the reasonable assistance needs of Territories where financial self-sufficiency is not possible, as a first call on the aid budget. We are prepared to invest British taxpayers' money – as we are doing, for example, with the St. Helena airport project – where we can see the real prospect of self-sufficiency being achieved in due course and the reduction or elimination of dependency on UK Aid. For their part, we expect Territories to help develop their financial management capacity so that they can meet their budgetary obligations. My department is playing an active role in making this vision a reality."

Rt Hon Andrew Mitchell, Secretary of State,
Department for International Development

DFID is delivering a step-change in the quality of the support they are providing to those Territories in receipt of UK budgetary aid. In Montserrat the UK has provided £350 million of assistance since the volcanic crisis of 1995-7 which destroyed the island's capital and shattered the economy.

UK assistance is targeted on developing the north of the island, supporting the Government of Montserrat to ensure the provision of public services and the development of an enabling environment for economic growth. DFID and the Government of Montserrat signed a Memorandum of Understanding on 1 May 2012 which sets out Government of Montserrat commitments to reforms that will improve business and tourism.

The UK will provide up to £246.6 million to build an airport in St Helena to help end the Territory's isolation and open up economic and social opportunities for the people of the island.

For those Territories that need support, DFID will continue to provide assistance with the aim of helping those Territories achieve sustainable, inclusive growth and financial independence from the UK. DFID works in partnership with those Territories that need support to provide assistance with the aim of helping them achieve sustainable, inclusive growth and reducing their financial dependence on the UK wherever this is possible.

DFID provides budget aid to some Territories to fund essential public services that cannot be funded from local resources and provides technical assistance to support improvements in the quality of public services, good governance and opportunities to pursue economic growth and financial independence.

More information about the work of DFID with the Overseas Territories can be found at www.dfid.gov.uk

The UK Government recognises that external organisations are often best placed to provide assistance and support. Our focus is therefore on strengthening the engagement of the Territories with international organisations such as the EU, the Commonwealth, the UN and regional organisations. There is significant potential for these organisations to provide more support to the Territories. The EU has a substantial assistance programme that is little understood and appreciated in the Territories. We want to improve access to this support and the impact it makes. The Commonwealth has a range of programmes to support small states, dealing with many of the issues facing the Territories.

Public Consultation

We undertook a public consultation on the Overseas Territories strategy at the end of 2011, through a web-based platform. We posed six general questions, based on the three policy goals of the strategy, to help focus the responses. An independent organisation analysed the responses and produced a report which we published in March 2012. This report can be found at http://www.fco.gov.uk

The White Paper

This White Paper highlights the scale, spread and importance of our Territories in an age of diminishing resources, climate change and pressure on the environment. The following chapters, which show how the UK and Territory Governments work in mature partnership, set out priority issues and areas for action.



Overseas Territories Consultative Council, November 2011
Credit: Tony Bates

1: Defence, Security and Safety of the Territories and their People

Overview

The UK sees its responsibility for the defence, security and safety of the Overseas Territories as a core task of Government. We work with Territory Governments to counter external threats, international terrorism and organised crime and to ensure the safety and security of air and sea links. This work engages a number of UK Departments including the Ministry of Defence, the Department for International Development, the Department for Transport and the Home Office and its agencies.

Defence

"Our resolve to defend our Overseas Territories remains undiminished. Providing security for the Nation and its Overseas Territories, safe-guarding its citizens and their way of life remains the first duty of Government and Defence."

Gerald Howarth MP
Minister for International Security Strategy
Ministry of Defence



Crew of RFA Wave Ruler helping to clear flood debris, Tortola, British Virgin Islands
Credit: Government of British Virgin Islands

The protection of the Overseas Territories and their people is one of the UK Government's most important responsibilities. It is included as a National Security Task in the Government's 2010 National Security Strategy, and reaffirmed in the conclusions of the Strategic Defence and Security Review later that year. We will continue to maintain an independent ability to defend the Territories – including their territorial waters and airspace – from any external security threats they may face.

We will continue to ensure that our sovereignty over the Territories is defended against all challenges so that, for those who live in the Territories as British citizens, their right of self-determination is protected. In the South Atlantic British forces will maintain a defensive military posture to defend the Falklands and other British islands. There will be no weakening of the Government's resolve.

We will also ensure that the Territories are able to trade, to exploit their natural resources and to develop their economies free from undue external interference. The role of Britain's Armed Forces in the Territories varies enormously. For example, the Royal Navy Ice Patrol Ship HMS Protector operates around the British Antarctic Territory every summer, delivering UK obligations under the Antarctic Treaty System and supporting the British Antarctic Survey (BAS)'s ground-breaking scientific endeavours. In the Indian Ocean, our small detachment of military personnel secures the British Indian Ocean Territory, while helping to protect its pristine environment, working with our fishery protection officers to deter poachers and others who damage this unique part of the world. And in the Caribbean our Royal Navy presence ensures we are on hand to provide immediate humanitarian relief from natural disasters or assist in the interdiction of illicit narcotics.



16 September 2009 – Typhoon aircraft arrive at Mount Pleasant Airfield in the Falkland Islands, in preparation for taking over from the Tornado F3, which had been at the airfield for 17 years
Credit: Cpl David Parnham

Conversely, the Territories contribute to the security interests of the UK and our close allies. A number of the Territories provide invaluable training environments for all three Services. UK Armed Forces based in the Sovereign Base Areas in Cyprus have provided extensive support for UK operations in Afghanistan, Iraq and most recently in Libya. Gibraltar is one of the UK's Permanent Joint Operating Bases and is used for forward mounting of operations in the Mediterranean, North Africa (most recently in Libya) and the Gulf. There are permanently stationed forces in the shape of the Royal Navy's Gibraltar Squadron and the Royal Gibraltar Regiment. The Royal Navy is tasked with maritime force protection operations and with upholding the sovereignty of British Gibraltar Territorial Waters. The British Indian Ocean Territory (BIOT) hosts a US base at Diego Garcia which facilitates Allied operations across the Middle East and South Asia. Wideawake Airfield on Ascension played a crucial part in the Falkland Islands conflict in 1982 and continues to offer vital support as part of the airbridge to the Islands. Our Overseas Territories give Britain a global strategic reach in support of our international objectives.

Royal Gibraltar Regiment

The Royal Gibraltar Regiment, which has regular and reserve elements, is the resident UK Armed Forces infantry battalion based in Gibraltar. The Regiment is funded by the MOD, recruited locally and is trained in the UK. As well as providing security and protection it contributes to wider defence objectives through exercise and training deployments in the UK, Morocco and West Africa, where the Regiment trains soldiers to prepare them for deployment to Darfur with UNAMID. The Regiment also provides soldiers for operational deployments where they are attached to other British Army units. Members of the Regiment have served in Northern Ireland, Sierra Leone, Iraq, and Afghanistan.

"We will have to work harder, and in different ways, to advance and protect British interests as the world around us evolves. British Overseas Territories play an essential role in furthering those interests."

Gerald Howarth MP
Minister for International Security Strategy
Ministry of Defence

More information about the work of the MOD with the Overseas Territories can be found at www.mod.uk

Bermuda, the Falkland Islands and Montserrat have their own defence forces.

The Bermuda Regiment

The Bermuda Regiment is a battalion-sized reserve unit with two key roles: supporting the Bermuda Police Service and undertaking post-disaster relief work at home and in the Caribbean region. Their profile has risen after deployments to assist in the Cayman Islands (Hurricane Ivan in September 2004), Grenada (2005) and the Turks and Caicos Islands (Hurricane Ike in September 2008), and more recently in Bermuda itself for Hurricane Igor (September 2010). The Regiment enjoys a long association with the Royal Anglian Regiment. Although the Government of Bermuda is financially responsible for the Regiment, it falls under the ultimate command of the Governor, who is its Commander-in-Chief. The UK retains ultimate responsibility for the security of the island.

The Falkland Islands has a local defence force (Falkland Islands Defence Force) made up principally of volunteers, whose role is to contribute to wider defence efforts on the Islands alongside UK forces. It also fulfills the role of a mountain rescue agency for the Islands.

In Montserrat there is a Royal Montserrat Defence Force (RMDF) which consists of approximately 20 volunteers and currently performs mainly ceremonial duties. The RMDF has a historical association with the Irish Guards.



Her Royal Highness The Duchess of Gloucester presents the Bermuda Regiment with new colours, 13 November 2010
Credit: Crown Copyright (Ministry of Defence)

Tackling Serious Crime

The UK Government and Overseas Territory Governments work in partnership to tackle threats arising from international terrorism and serious and organised crime. The results of the public consultation suggest that crime is one of the main concerns of the people of the Territories. The UK and Territory Governments will work together and with international partners to reduce and prevent crime and ensure people feel safe in their homes and communities.

The main threat to the Caribbean Territories and Bermuda is from organised crime, drugs, firearms and in some cases people trafficking and associated money laundering. The Territories lie on recognised drug trafficking routes from South America to the UK, continental Europe and the US. The traffickers use ever-changing techniques to conceal their goods and constantly shift patterns of shipment. Violent gangs, primarily engaged in street-level drug trafficking, operating in some Territories, have been responsible for the significant increase in firearm-related murders and assaults in these Territories. Some Territories have introduced drug and violent crime control strategies.

Territories in the South Atlantic generally have low levels of crime, but smaller law enforcement capability presents special challenges when unexpected incidents occur.

The UK Government believes that police and local communities need to work together to step up the fight against criminal behaviour. It is important that the police and other law enforcement agencies work together across the criminal justice system. There also needs to be an improved system to secure borders and reduce illegal immigration. These arrangements must command public confidence and serve the Territories' security and economic interests.

The UK Government welcomes the moves in some Territories to set up National Security Councils or equivalents to co-ordinate the work of Governors, Governments and the relevant agencies with regard to these challenges. We are committed to supporting their work.

The FCO co-ordinates and encourages policy and operational engagement between law enforcement authorities in the Territories and in the UK, including the Ministry of Defence, Home Office, Serious Organised Crime Agency (SOCA, which from 2013 will become the National Crime Agency), UK Border Agency and the Police.

The FCO employs Law Enforcement Advisers for the Overseas Territories to provide advice and help Territories engage with counterparts in the UK and elsewhere.

SOCA provides advice and specialist support to the Caribbean Overseas Territories to tackle organised crime in the region, and works with local and international law enforcement partners to reduce the harm to the citizens of the Territories from drug trafficking and other organised crime.

The Home Office will continue to authorise the deployment of UK police officers to Territories where required. It will also continue to provide legislative advice to Territories; and help them update their criminal justice legislation.

"The Home Office is committed to assisting the Overseas Territories to overcome a range of challenges in the field of home affairs. SOCA and UK police forces continue to provide specialist support to local law enforcement and assistance in criminal investigations. This work is helping the Territories to tackle organised criminals operating along the cocaine route from South America. We have a shared interest in tackling this threat, not only to reduce the impact of gang related crime on the citizens of the Territories, but to protect local communities in the UK by restricting the supply of drugs in accordance with the ambition of Local to Global, the Government's organised crime strategy published in 2011."

James Brokenshire, Minister for Crime and Security, Home Office

More information about the Home Office's work with the Overseas Territories can be found at www.homeoffice.gov.uk

The UK provides significant operational support. This includes UK police deployments; technical support for intelligence gathering; and secondments of UK experts into the Territories' authorities.

Seizure of Drugs from the Vessel "LOUISE"

In April 2011 the Royal Virgin Islands Police Force (RVIPF) assisted in a joint operation with the Serious Organised Crime Agency (SOCA) and other Caribbean jurisdictions concerning a suspicious vessel, the "LOUISE". This yacht was considered to be transporting illegal drugs when travelling to Europe on a container ship. The RVIPF were able to establish that the vessel was in the British Virgin Islands and was awaiting transportation to the United Kingdom via the United States Virgin Islands. As a result of further enquiries completed by the RVIPF in conjunction with SOCA, it was considered highly likely that the boat concealed illegal drugs.

The joint operation continued into late May 2011 when the boat reached Southampton and, as a direct result of the information supplied by SOCA and the RVIPF, a decision was taken to search the boat. Following a systematic six-day search, the UK Border Agency team at Southampton docks recovered 1.2 tonnes of cocaine worth approximately £300 million on the open market.

The UK supports and encourages international law enforcement co-operation with the Territories. This is especially important in the Caribbean region where the US and EU have significant programmes and co-ordination is important to ensure that crime is reduced and not just displaced from one island to another.

The UK Border Agency (www.ukba.homeoffice.gov.uk) assists the Territories by handling and processing visa applications through visa application centres around the world. UK Entry Clearance officers make decisions and issue visas on behalf of some Territories and refer applications to others. UKBA will continue to provide this service. UKBA also provides practical support to the Territories including assistance with visa policy and training in forgery detection. In most Territories visa legislation and regimes are closely aligned to the UK. Territories keep UKBA informed of planned changes to their visa regimes or legislation.

Natural and Man-Made Disasters

The UK's small and isolated Territories are vulnerable to natural disasters. The main threats to the Territories are hurricanes, volcanoes, earthquakes and tsunamis. There is also a risk of man-made disasters in particular air and sea accidents and environmental disasters such as oil spills. The emergency services in a small Territory can be overwhelmed by a major incident. The UK Government recognises its responsibility to support a Territory facing a disaster.



Sign indicating the nearest hurricane shelter, Grand Cayman, Cayman Islands
Credit: Tony Bates

In most Territories the Governor is responsible for co-ordinating the immediate disaster response. The FCO co-ordinates the UK and international

response to a disaster, working closely with the Department for International Development (DFID) and the Ministry of Defence. Royal Navy patrols in the Caribbean and South Atlantic are likely to be in the frontline in providing emergency support. In the MOD's Atlantic Patrol Task (North) (APT(N)), a Royal Fleet Auxiliary ship maintains a maritime presence in the Caribbean region all year, which can be enhanced with a naval party (including boarding party and embarked naval helicopter). This is normally supplemented by a Royal Navy frigate or destroyer during the hurricane season between May and November. DFID has the capacity and expertise to provide longer term disaster relief and co-ordinate international relief effort and supplies.

"I am very proud of the essential role the Armed Forces play in disaster relief, but particularly in the Overseas Territories where hurricanes and other natural disasters have the potential to cause widespread devastation."

Nick Harvey, Minister for the Armed Forces, Ministry of Defence



The Bermuda Regiment clears damage caused by Hurricane Igor
Credit: Bermuda Regiment

The UK and Overseas Territory Governments work together to reduce the risk of disasters and to build disaster management capacity. Territory Governments are responsible for ensuring the necessary public bodies are set up, tasked and adequately resourced to plan, prepare and respond effectively to potential disaster scenarios.

Roles and responsibilities need to be set out in local legislation and regulations. There need to be robust and effective national and departmental plans for dealing with disasters. These plans must support risk reduction and disaster preparation. The FCO organises an annual pre-hurricane season seminar for the Caribbean Territories and Bermuda. The UK will continue to provide advice to Governors and Territory Governments through periodic reviews of disaster management capabilities and plans, ad hoc advice, targeted training and live and table-top exercises. The FCO requires all Governors to undergo specialist training in Disaster Management before taking office.

The UK encourages co-operation between the Overseas Territories including the sharing of lessons learned and best practice. The Caribbean Territories and Bermuda agreed in early 2012 to provide assistance to each other including through the temporary secondment of law enforcement officials during times of crisis or in exceptional circumstances. We also support and encourage those Territories with their own defence forces to build on their capabilities and take a more regional role in disaster preparedness and response.

The UK supports the Territories to engage with regional and international disaster response agencies, for example the Caribbean Disaster Emergency Management Agency (CDEMA), the UN and the Red Cross. The Overseas Territories Directorate in FCO has a team of four officials (the Assist team) which can deploy to a Territory to assist the Governor and the Territory Government in preparing for and responding to particular disasters in the Caribbean region and Bermuda.



Clearing up after Hurricane Earl, Tortola, British Virgin Islands, August 2010
Credit: Boyd McCleary

Aviation Safety and Security

"A safe and prosperous aviation industry is vital to growth and economic development. This is why we remain committed to assisting our Overseas Territories to establish and maintain safety regulatory regimes which conform with international standards and ensure the safety of passengers and all involved in their aviation industries."

Theresa Villiers MP, Minister of State,
Department for Transport

The Territories need to apply international air safety standards in order to maintain the international air links that are vital to their people and economies. The UK Department for Transport provides essential support. In 2003 the Department responded to a critical report by the International Civil Aviation Organisation (ICAO) by setting up Air Safety Support International (ASSI – http://www.airsafety.aero), a subsidiary of the UK Civil Aviation Authority, to support the development of air safety regulation and provide safety assurance (except in Gibraltar and the British Antarctic Territory which have separate arrangements). ASSI has developed aviation legislation that is tailored to the needs of small administrations. ASSI provides support and training to Territories to build the capacity of Territory regulators. Where Territories have not yet set up fully-functioning regulators, ASSI provides direct regulation services such as airport licensing and certifying aircraft airworthiness.

The UK Government will continue to help the Territories meet international safety standards but believes that they should take over responsibility for safety regulation; pay for direct regulation services provided by ASSI; and contribute to the costs of other services. The Department for Transport has agreed Memoranda of Understanding on funding safety regulation with each of the relevant Territories, in which they

have agreed to contribute in proportion to the wealth of the Territory and the benefit they gain from civil aviation. The Department remains committed to providing the major share of funding for ASSI for the rest of the spending period.



RAF Sea King search and rescue helicopter near Mount Kent, Falkland Islands
Credit: MOD

ASSI will be responsible for the certification of the new international airport being built on St Helena. It will be working with DFID and its consultants to ensure that the airport meets international standards.

Gibraltar has been excluded from the ASSI system as it is covered by EU legislation. The UK Department for Transport helped the Government of Gibraltar establish its own aviation safety regulatory regime in 2009 and continues to provide some support.

Aviation Security

International terrorism is a threat to aviation in the Territories as it is in small independent states. The UK provides assistance to improve aviation security. In the Caribbean the Department for Transport employs a regional aviation and maritime security advisor to provide oversight and advice. The adviser has introduced improved assessments of terrorist and organised crime threats and risks, involving a wide range of government agencies.

Maritime Safety and Security

"We recognise and remain immensely proud of the growth of the British Shipping Registers operated by the Overseas Territories which has ensured that the combined British fleet at more than 50.1 million Gross Tonnage stands seventh in the world's shipping fleets. Along with the Maritime and Coastguard Agency, we will continue to work collaboratively with colleagues within the Territories to ensure that all ships flying the Red Ensign are maintained to the highest possible standards, and that the Territories meet their obligations as flag, port and coastal states under the International Maritime Conventions."

Mike Penning MP, Parliamentary Under Secretary of State, Department for Transport

All of the Overseas Territories have to comply with international security standards for ships and ports developed by the International Maritime Organisation (IMO).

Any vessel registered in the UK, a Crown Dependency or an Overseas Territory is a "British ship" and is entitled to fly the British Merchant Shipping flag, the 'Red Ensign', or a version of it.

Bermuda, British Virgin Islands, Cayman Islands and Gibraltar currently run large international shipping registers. Anguilla, Falkland Islands, St Helena and the Turks & Caicos Islands operate mainly domestic shipping registers. All are required to meet standards equivalent to those of the UK Register. This requirement is set out in individual Memoranda of Understanding (MoUs) between the UK and the Territory.

The UK Maritime and Coastguards Agency (MCA) monitors the Territories to ensure they comply with UK, international and – where appropriate

– EU standards. The UK represents their interests in international fora such as the International Maritime Organisation (IMO) and the International Labour Organisation (ILO). The MCA continues to work with the Territories to ensure the highest level of international maritime safety. It provides practical assistance to Territory Registers through a four yearly cycle of advisory and assessment visits; and organises regular conferences and technical meetings. More information about the work of the Department for Transport with the Overseas Territories can be found at www.dft.gov.uk

The Department for Transport continues to work with the UK's Territories to ensure appropriate standards of security are maintained at their port facilities. The Department's Miami-based Regional Aviation and Maritime Security Adviser undertakes regular security visits to the Caribbean Territories and Bermuda. The Department maintains a security dialogue with the shipping administrations of the Territories through annual security meetings of the Red Ensign Group.

Priorities for Action

> maintain commitment to defend the Territories and their peoples.
> address security threats such as organised crime and illegal migration, including through strengthened border security and the development of National Security Councils to improve co-ordination in the Territories.
> reduce risks and strengthen preparation for potential natural and man-made disasters, including through regional co-operation arrangements.
> maintain international standards of aviation and maritime safety and security in the Territories.



Law Enforcement Officers from the Overseas Territories practising boat handling skills at the Overseas Territories Regional Maritime Training Centre, Tortola, British Virgin Islands
Credit: Mike Riley

2: Successful and Resilient Economies

Overview

The Overseas Territories have made considerable strides over the last decade in their economic development. Although many Territories have limited natural resources and few have manufacturing industries they have recognised the need to diversify their economies. The UK Government will continue to work with the Territories to help them develop their economies.

The Territories are acutely vulnerable to shifts in the global economy, regulatory regimes and commodity prices. Prudent fiscal management and effective fiscal planning are fundamental to the delivery of continued economic success and increased resilience to external economic shocks.

Some Territories are in receipt of budgetary aid to assist them in their Government's business, infrastructure, development and growth prospects. Where the conditions are right, DFID will consider further investments that would stimulate growth and reduce financial dependency. The decision to proceed with an airport for St Helena (see below) is an excellent example of this.

Structure of Economies

The economies of the Territories vary significantly in size, but they share a number of features in common: they are open economies; economic activity is often concentrated predominantly in a small number of sectors; the public sector is a major employer; and they are reliant on imports. These factors leave Territory economies

particularly exposed to factors outside their control. For example, an economic downturn in the United States economy will tend to result in a reduction of tourist arrivals in the Caribbean Overseas Territories with a consequent reduction in government revenues.

Despite such challenges, there are many economic success stories. Bermuda, the British Virgin Islands and the Cayman Islands have developed important niche positions in international financial markets. The UK Government strongly believes that Territories which meet financial sector international standards should be free to continue to compete in international markets without discrimination.

The role these three Territories play in international financial markets, and the commitment of their Governments and regulatory authorities to meeting international standards, has also been recognised by the international community. Bermuda, British Virgin Islands and the Cayman Islands are, for example, members of the Financial Stability Board's regional group for the Americas. And Bermuda, as Vice Chair, hosted the second meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2011.

The UK Government will continue to support Territories with financial centres that demonstrate commitment to maintaining high regulatory standards to gain increased recognition through participation in international and regional fora.

Tourism is a major part of the economy of most Territories. It is important to develop this industry but also to consider carefully the environmental impact of proposed development so that the coasts, seas and wildlife that attract tourists are not damaged.

Air Services

"We will continue to promote the interests of our Overseas Territories in negotiating international air service agreements, to support their growth and economic development."

Theresa Villiers MP, Minister of State,
Department for Transport

The Department for Transport seeks to promote the interests of the Territories when negotiating air service agreements with other countries, which are an important element to supporting the economic development of the Territories. For example, the Department for Transport obtained additional rights for Cayman Airways and Air Turks and Caicos to conduct services to Cuba when a new bilateral air services agreement was negotiated in 2011.

The Department will continue to provide on-going support to the Territories with regard to air services. In particular, the Department stands ready to help Bermuda and the Caribbean Territories with the liberalisation of air service agreements with the US and other states wishing to develop their air services. The Department will also be providing assistance to the Government of St Helena in the development of air services to the new airport.



Cayman National Bank, Cayman Islands
Credit: Ministry of Finance

Successful Economic Development

Over the last 40 years, the British Virgin Islands has evolved from an agriculture/subsistence economy where people left the islands to find work, to one based on tourism (sailing and luxury hotels) and then one based also on the provision of financial services to the international business community. They are now the leading centre for international business companies, with much business coming from Asia/Pacific in addition to strong business links with the United States.

From the mid-1960s the Cayman Islands started on the path of development from a predominantly maritime economy to the world's fifth largest financial services centre. The development of financial services legislation helped to solidify Cayman's position as a leading financial services centre. It is now the world's leading centre for hedge funds and also a significant wholesale banking centre, with high volumes of overnight banking business from the United States.

Financial services have also featured significantly in Bermuda's economic development. Bermuda is the third largest reinsurance centre in the world and the second largest captive insurance centre, with firms based in the jurisdiction writing significant volumes of business in the United Kingdom and the United States. Bermuda has one of the highest per capita incomes in the world.

As part of the EU, Gibraltar is subject to EU standards and offers a gateway to the European single market of close to 500 million people. Gibraltar provides an extensive selection of financial services that meet the requirements of both local and international investors. Numerous international trading entities and financial services companies have bases in Gibraltar. The Government of Gibraltar is engaged in maximising the potential for expansion of Gibraltar's financial services sector, which contributes approximately 22 per cent to the GDP of the Territory.

The Falkland Islands are economically self-sufficient in all areas except defence. A system of licensing has enabled the development of the fishing industry and helped the economy move on from reliance on wool.

In common with the Caribbean Territories, tourism also makes an important contribution to the economy as the Falklands Islands promote their pristine environment.

The Tristan da Cunha economy is heavily reliant on the islands' lobster fishery. Tristan lobster is a top-end product mainly exported to the United States and Far East. The Territory works with its commercial partner to ensure that the fishery is well run and highly sustainable. In July 2011 the fishery was awarded Marine Stewardship Council certification. Aside from the lobster fishery, small scale tourism and sales of stamps and coins provide income for Tristan.

The UK Government Supports St Helena

On 3 November 2011 the St Helena Government entered into a contract with Basil Read Ltd to build an airport on St. Helena. The costs will be met by DFID.

The airport is the largest single investment ever made in a Territory and is the clearest possible example of the UK Government's commitment to the island.

In the short term the project will create new jobs in construction and associated supporting industries. But the real benefits are long term and will come through development of St Helena's tourism industry, bringing visitors to the island and boosting the economy.

An airport is the best chance in generations of stimulating sustainable growth on the island. It offers the best prospect for St. Helena to reduce and eventually graduate from its dependence on UK aid. The airport is scheduled to open towards the end of 2015.

We will work closely with the Governor and the St Helena Government to ensure that St Helena gains maximum benefit from this investment, while remaining mindful of the scale of social and economic transformation that the airport will bring.

Building on Success

Overseas Territory Governments continue to explore the options for developing economic resilience. Doing this in the context of a robust economic plan ensures that the feasibility and impact of development options are fully assessed and understood. The exploitation of technology, geology and the richness of the environment all provide opportunities for development, as do improved trading links.



Hamilton, Bermuda business district
Credit: Government of Bermuda

Economic Planning

Having a robust "business plan" for the economy is an important tool for building on success and is an approach the UK Government encourages all Territories to adopt. Such economic planning is a means to assess the feasibility of development options and to identify the expertise and infrastructure required to deliver them successfully, as well as considering how to make best use of those resources that are available. In short, the plan combines the vision for the economy with an objective assessment of deliverability.

Sharing Experience of Diversification

Territory Governments have between them a wealth of experience in delivering successful economic diversification, which the UK Government encourages the Territories to share with each other. The Falkland Islands, for example, has experience of establishing a system of fishing licences from which Territories with under-exploited fisheries can learn.

Science, Energy and the Environment

Montserrat has become a centre of excellence in volcanology and is exploring the development of geothermal energy to reduce the island's dependence on imported fossil fuel (see box). The successful development of geothermal energy would be a catalyst for wider economic development.

The Government of Montserrat is keen to confirm and develop the potential geothermal resource on Montserrat. While geothermal surface exploration has taken place, no drilling has been carried out, so despite encouraging indications, this potential has yet to be proven. Current electricity demand on the island is met by diesel generation. The Government of Montserrat is keen to displace this source with clean and affordable energy for domestic consumption, and to assist with the economic development of the island as a place to visit and do business. DFID is continuing to work with and support the Government of Montserrat to explore the potential to develop the resource, including financing the exploration phase. The result of this will be known in 2013.



Wind Turbines, Ascension
Credit: Stocktrek Images

The Bermuda Institute of Ocean Sciences is the leading authority on the Sargasso Sea. Scientific research in this area has the potential to broaden the base of Bermuda's economy. Research into the development of alternative energy based on Algal Biodiesel also has the potential of developing a fuel source that emits less carbon and chemical contaminants than traditional diesel fuel.

The Falkland Islands have established a South Atlantic Environmental Research Institute (SAERI). The Institute has a vision of providing a centre for scientific activity and related commercial opportunities, taking advantage of its existing economic strengths, its geographical location and its place at the centre of a system of British

Territories in the South Atlantic. The UK will work with the South Atlantic Territories to support the development of SAERI. The Natural Environment Research Council is supporting the development of SAERI in kind by providing expert advice on international scientific collaboration.

"On a recent trip to the British Antarctic Territory, I visited research facilities that place the UK at the forefront of environmental science. The Department for Business, Innovation and Skills fully supports our Overseas Territories and is committed to working with them to promote prosperity and growth."

David Willetts, Minister of State for Universities and Science, Department for Business, Innovation and Skills

Trade Policy

The ability to trade freely is vital for the Overseas Territories. The majority of trade is in services. Whilst the volume of trade in visible goods is currently low, it nevertheless makes an important contribution to Territory economies.

The UK Government is a strong supporter of free trade. We will ensure that the Territories are aware of developments in the World Trade Organisation and other international trade fora which could affect them. Should a Territory want to participate in WTO meetings, the Department for Business, Innovation and Skills (BIS) will offer advice and assistance.

BIS will work with Territories as the European Commission prepares their proposals on trade preferences and Rules of Origin. The UK Government will also work with the Territories to ensure that the impact on them of Free Trade Arrangements made between the EU and other countries is taken into account.

The Trade Policy Unit in BIS will continue to offer support and advice on specific issues relating to trade matters to Territories wherever possible, including offering assistance to individual citizens regarding cases of free movement rights.

More information about the work of BIS with the Overseas Territories can be found at www.bis.gov.uk

Trade Promotion and Inward Investment

The Government believes that there are opportunities for British business in the Overseas Territories, for example in the hydrocarbons, fisheries, sustainable energy and tourism sectors. In some cases they might be deterred from pursuing these opportunities through uncertainty over the legal and political context or because they simply lack the necessary information. The Government wants to encourage British business to explore these opportunities.



Gibraltar International Airport
Credit: Gibraltar Tourist Board

Investment Promotion

The UK has extended to the Territories a number of Investment Promotion and Protection Agreements when the Territories have provided a case for doing so and the other country agreed. These set out the standards of treatment on which investors of both parties can rely when investing in the Territory of the other, and enable investors to resolve disputes through arbitration.

The EU has taken over responsibility for this work. Negotiations are underway on how this will work in practice. Once this has been resolved the UK will work with the Territories to determine how best to accommodate their interests.

Economic Partnership Agreements

A number of Economic Partnership Agreements (EPAs) have been negotiated between the European Union and the Africa, Caribbean and Pacific (ACP) countries. They are intended to protect ACP countries' access to EU markets, promote trade integration and accelerate development and poverty reduction in the ACP regions. Economic Partnership Agreements are World Trade Organisation compatible and development friendly. Not all Territories are in regions with an Economic Partnership Agreement. There is an option for Territories to join Economic Partnership Agreements should they so wish, but to do so will require authority (an entrustment) from the UK Government.

The Territories currently benefit from preferential trade arrangements under the EU's Overseas Association Decision. The UK Government will support any future arrangements which leave Territories no worse off than preferences offered by the Economic Partnership Agreements. We will discuss with Territory Governments the provisions of Economic Partnership Agreements, should they want to explore whether membership of them would be beneficial.

The Territories will continue to face economic challenges, but the Territory governments and peoples have shown themselves adept at responding to past challenges to build vibrant economies. The UK Government is committed to supporting the right of the Territories to trade freely, whether in goods or services, and will continue to work with the most vulnerable Territories to help them along the path to self-sustainability.

Priorities for Action

> build economic resilience, including through prudent fiscal management and economic diversification.
> help Territories in receipt of budgetary aid achieve sustainable and inclusive growth and financial independence from the UK.
> strengthen economic planning capacity.
> increase trade and investment between the UK and the Territories.
> protect trade rights and preferences.

3: Cherishing the Environment

Overview

The UK Government wishes to ensure that the rich environmental assets of the Overseas Territories, for which they are internationally recognised, are cherished. The Territories are home to many species and environments found nowhere else in the world – including an estimated 90% of the biodiversity found within the UK and the Territories combined. Each of the Territories depends on these assets in some way such as for fisheries or from tourism.

"The United Kingdom's Overseas Territories play host to some of our most precious environmental assets, many of which would be irreplaceable if lost. We recognise that environmental challenges are increasingly threatening the future security and safety of our Territories and in particular the people and the biodiversity that they support. We are committed to working in partnership - across government, with the Territories themselves, and with non-government organisations – using funding mechanisms such as the Darwin Initiative, to ensure that these highly valuable natural resources are protected for the future."

Richard Benyon
Minister for the Natural Environment and Fisheries,
Department for Environment, Food and Rural Affairs

The unique environmental wealth of the Territories brings responsibilities for its sustainable management. Territory Governments, civil society groups, the private sector and the UK Government each has a role to play. The key long-term threat faced by the Territories is climate change.
The impacts of this are already being felt, in particular in the British Antarctic Territory which is warming faster than almost anywhere else on the planet. The Intergovernmental Panel on Climate Change has identified the Territories as amongst the "most vulnerable" and "virtually certain to experience the most severe impacts" of climate change. This will mean sea level rise; changes in weather patterns, including higher intensity of extreme weather events; coral bleaching; ocean acidification; and sea temperature changes. Other immediate threats include land use change; waste management; invasive species; and threats to habitats from unsustainable development.

Case Study: The British Indian Ocean Territory (BIOT)

BIOT is situated in the middle of the Indian Ocean and is made up of over 50 islands (the Chagos Archipelago) in 640,000 square kilometres of ocean. The Great Chagos Bank is the world's largest atoll. The islands, reef systems, biodiversity and waters of BIOT are among the richest on the planet, containing about half of all the reefs of this ocean which remain in good condition. Established on 1 April 2010, the Marine Protected Area – where commercial fishing is prohibited – is the largest such marine reserve in the world.



Plant Beach, BIOT: Some of the world's cleanest waters
Credit: Crown Copyright (FCO)

Taking Stock of Progress

Territory Governments are responsible for the protection and conservation of their natural environments. They are supported by UK Government Departments, who have been working together, in conjunction with Territory Governments, Non-Governmental Organisations, the private sector and other stakeholders. Much progress has been made. Supported activities include:

- the joint FCO-DFID Overseas Territories Environment Programme (OTEP) which, since its inception, has disbursed £8m through more than 140 projects across the Territories, in areas such as climate change, renewable energy, recycling, conservation and species protection;
- development of the Overseas Territories Biodiversity Strategy, an initiative led by the Department for Environment, Food and Rural Affairs (DEFRA), under which DEFRA, DFID, FCO and the Joint Nature Conservation Committee (JNCC) work together towards conservation and sustainable use of biodiversity in the Territories;
- the DEFRA-led Darwin Initiative, within which £5.2m has been spent to date on Territory projects, including through a special Challenge Fund created to help the Territories work up more successful bids; and the Flagship Species Fund, part-funded by DEFRA, which has a focus on supporting projects in the Territories;
- funding a fisheries patrol around Ascension, St Helena and Tristan da Cunha, and providing model legislation for Territories to enable them to take appropriate action against illegal, unregulated and unreported fishing;
- assisting St Helena with institutional reform of its government environmental function, including the creation of a new Directorate of Environmental Management;
- establishing a Millennium Seed Bank Partnership through The Royal Botanic Gardens, Kew to

ensure the future safety of rare, endemic plant species from the Territories;

- supporting, through the provision of direct grants, enhanced environmental work in the British Indian Ocean Territory, British Antarctic Territory and South Georgia & the South Sandwich Islands, for example to support non-native species eradication, fisheries patrols and heritage conservation; and
- ensuring the needs and concerns of the Territories are represented at international meetings, and providing advice and support in meeting the demands of international agreements. Much of this work is led by DEFRA who assist the Territories in meeting the requirements of:
  - the Convention on International Trade in Endangered Species;
  - the Convention on Biological Diversity; and
  - the Convention on Migratory Species.

  This work has included supporting an officer in the Falkland Islands responsible for implementing the Agreement on the Conservation of Albatrosses and Petrels, part of the Convention on Migratory Species. In addition, the Department for Energy and Climate Change (DECC) has shared with the Overseas Territories information on the development of UK negotiating positions under the UN Framework Convention on Climate Change.

Case Study: Assistance to the Caribbean Overseas Territories on Climate Change

For four years, DFID funded the Caribbean Overseas Territories' participation in a regional project entitled "Enhancing Capacity for Adaptation to Climate Change in the Caribbean Overseas Territories". This helped these Territories adapt to climate change and variability within the context of sustainable development. During the project each Territory developed public education and outreach programmes, established National Climate Change Committees, completed climate change vulnerability and capacity assessments and developed a climate change policy document. This has helped underpin action by the Territories to plan and implement measures to mitigate climate impacts.

Case Study: UK Overseas Territories Online Herbarium

The Overseas Territories Environment Programme has supported The Royal Botanic Gardens, Kew through a 2-year project to create an online herbarium cataloguing the native and introduced plant species of each Territory.

The project is contributing to the Global Strategy for Plant Conservation and will better enable Territory Governments to understand the wealth of their natural environments and ensure they are adequately protected. In particular, this 'one-stop shop' for plant information should help enable effective protection and management of native plants, including through the implementation of multilateral environmental agreements such as the Convention on Biological Diversity, and create a better understanding of their importance.

To date, over 17,000 specimens and 10,000 taxa have been collated into the database held at Kew and freely available through the website: http://herbaria.plants.ox.ac.uk/bol/UKOT

Case Study: St Helena – Saving a Unique Species from Extinction

St Helena hosts a large number of species that are unique to the island. These include 43 different types of plant and 45 different types of spider alone, as well as the single remaining land bird – the wirebird. Over the years there have been a number of threats to the survival of these species and populations of many have declined. The unique Bastard Gumwood tree, for example, carries International Union for the Conservation of Nature 'Red List' status and was thought to be extinct in the wild. However, in 2007 a single wild tree growing on a remote cliff on St Helena was discovered. With support from the Overseas Territories Environment Programme genetic material from this specimen is being used to develop a self-sustaining population. Now, a network of National Conservation Areas is being proposed on the island which would help to restore and conserve St Helena's unique natural heritage for the future.

This work has facilitated greater knowledge and understanding of environmental problems and helped Territories put in place measures to protect some key species and habitats. We now want to build on this towards a more strategic, co-ordinated approach to place environmental consideration at the heart of decision-making within each of the Territories.

Shaping the Foundations of a More Sustainable Future

To facilitate this, the UK Government has funded two stakeholder-led pilot projects, in the British Virgin Islands and the Falkland Islands. The aim of these projects has been to raise awareness of the value of the environment in economic growth and development, and human wellbeing, and to identify ways to integrate or 'mainstream' that awareness into Territory policies, regulatory frameworks and decision-making. By taking account of the goods and services delivered by the environment, such as flood protection, prevention of coastal erosion, and mitigation of climate change impacts, Territory Governments can take more balanced decisions and help to provide a stronger foundation for sustainable economic growth and development. This in turn can help to ensure a healthy, productive and biodiverse natural environment, whose contribution to the economy is recognised and sustainably managed.

Case Study: Greening the Economy – Towards Sustainable Development for the British Virgin Islands (BVI)

The BVI Government, FCO, and Joint Nature Conservation Committee (JNCC) supported a two-day workshop in BVI in February 2012 as part of a wider project piloting a new approach to environmental management within the Overseas Territories.

The workshop aimed to identify a range of priority actions that need to be taken forward to help secure a sustainable future for the islands. In his remarks to the workshop, Dr The Hon Kedrick Pickering, Deputy Premier and Minister for Natural Resources and Labour made clear the importance of the issue of environmental management for the BVI: *"Unless and until the environment becomes everyone's business, and is thought about, and seriously considered in every decision we make, we can forget about an environment that will be in any condition to maintain our economy, secure our development or continue to provide the lifestyle that we now enjoy."*

Among issues identified by the workshop was the need for effective management of waste and water – which will be critical to the success of the tourism industry which is a major contributor to the BVI economy.

We intend to offer similar projects to other Territories where appropriate and, through these and other activities, develop a shared agenda for sustainable environmental management with each of the Territories based on the following principles:

> the natural environment, and the goods and services it provides, whether through individual species, habitats or whole ecosystems, is appropriately valued;

- economic activity, including tourism and fisheries, is managed in a way that is consistent with the long-term sustainable use of the natural environment, avoiding over-exploitation and ensuring a renewable contribution to economic growth;
- unique, highly vulnerable or sensitive natural environments are identified, protected and conserved by appropriate means including through the use of management plans, underpinned by scientific research;
- the role of the natural environment in underpinning long-term economic prosperity is understood and integrated within Overseas Territory policies and decision-making.

We will encourage Territory Governments to support the delivery of this shared agenda. We intend to continue to make available UK Government funding streams over the course of the current Spending Review period, as well as continue to offer technical advice and expertise, on environment, climate and renewable energy issues. We will continue to work together across Government to deliver co-ordinated support on natural environment issues, each Department leading in their respective areas of responsibility.



Cacti in Anguilla
Credit: iStockphoto

For example, DEFRA will continue to provide support for endangered species and habitats, such as through the Darwin Initiative and implementation of the UK Overseas Territories Biodiversity Strategy. DEFRA will also lead on biodiversity and climate change adaptation issues. Together with its Agencies (Royal Botanic Gardens, Kew, JNCC, the Food and Environment Research Agency and the Centre for Environment, Fisheries and Aquaculture Sciences) it will continue to provide technical and policy advice and ensure that key research in the Territories is delivered. More information about the Department's work with the Overseas Territories can be found at: www.defra.gov.uk

DFID will continue to engage with Territories on wider climate, environment and natural resource issues. The Department for Energy and Climate Change will look to increase their support to the Territories in areas of climate change collaboration (including working with Territories to inform UK negotiating positions within international climate change, and other, discussions). They will also provide support on energy-related issues including renewable energy technologies. More information about the Department's work with the Overseas Territories can be found at www.decc.gov.uk

In the EU, we will continue to engage with the Commission and the Territories on the renewal of the Overseas Association Decision, to try to ensure that Overseas Territory environment policy and funding needs are taken into account. We will also seek to secure funding from other sources to assist the Territories in conserving their biodiversity and ecosystem services. Internationally, we will continue to represent Territory interests in the context of multilateral environmental agreements such as the International Commission for the Conservation of Atlantic Tunas, the Convention on Biological Diversity, and the UN Framework Convention on Climate Change.

The Uninhabited Overseas Territories: British Antarctic Territory, South Georgia & the South Sandwich Islands and British Indian Ocean Territory

In the uninhabited Territories the principles of environmental protection and sustainable ecosystem management are already enshrined in our activities. We will continue to support and oversee the effective stewardship of these almost-pristine natural environments.

The British Antarctic Territory is the largest of the UK's Overseas Territories, covering over 1,700,000 square kilometres, but it has no indigenous population. The Government of the British Antarctic Territory, in consultation with stakeholders, has developed an ambitious rolling five year strategy which sets out objectives and funding priorities. Environmental protection is an integral part of this strategy and is amongst its highest priorities: the Antarctic Peninsula is one of the fastest warming, and therefore most rapidly changing places on the planet. The historic leadership and scientific endeavour shown by the UK in early Antarctic exploration, including the meteorological data, rocks, fossils and marine samples collected by Captain Robert Falcon Scott's polar party, laid the early foundations of our scientific understanding of Antarctica. It has underpinned much of the environmental research subsequently conducted, including the study of climate change.

Case Study: Climate Change in the British Antarctic Territory.

Recent climate change has driven significant changes in Antarctica. This has been most apparent in the Antarctic Peninsula, part of the British Antarctic Territory, where in the last 50 years: average temperatures have risen by nearly three degrees Celsius; 25,000 km^2 of ice has been lost from floating ice sheets; and 87% of glaciers have retreated. These changes are already affecting wildlife. Adélie penguins, a species well adapted to sea ice conditions, are being replaced by open water species such as gentoo penguins. Melting snow and ice cover has resulted in increased colonisation by plants. And reduced sea ice cover may be contributing to a decline in Antarctic krill, a fundamental staple of the Southern Ocean food chain. The FCO is working with the British Antarctic Survey, and through the Antarctic Treaty System, to better understand these changes so that we can better plan for the impacts they may have.



British Antarctic Survey Plane
Credit: Henry Burgess

We are helping to further the UK's historic legacy in Antarctica by:

- developing a better understanding of the environment and implementing the best Antarctic environmental practices in our activities;
- enhancing UK expertise on tourism management and minimising human impacts;
- identifying rare flora and fauna and/or special areas across the British Antarctic Territory and developing protection and conservation measures;

> proactively managing key Protected Areas in the British Antarctic Territory; and
> identifying future environmental challenges, including climate change, and developing mitigation measures.



British Antarctic Territory
Credit: Paul Stansfield

South Georgia & the South Sandwich Islands also has a prominent history in polar exploration, and acted as an important staging post for the expeditions of Sir Ernest Shackleton, who died and was buried on South Georgia in 1922. But it is of international importance in its own right for its rich environmental heritage. South Georgia & the South Sandwich Islands sustains major populations of seabirds and marine mammals including globally threatened species, like the iconic wandering albatross. It is also home to one of the longest and most detailed scientific datasets in the Southern Ocean, with over 30 years of population data on seabirds and marine mammals at Bird Island.

The sustainable management and environmental stewardship of South Georgia & the South Sandwich Islands is therefore the key priority. The waters around South Georgia & the South Sandwich Islands are some of the best managed in the world, and the fishery is carefully controlled to minimise adverse impacts. The latest stage of the Government of South Georgia & the South Sandwich Islands' long-term management strategy was the recent designation of a sustainable-use marine protected area (MPA) within its maritime zone.

Case Study: South Georgia & the South Sandwich Islands Marine Protected Area (MPA).

In February 2012 the Government of South Georgia & the South Sandwich Islands declared a sustainable-use MPA covering over 1,000,000 km^2 of the Territory's maritime zone, including 20,000 km^2 of no-fishing zones. It establishes the waters around South Georgia & the South Sandwich Islands as one of the largest areas of sustainably managed ocean in the world.

The declaration of the MPA builds on existing management measures which go above and beyond those required by the Convention for the Conservation of Antarctic Marine Living Resources. As a result, the Marine Stewardship Council (MSC) has certified the island's toothfish fishery, which is rated as the third highest scoring MSC-certified fishery in the world.

The declaration of this MPA contributes to the World Summit on Sustainable Development's global commitment to establish representative networks of MPAs by 2012. The MPA will be monitored through scientific programmes and enforced through a dedicated patrol vessel.

We will continue to support the Government of South Georgia & the South Sandwich Islands' environmental stewardship of the Territory, including through tough environmental and biodiversity protection measures, effective fishery and tourism management and, where feasible, the eradication of non-native species to restore the natural habitat of South Georgia.

We will continue to represent the interests of both the British Antarctic Territory and South Georgia & the South Sandwich Islands in the Antarctic Treaty System, where we uphold the principles of ecosystem management and work with the British Antarctic Survey and other stakeholders to ensure decisions are based on robust scientific evidence.

Tourism, to both the British Antarctic Territory and South Georgia & the South Sandwich Islands, will continue to be carefully managed. The British Antarctic Territory receives the overwhelming majority of all Antarctic tourists. A key focus is to ensure visits are both safe and environmentally friendly, for example through the development of guidelines, educational materials and field guides, many of which have subsequently been adopted by the Antarctic Treaty System.

Within the British Indian Ocean Territory we are committed to similarly high standards of environmental protection. The Administration of the British Indian Ocean Territory has developed a legislative framework which underpins the protection of sites and species of particular importance, and has also designated special reserves. These include an area of Diego Garcia which has been designated as a Wetland of International Importance under the Ramsar Convention on Wetlands.



King Penguin, South Georgia
Credit: Oscar Castillo

This work, together with the establishment of the no-take marine protected area in 2010, has contributed to the very high levels of nature conservation achieved in the Territory and highlights the UK's intention to ensure the on-going protection of this unique environment. We will work with the newly established, multi-disciplinary Science Advisory Group and other relevant stakeholders to take forward this work and deliver effective management measures.



Masked Booby, British Indian Ocean Territory
Credit: Peter Carr

Priorities for Action

> manage terrestrial and marine natural resources sustainably and address challenges of climate change, including by putting environmental considerations at the heart of all decision-making.
> oversee exemplary environmental management of the uninhabited Territories.
> ensure compliance with the requirements of relevant multilateral environmental agreements.
> strengthen co-operation with the Non-Governmental and scientific communities.

4: Making Government Work Better

Overview

The UK Government has a responsibility for the overall good government of the Territories and takes a close interest in how Territory Governments discharge the functions devolved to them. Those Territories which choose to remain British should abide by the same basic standards of good government as in the UK.

The Territories have proud traditions of democracy and respect for human rights. Territory Governments have used their devolved responsibilities to make significant improvements to the quality of life of their people, outperforming comparable independent states. But small Territories face particular challenges. It is difficult to maintain all the skills needed to regulate modern economies and meet public expectations for specialist services. It is sometimes difficult to procure good value services. Public concerns about capacity, transparency and corruption need to be addressed.

The UK Government has a vision of making government work better. We believe in sound public finances, building economic resilience and effective regulation. We want to increase efficiency and effectiveness, ensure public funds are spent wisely, and foster a fairer, more open and mobile society. We believe in giving power to people and communities across the UK and the Territories to drive reform. This means strengthening accountability including by making the performance of public bodies and services more transparent. We will work with the people, communities and governments of the Territories to realise this vision.

Democracy

The populated Territories have vibrant democratic traditions. Each Territory has its own legal system with its own local laws. In most Territories the legislature consists predominantly of members elected by the Territory's voters (except for the Senate in Bermuda, the members of which are all appointed). Most of the Territories have a ministerial system of government, loosely reflecting the Westminster model, with the elected member who commands support of a majority in the legislature becoming the Premier or Chief Minister. Political parties operate freely and are required to operate transparently and with appropriate controls on party finance. Territory Constitutions and laws define who can vote in elections. In some Territories recent economic success has attracted significant numbers of people and their families. In some cases these people are not able to vote. The UK Government believes that people who have made their permanent home in the Territories should be able to vote, but recognises the desire of island communities to maintain their cohesion and hence the need for a reasonable qualifying process.



Bermuda Parliament, Hamilton
Credit: Hemera

Election Observers

The UK Government encourages observers to monitor UK elections as an important way to promote internationally accepted standards. We encourage other confident and open democracies, including the Territories, to welcome observers. In this spirit, the UK Government supported the observer mission to monitor the elections in the British Virgin Islands in November 2011 which was organised by the Caribbean Community (CARICOM) and the Commonwealth Parliamentary Association (CPA). This mission concluded that the will of the people of the British Virgin Islands had been fairly and freely expressed in an open democratic process, and commended the Territory for transparent, orderly and peaceful elections. The mission also made a number of helpful recommendations. The British Virgin Islands can be proud of the high standards it has set.



Members of the Legislative Assembly, Falkland Islands
Credit: Falkland Islands Government

The Territories have a free and open press that serves to inform the public and foster debate on issues of policy. In recent years there has been an explosion of colourful internet debate and political blogs.

The Territories have a wide range of official organisations that work to ensure openness and transparency and to hold public bodies to account, including auditors and complaints commissions. There are many civil society organisations that play an active role in checking that public bodies are working properly. This important work helps strengthen the people's trust in government and encourages greater public participation in decision making. The UK Government is supporting the development of these organisations.

Complaints Commission in the British Virgin Islands

The Complaints Commission provides an avenue to the public for redress of grievances arising from the administrative action of any government agency including any department, unit, statutory body, public board or committee. Since it was set up in 2009 the Commission has helped people who have had bad experiences and has made six special reports into specific issues.



Dr Elton Georges, BVI Complaints Commissioner
Credit: Government Information Services; British Virgin Islands

It is important that everyone in the UK and the Territories in public life acts in accordance with the highest standards. This includes Governors, Ministers, public officials and advisers, members of national assemblies, members and officers of boards and other bodies discharging publicly funded functions.

The Seven Principles of Public Life

The UK Committee on Standards in Public Life has set out these principles for the benefit of all who serve the public in any way. They have been adopted by many public bodies in the UK and the Territories.

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Human Rights

The UK and the Territories share a common agenda to promote respect for human rights and tackle discrimination. The UK Government expects the Territories to abide by the same basic standards of human rights as the UK. Over the last decade, as new Territory Constitutions have been agreed, these have included new or strengthened human rights chapters that reflect these standards, in particular the European Convention on Human Rights (ECHR) and the United Nations International Covenant on Civil and Political Rights (ICCPR). Significant progress has also been made on extending core UN human rights conventions to the Territories. The UK Government's longstanding practice in this area is to encourage the Territories to agree to the extension of UN human rights conventions that the UK has ratified, but to extend these to the Territories only when they are ready to apply them. We want to work with all the populated Territories with a view to extending outstanding UN human rights conventions to them by the end of 2013. We will support those Territories that face resource and capacity constraints.

UN Human Rights Conventions

The following core Conventions have been extended to almost all Territories:

– the International Covenant on Civil and Political Rights;

– the International Covenant on Economic, Social and Cultural Rights;

– the Convention on Elimination of all forms of Racial Discrimination;

– the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; and

– the Convention on the Rights of the Child.

The Government of Anguilla is preparing for the extension of the UN covenants on civil and political rights and economic, social and cultural rights. The Government of Gibraltar is similarly considering the extension of the Convention on the Rights of the Child.

The Convention on the Elimination of all forms of Discrimination against Women has been extended to the British Virgin Islands, Falkland Islands and the Turks and Caicos Islands. Bermuda and the Cayman Islands are preparing for extension by the end of 2012. We are working with the remaining Territories to prepare for extension.



Foreign Office Minister Henry Bellingham meeting Ascension Island Councillor Kitty George in London, 22 November 2011
Credit: Crown Copyright (FCO)

In the Territories in which fundamental rights have been incorporated directly into the Constitution, local courts can enforce those rights directly. Six territories had enforceable fundamental rights chapters before the introduction in the UK of similar arrangements through the Human Rights Act 1998. The Constitution of Bermuda, which is the oldest amongst the Territories' constitutions, has contained a fundamental rights chapter since 1968.

The UK Government is responsible in international law for ensuring that the Territories comply with international human rights conventions that have been extended to them. Territory Governments have a duty to ensure local law complies with the relevant conventions and court judgements and is non-discriminatory. We expect Territories to take action, including legislating where necessary, in any areas of disparity to reach full compliance.

Territory Governments, with support from the UK, are doing a great deal of work to look after vulnerable members of society and to tackle discrimination. A major responsibility is the safeguarding of children. This is taken very seriously and all Territories need to ensure that proper measures are put in place to protect children and to help prevent child abuse. The UK is ready to support further work, including to improve reporting to the various UN human rights treaty bodies; strengthen specialised training and organisations; and tackle all forms of discrimination.

Building Human Rights Capacity in the British Overseas Territories

The UK has supported a Commonwealth Foundation project which has provided training workshops, specialist assistance and advice to help Territory Governments improve the implementation of human rights and worked with civil society to raise awareness of human rights issues. Among other things the project supported a poster and booklet campaign in the Falkland Islands; training for civil servants, police and social workers in the British Virgin Islands; a workshop in Pitcairn; proposals for a Human Rights Commission in St Helena; and the development of national action plans.

Safeguarding Children in the Overseas Territories (SCOT)

The UK has also supported a project to strengthen the protection of children, young people and their families by supporting policy making, professional practice, inter-agency collaboration and regional collaboration. St Helena and Ascension introduced legislative changes to support families and protect children from abuse. Anguilla and St Helena have established systems to encourage effective inter-agency cooperation in child protection cases. The project has also overseen extensive training activities including behaviour management training for teachers in Anguilla and for front line community workers in Montserrat.



SCOT workshop in Turks and Caicos Islands
Credit: Viv Neary, SCOT Programme

The Rule of Law

The UK and the Territories share a long legal tradition and a belief that an independent and effective judicial system is a cornerstone of democratic society. The Territory judiciaries are separate and independent of the locally elected governments in order to ensure the rule of law is enforced impartially and consistently no matter who is in power. It is vital that the judiciary behave in an appropriate professional manner and maintain the highest standards of integrity and independence. One of the key challenges is attracting applicants of a suitably high standard to fill judicial vacancies.

The Ministry of Justice is working with the Territories to advise on sourcing the highest calibre of candidates and maintains close links with the Territory Governors to provide additional assistance where required. The Ministry of Justice is also exploring with the Territories the provision of additional training and support to both current and future members of the judiciary.

The Judicial Committee of the Privy Council (JCPC)

All of the Overseas Territories have the Judicial Committee of the Privy Council as their final court of appeal in both civil and criminal matters. This appellate jurisdiction in relation to the British Territories is ancient. Despite its heavy caseload, the Judicial Committee endeavours to ensure that appeals lodged with it are processed expeditiously, particularly where the case is time sensitive.

The Territories need an effective criminal justice system that delivers justice without delay, protects the civil liberties of all people, and works for the victims of crime and witnesses and also for the accused and convicted. Effective systems are needed, for example, to encourage dispute settlement, provide legal aid where this is needed, and to protect vulnerable witnesses. Sentencing policy should punish those who break the law and help reduce reoffending. It is important to have systems to help offenders get off drugs, get support with mental health problems and reintegrate them back into their communities.

The UK Government will continue to help the Territories find effective ways to deal with young offenders including though promoting the use of diversion from prosecution in appropriate cases and the use of rehabilitation. Diversion away from the criminal justice system, with support and guidance applied correctly, can help prevent the risk of young offenders becoming repeat offenders. We will work with the Territories to demonstrate that diversion and rehabilitation can help turn the lives of many young offenders around and in turn, delivers longer term savings in criminal justice systems and societies.

Restorative Justice

Whilst small island communities can create challenges, they also present significant opportunities. One of the fundamental principles of good justice is that it must be seen to be done, and in small communities, visibility is more easily achieved.

Restorative justice aims to go further than simply meting out punishment, by helping to repair some of the harm done to victims and communities. It also offers the opportunity for offenders to give something back to the communities they have wronged and can help form a basis from which to begin rehabilitation.

The Ministry of Justice will continue to provide best practice and support from the UK to help the Territories develop and use restorative justice to the benefit of their communities. We will also assist in building networks to facilitate the sharing of expertise and experience.

The Territories are increasingly looking at alternatives to custody and more community and rehabilitation based sentences for offenders. For small islands with relatively small prison populations, custody is an expensive, and sometimes impractical way to deal with offenders. Non-custodial sentences can offer an alternative and can have dramatic effects on reducing reoffending rates when compared to prison for certain types of offenders.

The UK Government supports the aim of increasing the range of sentences available to the courts. Building effective probation services to support offenders in the community is a key aspect to this work. Several Territories now have probation services in place and some good results are being achieved. The Ministry of Justice supports this work and officials from the Parole Board have recently travelled to some Territories to help to train justice professionals including probation staff.

Many Territory Governments are looking for cost effective ways to rehabilitate offenders in the prison system and reduce recidivism rates as a key to tackling crime in their communities. We will continue to work with the Territory Governments to support this move to a more rehabilitative prison system that is better equipped to deal with specialist requirements. Key to achieving this is building capacity through pooling and sharing of expertise.

Prisons

The majority of Territories have only a single prison. Total numbers of prisoners are small and facilities often limited, but in some Territories the overall incarceration rate is amongst the highest in the world. This leads to crowded prisons with an average of 30% over capacity across the Territory prison system.

The small size of the prisons also means that it can be difficult, if not impossible to separate offenders with specific needs, such as minors, women or high risk offenders. Facilities to promote rehabilitation and treat offenders who require specialist treatment, such as those convicted of sexual offences, are often not available.

It is important that the Territories have adequate systems to protect witnesses giving evidence where they may be at risk of reprisal. This can be particularly important in the Territories where there is only one prison and offenders may be giving evidence against others and then find themselves imprisoned together. Effective systems are needed to separate witnesses and the accused in the long term, whether through relocating witnesses or ensuring prisoners can be kept separately or protected from reprisals.

Protecting vulnerable witnesses

The protection of vulnerable witnesses in small island communities can be challenging. The Territories need systems to ensure that witnesses are not intimidated, are protected from harm or reprisal and that there are alternatives available for evidence to be proved to Courts in the appropriate circumstances. This is particularly relevant in cases where children are required to give evidence, such as in cases of abuse where it is good practice to enable a child to give video recorded evidence and evidence by live link to avoid having to go into the Courtroom.

It is important for the Territories to ensure the fast and effective resolution of disputes in the civil and family justice systems. The Territories must ensure that all citizens have equal access to the Courts and are treated equally before the law. This means that justice must be accessible, efficient and not prohibitively expensive. Whether through the effective use of legal aid, the use of mediation or alternative dispute resolution, equal access to justice and the fast and effective resolution of disputes should be the right of every citizen of the Territories.

Promoting mediation in civil and family cases also enables positive outcomes across the justice system. Through promoting alternatives to the courts, the Territories can significantly reduce costs for litigants as well as the costs to the public sector. Alternative dispute resolution is often also considerably faster. It encourages negotiated compromise resolution. It is also often a more amicable and positive way to resolve issues, particularly in family cases. In small islands communities, the amicable resolution of disputes carries even more importance. The Ministry of Justice will continue to support the Territories through the promotion of best practice and sharing of ideas.

The UK is committed to maintaining support for the justice systems in the Territories. The FCO funds regional advisers in the Caribbean and South Atlantic who provide advice and training. The Ministry of Justice provides substantial support on judicial issues and is working with the Territories to identify where expert advice can be best targeted to achieve results. The range of support currently provided includes predeployment training for Governors; training for probation and prison staff; and sourcing and recruiting experts to support justice projects. More information about the work of the Ministry of Justice with the Overseas Territories can be found at www.justice.gov.uk

Public Service

The Territories have professional public services built on the principle that public servants and other persons appointed to positions of public authority are selected and promoted on merit and through open competition. Efforts are made to attract candidates from all sections of society so that the public service refl ects the population it serves. It is difficult for small public services to build up all the specialist skills demanded of modern government. The UK Government encourages Territories to work together; to carry out some functions through joint bodies; to exchange personnel; and to open up more recruitment to skilled staff from other Territories, the Crown Dependencies and the UK (jobs in the UK are already open to British citizens from the Territories).

The public services in the Territories and the UK have much to learn from sharing experience with each other. The UK Government wants to see more engagement between public bodies in the UK and the Territories. We are setting up a programme to support public servants from the Territories to get training and work experience in the UK and for specialists from the UK to work in the Territories.



Students from the Turks and Caicos Islands visit 10 Downing Street
Credit: Crown Copyright (FCO)

Policy Making

Public services have a vital role in providing objective and impartial policy advice to Ministers and managing the policy making process including organising public consultation and assessing the potential impact of particular policy options. The UK Government is supporting the development of policy making capacity in some Territories.

Public Services

UK and Territory Governments share a determination to deliver a better deal for taxpayers, directing resources into priority front-line services such as schools and hospitals and reducing waste and administration. Good public procurement is an important priority. This is sometimes challenging for Territory Governments, particularly where there are few suppliers and little competition. The UK Government is ready to share expertise and good practice to help the Territories get the most out of tight budgets.

Better Regulation

Much regulation in the UK and Gibraltar stems from EU law. The UK will ensure that Gibraltar is involved in the development of European directives at the earliest stage. We will support implementation in a way that does not disadvantage businesses relative to their EU competitors.

The Territories outside the EU face the challenge of developing their own regulation including for specialised business areas. Territory Governments work to provide regulation that promotes fair competition and protects the public without unnecessarily burdening businesses. There is an important agenda to remove or simplify regulations that unnecessarily impede growth, for example by restricting entry to certain businesses or professions.



Executive Council, Anguilla
Credit: Governor's office; Anguilla

Good Regulation Principles

PROPORTIONALITY

Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

ACCOUNTABILITY

Regulators should be able to justify decisions and be subject to public scrutiny.

CONSISTENCY

Government rules and standards must be joined up and implemented fairly.

TRANSPARENCY

Regulators should be open, and keep regulations simple and user-friendly.

TARGETING

Regulation should be focused on the problem and minimise side effects.

Regulation of International Financial Services

"Overseas Territories have developed as important financial centres in the global financial network. I welcome the significant progress Territories have made in complying with international standards on tax transparency and dealing with the threat of terrorism financing and money laundering. HM Treasury will continue to represent the interests of those Territories which meet these standards in international fora and will strongly support their right to compete freely in international markets."

Lord Sassoon, Commercial Secretary to the Treasury, HM Treasury

The UK and Territory Governments have a shared agenda on the application of high international standards for financial regulation. The financial services industry is one of the main contributors to the economies of Bermuda, the British Virgin Islands, the Cayman Islands and Gibraltar and to a lesser extent Anguilla and the Turks and Caicos Islands. Adhering to international standards is therefore important to the long term development of these Territories.

The Territories need regulation that promotes fair competition and growth, ensures the stability of their financial systems and prevents abuse. It is important that the responsibilities of the state, business, civil society and individuals are properly balanced so that the international community can have the confidence to do business in the Territories. Territories' supervisory and enforcement regimes must be adequately resourced, well targeted and risk-based. The FCO employs a Regional Financial Services Adviser based in Bridgetown who provides advice and training on financial regulation.

The UK Government will strongly support those Territories that meet international standards. HM Treasury will work in the international arena to ensure that there is no discrimination against well-regulated offshore financial centres and that the same international standards are applicable to all jurisdictions.

All Territories have an obligation to ensure that they are not an avenue for corrupt practices and have systems in place to implement EU and UN sanctions against individuals and businesses where these sanctions have been extended to the Territories.

HM Treasury will engage with and provide support for the Territories in the following key areas: financial regulation; tax and customs; anti-money laundering; counter terrorist financing regimes; and support for economic and financial risk management. HM Treasury will continue to work with the FCO to endeavour to inform Territories in advance of key international meetings and to take into account any concerns that are brought to their attention. More information about the Treasury's work with the Overseas Territories can be found at: www.hm-treasury.gov.uk

High Standards of Financial Regulation

In November 2011, with support from the UK, Bermuda, the Cayman Islands and the British Virgin Islands were invited to participate in the Financial Stability Board's new Regional Consultative Group for the Americas.

All the Caribbean Territories and Bermuda are active members of the Caribbean Financial Action Task Force which oversees anti-money laundering and counter-terrorist financing standards in the Region.

The BVI Financial Services Commission, the Bermuda Monetary Authority and the Cayman Islands Monetary Authority are members of the International Organisation of Securities Commissions, the International Organisation of Insurance Supervisors and the Group of International Financial Centre Supervisors.

The Gibraltar Financial Services Commission (FSC) is a member of the International Organisation of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), Offshore Group of Insurance Supervisors (OGIS) and the Group of International Financial Centre Supervisors. The Gibraltar FSC's application to become an "Appendix A" signatory to IOSCO's Multilateral Memorandum of Understanding concerning Consultation and Co-operation and the Exchange of Information is - at time of publication – under consideration by IOSCO. The FSC intends to submit an application to become a signatory to the IAIS Multilateral Memorandum of Understanding on Co-operation and Information Exchange.

Sound Public Finances

Territory Governments are responsible for decisions on taxation and public spending and thus for maintaining sound public finances. Sound finances are necessary to encourage private sector investment, spur economic growth and build diverse economies that are resilient to external shocks. The UK Government expects Territory Governments to manage public finances sustainably and takes a close interest in this because it is an important part of good governance.

The UK Government recognises the challenging global economic climate and is working closely with Territories to provide technical assistance on the sustainability and good governance of public finances, as well as wider economic policy where requested. There is no one size fits all policy prescription for the delivery of sound and stable public finances, but there are a number of internationally recognised standards, which when applied by Territory Governments contribute to increased economic resilience. These standards include:

- timely and accurate measurement of economic variables to give a clear picture of the performance of a Territory economy;
- effective measures to plan and control expenditure, including medium-term planning and budgeting;
- systems to ensure transparency and accountability, including on procurement procedures;
- a sound revenue base and an efficient system of revenue collection;
- limits on government and public sector borrowing;
- a policy of building reserves in good economic times.

The UK Government will support Territory Governments strengthen their public finances by adopting measures in line with these standards and will be proactive in working with Territory Governments to increase resilience and head off potential problems.

The UK Government and some Territory Governments have agreed Borrowing Guidelines, which provide a disciplined framework for managing public finances and a valuable commitment to sustainability. We are working to update these agreements to reflect the changing economic landscape and the particular circumstances of each Territory.

The Cayman Islands and the Framework for Fiscal Responsibility

In November 2011 the Cayman Islands agreed a Framework for Fiscal Responsibility with the UK Government. The framework demonstrates a commitment to strengthen the management of public finances, improve medium term planning, put value for money first, limit borrowing and deliver improved accountability.



The Premier of the Cayman Islands, Hon. McKeeva Bush and the Minister for the Overseas Territories, Henry Bellingham, signing the Framework for Fiscal Responsibility, London, November 2011
Credit: Tony Bates

The British Virgin Islands and the Protocols for Effective Financial Management

In April 2012 the BVI Government signed Protocols for Effective Financial Management with the UK Government. At the same time the BVI Government undertook to strengthen its public financial management legislation and return the public finances to a sustainable footing in the medium term. The UK welcomes the commitment this represents to accountable, transparent and prudent financial management.



The Premier of the British Virgin Islands, Dr Hon Orlando Smith, the Minister for the Overseas Territories, Henry Bellingham and the Governor of the British Virgin Islands, Mr Boyd McCleary, signing the Protocols for Effective Financial Management, Tortola, April 2012
Credit: BVI Government Information Services

Transparency

Territory Governments work hard to demonstrate that public resources are being used effectively and efficiently, but our public consultation highlighted some concerns about transparency which need to be addressed. Territory Governments are working to strengthen, as necessary, systems to ensure public money is spent correctly, including publishing audited accounts for all public sector activities and strengthening independent supreme audit institutions and Public Accounts Committees. The UK will continue to support the Territories to comply with good international audit practice and with international financial control standards. The FCO, Commonwealth Secretariat and the Commonwealth Parliamentary Association UK are working in partnership to support members of public accounts committees and staff of audit bodies in the Territories.

Tax Systems and Revenue Base

Most Territories rely on two or three main business sectors and on a narrow tax base made up of specific transaction and consumption taxes (in most Territories there is no income tax or sales tax). This approach can work well during periods of economic growth as governments earn revenue from customs duty on imports and stamp duty on property transactions. However, revenue can fall significantly during an economic downturn.

A number of Territory Governments have work underway to broaden their revenue base by, for example, introducing a value added tax. There is no one approach that is right for all Territories, but it is important for economic resilience to ensure that the revenue can be collected; that the distortionary impact of revenue measures on the economy is limited; and that the revenue base is sufficiently broad to reduce the size of swings in revenue to government during the economic cycle.

The UK Government respects the right of Territory Governments to compete on tax. The fiscal autonomy of the Territories means that relations between Territories and the UK in tax matters are in many ways similar to those between any other competitive tax systems.

The UK Government and Territory Governments have common interests in complying with international standards of tax co-operation. This is an important part of the good governance of the Territories and their international reputation rests considerably on their compliance with such standards. HM Treasury and HM Revenue and Customs welcome the significant progress the Territories have made in recent years.

Meeting International Standards of Tax Co-operation

All Territories with a financial services industry have met the internationally agreed minimum standard of 12 Tax Information Exchange Agreements. Some Territories have gone considerably further than this and are continuing to negotiate and conclude additional Agreements.

Seven Territories are members of the Global Forum on Transparency and Exchange of Information for Tax Purposes and represent themselves in its discussions.

The Peer Reviews undertaken by the Global Forum show considerable progress made by the Territories with all those reviewed having successfully moved to Phase II of the process.

Borrowing

It is important for Territory Governments to keep borrowing under control. The need to exercise discipline on borrowing is particularly important to ensure the economic resilience of the Territories because of the structure of their economies and the limited macroeconomic tools available to Territory Governments. (Territory Governments do not, for example, set their own interest rate policy and, even where currency depreciation is technically feasible, it would be of little or no value given the nature of the Territories' economies).

Financial Reserves

Building financial reserves during good economic times is a particularly important contributor to economic resilience. A healthy level of reserves helps Territory Governments maintain public services and capital expenditure throughout the economic cycle and creates room for counter-cycle fiscal policies.

Tackling Corruption

The UK is committed to taking strong action to combat corruption and expects the Territories to do so too.

Bribery must have no place in British business, at home or abroad. The UK Bribery Act 2010 provides a robust legal framework to combat bribery in the UK and internationally. It applies to British citizens including in the Territories. The UK is also committed to implementing international standards, such as the UN Convention Against Corruption and the OECD Anti-Bribery Convention. The UK expects the Territories to adhere to relevant standards and to put the necessary legislation in place so that these Conventions can be extended to them.

In July 2009 a Commission of Inquiry led by Sir Robin Auld identified a high probability of systemic corruption in government and the legislature and among public officers in the Turks and Caicos Islands. This led to the suspension of Ministerial government and the Legislative Assembly and a programme of systemic reform. In June 2012 the UK Government announced that significant progress had been made on eight milestones set for a return to democratic government and on putting in place robust financial controls and that elections would be set for November 2012. We expect the Turks and Caicos Islands government to continue to implement and consolidate these reforms. We are determined that the evidence of corruption and maladministration revealed in the Turks and Caicos Islands is never repeated, there or in any other Territory. The UK Government will take firm and resolute action wherever there is evidence of corruption or maladministration in a Territory.

Priorities for Action

> monitor and report progress on good governance, public financial management and economic planning.
> continue to develop democratic institutions that serve and take account of the interests of all the people in the Territories.
> take necessary action to safeguard fundamental rights and freedoms and tackle discrimination.
> ensure effective justice systems.
> strengthen public service, including through increased secondments between the UK and the Territories.
> manage public finances sustainably.
> strengthen assurance that public spending delivers overall value for money.
> take action wherever there is evidence of corruption or maladministration, and work to bring in anti-bribery legislation and to sign up to the relevant international Conventions.

5: Vibrant and Flourishing Communities

Overview

The UK Government cherishes and celebrates the rich diversity of community life in the Territories and works with Territory Governments to build vibrant and flourishing communities. Community cohesion is particularly important in small and remote island communities.

Each Territory has a vision for its own development, its own priorities and makes its own choices about the role of government in building communities through decisions on the education of children and the care of older people, the sick and disadvantaged.

This chapter focuses on engagement between the UK and the Territories in the areas of education, health, work and pensions, local government and culture, media and sport. The UK Government provides substantial support for education and health services in those Territories supported by the UK international development programme – currently Pitcairn, St Helena and Montserrat. The UK Government also provides technical advice and support to the Territories individually and on a cross-cutting basis. UK Departments and their agencies and professional bodies provide technical advice in their areas of expertise, helping Territories improve services and meet international standards.

Education

The UK Government and the Overseas Territories share a vision of building well-educated societies in which opportunity is more equal for children and young people no matter what their background or family circumstances. This means raising standards of educational achievement and closing the achievement gap between rich and poor. Respondents to the UK Government's public consultation on the Overseas Territories strategy in 2011 identified education as one of the main areas where the UK could provide further assistance to the Territories.

All the populated Territories have systems that provide free public education at primary and secondary levels. Education is a priority for the UK development programmes managed by the Department for International Development (DFID) in Pitcairn, St Helena and Montserrat.

Education in Pitcairn

In Pitcairn, the 10 children of school age are taught in Pulao School. The school follows the New Zealand curriculum and the teacher is also recruited from New Zealand. The school delivers both primary and secondary education. Two students are currently being funded to complete their senior secondary education in New Zealand.

DFID is supporting improvement in the quality of teaching and learning including through teacher training and the development of partnerships between the Territories and the UK. St Helena has a partnership with Shropshire which involves school linking and professional development for teachers, while Montserrat had a partnership with the Isle of Wight. Distance education plays an important role in providing access to learning opportunities in isolated communities. DFID funds have enabled broadband internet access for schools and adult education in St Helena in order to assist in building the skills necessary for development.

Rebuilding the Education System in Montserrat

The destruction and depopulation caused by the eruption of the Soufriere Hills volcano in 1995, and the resulting move to the north of the remaining population, severely affected the education sector in Montserrat. Since the eruption DFID has helped Montserrat re-establish its education system. The island now has two government primary schools and two private fee paying schools (both run by churches), one secondary school, a community college, and an extra mural campus of the University of the West Indies, offering direct and distance learning courses. In total, Montserrat caters for about 480 primary school students and about 350 secondary school students. Sixth form work, nurses training and trades classes are held at the community college.

The UK Department for Education is responsible for primary and secondary education in England. The Department for Education provides support to the Territories in specialist areas.

"Education underpins the foundation of any society and is an important issue for the Territories. My Department has a lot of experience and expertise that it is happy to share with the Territories. We understand the importance of the Overseas Territories to Britain and equally understand the role education can play in bringing about economic wealth and social prosperity and maintaining political stability in the Territories."

Sarah Teather MP, Minister of State for Children and Families, Department for Education

The Department for Education helps support improvement in education systems and children with special needs.

The Department's Central Information Officers Group, which initiates and maintains the departmental ICT infrastructure, including contract management and electronic documentation and records, is providing advice to the Government of Bermuda.

The Department is working with the Director of Education on St Helena on the potential use of synthetic phonics in teaching St Helena children reading.

The UK is a world leader in provision for Special Education Needs. The Department is supporting the British Virgin Islands with the development of improved services for children with special needs, focusing in particular on helping children with autism.

More information about the Department for Education's work with the Overseas Territories can be found at https://www.education.gov.uk/publications

Several populated Territories have established colleges that provide tertiary education, which is a local responsibility in all Territories. Bermuda provides a good example. Although it has the Bermuda College (equivalent of day-school US junior college), it has no university so the Government of Bermuda encourages those wishing to attend universities in the UK, the US and Canada and in many cases grants scholarships to them. Bermuda is now seeing the long term benefits of these policies with the 2010 Census there revealing that 29% of the population had received a university education.



Children's tennis group, Anguilla Tennis Academy
Credit: Government of Anguilla

The Department for Business, Innovation and Skills is responsible for tertiary education in England. Students from the Territories are encouraged to study in the UK and only pay the same fees as UK students at English Universities rather than the higher rate for overseas students. Territory students are entitled to full student support on the same basis as UK students if they have lived in the UK for the three years prior to the course. In 2010/11 there were 1,295 students from the Territories studying in the UK at under-graduate level and a further 305 at postgraduate level.



Montserratian Chevening scholar Michael Skerrit visits the Foreign Office, London
Credit: Tony Bates

The FCO runs the Chevening scholarship programme to provide outstanding graduates and young professionals from across the world with the opportunity to study at UK universities. Since 1984 some 93 scholarships have been awarded to students from the Territories. In 2010/2011 two scholarships were awarded to students from Anguilla and Montserrat. There are many examples of successful scholars returning to the Territories to excel in their chosen careers in government, private business, or civil organisations.

Health

The Territories have their own health care systems that are separate from the UK National Health Service (NHS). There is a wide range of healthcare systems in the Territories reflecting their diverse situations and traditions. There are examples of health care funded through tax revenue, social insurance and private insurance. Most Territories have a mix of public and private health care providers. Health care services in the smallest and most remote Territories are very limited and seriously ill patients sometimes have to make long and difficult journeys overseas for treatment. Even in the most populous Territories some specialist services are provided by visiting specialists or by sending patients to specialist units overseas.

Territory communities are continuing to develop their healthcare systems. These need to remain true to their values but develop so they are fit for the future and ensure the available resources deliver the best possible outcomes.

Reform of Healthcare in the Turks and Caicos Islands

The opening of the Blue Hills Primary Healthcare Clinic on 10 February 2012 was evidence of a shift in healthcare investment from hospitals to primary healthcare facilities that provide residents with preventative, holistic and patient-centred care. Initial services included Antenatal, Child Health and Family Practice Clinics and various healthy lifestyle and health promotion programmes. In welcoming this development, Permanent Secretary in the Ministry of Health Judith Campbell said:

"The Ministry plans to place increased focus on this area moving forward. We believe community clinics should be a first stop for persons seeking health care. This way we can focus on prevention and early treatment and reduce future expenditure on secondary health care. The community clinics will allow the major hospitals on Grand Turk and Providenciales to better fulfil their purpose of providing secondary health care."



Governor Ric Todd tries the Primary Healthcare facilities at Blue Hills Clinic for himself. His blood pressure is being taken by Nurse Douglas.

The UK Department of Health provides assistance to the Territories as part of its objectives to improve global health and to ensure the UK's international health obligations are met. The Department represents the Territories at regional and international meetings, including those of the World Health Organisation, and works with DFID and other partners to help the Overseas Territories to:

- manage their health sectors sustainably;
- influence and maximise the impact of regional health organisations and initiatives;
- be better prepared for, and able to manage, emergencies; and
- fulfil international responsibilities to which the UK has committed, such as International Health Regulations.

"Access to good quality healthcare is a key element in sustaining a vibrant and flourishing community. In 2010 the Department of Health produced a report outlining support to the Overseas Territories, which stimulated thinking about how we could best work together to address health challenges and improve healthcare provision. We remain committed to maximising the effectiveness of support provided by the Department, as well by other government departments and regional bodies."

Anne Milton
Parliamentary Under-Secretary of State
for Public Health, Department of Health

The UK Government assists the Territories by providing a number of referrals, per year, for NHS treatment. Typically, this is high level elective treatment that is not available in the Territories. In addition, the UK has bilateral agreements with some Territories that allow for the provision of free emergency treatment to be given to temporary visitors from the UK to those Territories and vice versa.

Support for Mental Health Services

The Department of Health is working with Health Action Partnerships International (HAPI) to help the Territories provide proper support for people with mental health problems. Some Territories have limited capacity to provide appropriate treatment. A project is being developed with the Royal College of Psychiatrists for a partnership to provide longer term peer support, exchange and training for the different professionals.

The UK and Territory Governments work together to implement the internationally agreed standards (the International Health Regulations) for detection, assessment and response to public health threats that have the potential to cross borders and threaten people worldwide. These Regulations provide the framework for reducing risks from diseases with potentially serious epidemic potential such as Influenza, Polio, Cholera and Yellow Fever. The Department of Health is working with DFID and the Health Protection Agency (HPA) to assist the Territories to reach the necessary standard of compliance. More information about the Department of Health's work with the Overseas Territories can be found at www.dh.gov.uk

Pandemic Flu

Pandemic influenza presents potential challenges for the Territories, just as it does for the rest of the world. Some of the Overseas Territories confirmed cases of H1N1 in the 2009 pandemic. The Department of Health made available both antiviral medicines and pandemic vaccines to the Territories during the pandemic at cost price, and there are arrangements in place to ensure supplies are available in any future such emergency.

DFID's budgetary aid and development assistance to St Helena, Montserrat and Pitcairn includes support to the health and social welfare sectors aimed at introducing and facilitating reforms and improving the quality of service provision. Pitcairn, St Helena and Tristan da Cunha receive financial aid to help them recruit essential staff resources in the health sector.

DFID has supported the Territories on a cross-cutting basis to develop their capacity to deal with specific public health challenges. A recent DFID project helped the Territories develop the capacity to deal with sexual and reproductive health issues and HIV, focusing on building the

necessary skills in the Territories and linking them with regional and international resources.

Work and Pensions

Territory Governments face many and varied challenges in helping people find work that enables them to support themselves and their families and in ensuring that the most vulnerable in society are protected. Territory Governments are responsible for creating welfare systems that tackle poverty and incentivise work. Some of the Territories face challenges of an ageing society and providing for people in retirement. All Territories are working to provide opportunity, choice and independence to enable disabled people to take an equal role in society. Employment issues were identified as priorities by a fair number of respondents from the Territories to the public consultation in 2011.

Employment Challenges in Tristan da Cunha and Pitcairn

In most countries Governments spend time, money and effort trying to provide employment for their people. But in the South Atlantic Territories the reverse is true. The islands have near full employment and in the smaller, more remote islands, many people, of necessity, have multiple roles. An example is the Tristan da Cunha Chief Islander who has to juggle his responsibilities within the Island Council with jobs operating heavy machinery in the Public Works Department and acting as Fisheries Observer for the Fisheries Department.

The size of the population on these islands means that there are not enough people to do all the essential tasks and so it is essential that the community works together to ensure that things are done. In Tristan (population less than 300), the lobster fishery is vital and civil servants take leave of their day jobs on good fishing days to ensure a good catch for the island. On Pitcairn (population less than 60) most people have a number of Government jobs which they have to balance with the need to trade with passing ships; and by internet sales; and to make products for sale.

The UK Department for Work and Pensions supports the Territories on a number of policy issues. The Department supports the Territories adopt international standards, including advising Territories on the legislation they need to comply with International Labour Organisation (ILO) Conventions.

"We recognise the difficulties that small territories face in dealing with issues such as employment and health and safety. We will continue to provide advice and support where needed."

Chris Grayling
Minister for Employment
Department for Work and Pensions

The Department is responsible for paying UK state pensions to eligible citizens in the Overseas Territories. Improvements to the payment system have recently been announced so that these will be made into a bank account in the local currency wherever possible.

The International Pension Centre (a part of DWP) is able to provide support and help for those people who are planning or already have their pension paid to them overseas (their contact details can be found under "Britons living abroad" at: www.Direct.gov.uk).

The UK Government pays an annual increase to some overseas pensioners depending on where they permanently reside. Territory Governments have asked that the UK Government consider extending such pension arrangements to all the Overseas Territories.

More information about the Department for Work and Pensions' work with the Overseas Territories can be found at www.dwp.gov.uk

Offshore Oil Exploration Safety

The Health and Safety Executive is providing support to the Falkland Islands Government to develop health and safety legislation for its offshore oil and gas activities. The support includes: policy advice; offshore safety case assessment; investigations; and inspections of the installations involved. The support is paid for by the Falkland Islands Government.



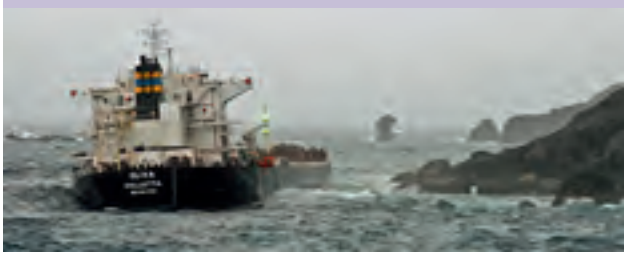
Falklands Islands oil exploration
Credit: Falklands Islands Government

Local Community and Government issues

"For our Overseas Territories, we at the Department for Communities and Local Government can offer a vital and valuable resource of knowledge and skills, which cover important, wide-ranging issues. Whether advising on improving fire safety, ensuring the delivery of good quality homes that neighbourhoods need or implementing an effective planning system, this Department has a long history of providing support and expertise to the Overseas Territories and I am determined to see this important link continue for years to come."

Grant Shapps, Housing and Local Government Minister, Department of Communities and Local Government

On 16 March 2011 the bulk carrier MS Oliva ran aground on Nightingale Island, Tristan da Cunha. Although no lives were lost, the vessel quickly broke up, releasing heavy fuel oil and its soya bean cargo. Nightingale is the home of internationally protected bird species, nearby Inaccessible Island is a World Heritage Site and both form part of the lobster fishing grounds on which the Territory depends. Faced with potential economic and ecological disaster the islanders showed exceptional resilience and cohesion as they worked together with professional teams in dealing with the aftermath. Tristan islanders were involved in rescuing and sheltering the ship's crew and threw themselves into salvage efforts, the environmental clean-up operation and attempts to rehabilitate nearly 4000 oiled penguins rescued from the scene.



Wreck of MS Oliva, Nightingale Island, Tristan da Cunha
Credit: Tristan da Cunha News



Cleaning oil off penguins after the spillage from the MS Oliva, Tristan da Cunha
Credit: Tristan da Cunha News

Territory Governments need to respond to people's housing aspirations and the desire of communities to shape the places in which they live. Territory Governments are responsible for running effective planning systems that balance different interests, are transparent and support sustainable and eco-friendly economic growth and development.

The Department for Communities and Local Government provides advice and guidance to Territory Governments in areas where it has expertise – in particular planning, housing, and fire safety and rescue services. More information about the Department's work with the Overseas Territories can be found at www.communities.gov.uk

The Local Government Association supports, promotes and improves local government in the UK and is building partnerships with Territories to help them harness knowledge and expertise of UK local government. The Local Government Association has organised leadership and human resources management training for the Falkland Islands Government and advised the Turks and Caicos Islands Government on setting up an Integrity Commission to help restore public confidence in those in public service. The work of the Local Government Association is especially valuable because many of the practical challenges facing Territory Governments are issues which in the UK are dealt with by local government. The Local Government Association also helps build long term partnerships between Territories and local government in the UK. More information about the Local Government Association's work with the Overseas Territories can be found at www.communities.gov.uk/localgovernmentassociation/

British Virgin Islands and Hertfordshire Build a Partnership

At the Overseas Territories Consultative Council in November 2011 the Premier of the British Virgin Islands and the Deputy Leader of Hertfordshire County Council signed a Memorandum of Understanding to foster engagement and share best practice, skills and business contacts between the public service and private sectors in Hertfordshire and the British Virgin Islands.

In January 2012, the BVI Education Minister met Hertfordshire County Council education officials to discuss the development of policies and training to enhance the education system in the Territory, particularly in the areas of special needs education, technical and vocational education and training, strategic education planning, school governance and educational leadership.



Premier of the British Virgin Islands, Dr Hon Orlando Smith and the Deputy Leader of Hertfordshire County Council signing a Memorandum of Understanding on mutual co-operation, London, November 2011
Credit: Tony Bates

Culture, Media and Sport

Her Majesty The Queen's Diamond Jubilee and the London Olympics make 2012 a unique year in which to celebrate the links between the UK and the Territories. The elected leaders of the Territories have been invited to attend the celebrations in the UK over the Diamond Jubilee weekend. Many Territories will be lighting Beacons that weekend to mark the Jubilee. Citizens of the Overseas Territories will also be eligible for the Diamond Jubilee medal in line with the agreed eligibility criteria.

The UK Government recognises the diverse cultures of the Territories that span the globe and the special nature of their links with the UK. Every Territory is proud of its local culture and passionate about its sporting achievements. Territory Governments work to enable everyone to enjoy these and to create the conditions which encourage the growth of creative, communications, cultural, tourism and leisure businesses.



Masked dancers performing on St Patrick's Day, Montserrat, 2011
Credit: Tony Bates

The Department for Culture, Media and Sport (DCMS) supports the Territories by sponsoring museums that provide access to material from the Territories; representing their interests internationally; and providing advice on issues relating to electronic communications, gambling, and sport.

"I firmly believe that it is vital for our Overseas Territories to be vibrant and flourishing communities, proudly retaining aspects of their British identity and generating wider opportunities for their people. My Department currently works in a number of ways to support the people of our Overseas Territories, including in the fields of communications, culture, and sport, and we will work to build on those links in the future."

John Penrose
Minister for Tourism and Heritage
Department for Culture, Media and Sport

More information about the Department's work with the Overseas Territories can be found at www.culture.gov.uk

Museums

The Department for Culture, Media and Sport sponsors a range of national museums, which provide free access to a wealth of inspiring objects representing heritage from Britain and from around the world. Many of our museums hold material from the Overseas Territories.

The Overseas Territories in British Museums

The **National Maritime Museum** holds charts, manuscripts, photographs, paintings, coins and maps from a large number of the Territories. They include whaling station furniture from South Georgia & the South Sandwich Islands, material relating to the Bounty mutiny and Pitcairn Island and material from the time when Napoleon was on St Helena.

The **Natural History Museum** holds collections from nearly all the Overseas Territories, including corals and molluscs from British Indian Ocean Territory, Neanderthal fossils from Forbes' Quarry and Devil's Tower in Gibraltar and significant entomological collections from Anguilla and the Cayman Islands. Its library holds very significant collections of drawings, paintings, engravings and manuscripts from or relating to the Territories.

The **Imperial War Museum** has exhibitions and learning programmes about the Falklands War. Their film collection includes scenes from Anguilla after the British landing in March 1969, footage of HMS Southampton in Montserrat after the volcanic eruption in August 1995 and aerial views of the British Antarctic Territory. Their sound archive includes material from Montserrat and the Sovereign Base Areas on Cyprus. They have books, photographs and other material from Bermuda, the Cayman Islands, the Falkland Islands, Gibraltar, British Indian Ocean Territory and the British Virgin Islands.

The **British Library** has remarkable images – engravings, maps, stamps and views – relating to the Overseas Territories which can be seen in their Online Gallery. It has printed books, manuscripts, newspapers and maps from a range of different Territories. Its sound recordings include wildlife recordings from eight Territories, unique recordings of traditional music from Pitcairn Island and interviews from an oral history project in 2006 with islanders from Tristan da Cunha. The British Library holds 168 volumes of records relating to St Helena between 1676 and 1836, when the island was administered by the East India Company. It also holds philatelic material for all of the Territories except Anguilla and the Sovereign Base Areas on Cyprus.

National Gallery of the Cayman Islands

Established in 1996, the National Gallery of the Cayman Islands is a vibrant arts organisation that promotes and encourages the appreciation and practice of the visual arts in the Cayman Islands through exhibitions, artist residencies, education/outreach programmes and research projects. Their programmes aim to capture every age group in the community from the youngest pre-schoolers to senior citizens.

After a series of temporary sites the National Gallery moved into its permanent home in January 2012. This new centre, the capital cost of which was funded almost entirely by the private sector, permits the National Gallery to consolidate its programmes under one roof for the very first time.

This centre is a state-of-the-art civic resource, providing a home for schoolchildren, teachers, researchers, artists, archivists, seniors and students of all ages and space for artists to exhibit the very best of Cayman's cultural production.



Opening of the Cayman Islands National Art Gallery
Credit: David Wolfe Photography

World Heritage

The Department for Culture, Media and Sport is responsible for the UK's compliance with the UNESCO World Heritage Convention, which the UK ratified in 1984. The UK currently has 25 World Heritage Sites: an additional three are in Overseas Territories: the Town of St George and related fortifications in Bermuda; Gough and Inaccessible Islands (Tristan da Cunha); and Henderson Island (Pitcairn).

Every six years, the signatories to the Convention are invited to submit a report to UNESCO covering the state of conservation of the World Heritage properties located on its territories. The Department submits these on behalf of world heritage sites in the Overseas Territories and represents them at meetings of the World Heritage Committee.

The Department is also responsible for nominating sites for world heritage status. Governments put forward new sites from a Tentative List of Future Nominations. Each Tentative List is expected to last for approximately ten years. Following a public consultation and review process, the Department announced the new UK Tentative List in March 2011. There were eleven sites on the list, three of them in Overseas Territories:

- **Gorham's Cave Complex, Gibraltar** – This complex is of international importance because of the long sequence of occupation and the evidence for the end of Neanderthal humans, and the arrival of modern humans.
- **The Island of St. Helena** – This site has a high number of endemic species and genera and a range of habitats, from cloud forest to desert, representing a biome of great age which exists nowhere else on earth.
- **Turks and Caicos Islands** – The islands have a high number of endemic species and others of international importance, partially dependent on the conditions created by the oldest established salt-pan development in the Caribbean.

The Expert Panel that reviewed the List also suggested that the Fountain Cavern in Anguilla could be considered for the UK Tentative List in the future as part of a possible transnational nomination.



Giant tortoise on St Helena
Credit: Chrystele Todd

The UK National Lottery

The UK National Lottery is the most cost efficient in Europe and has so far raised £27 billion for Good Causes. Some 28% of Lottery revenue is distributed to Good Causes through a number of distributing bodies which support sport, the arts, heritage and communities. The Lottery cannot currently be played in the Territories. However, distributing bodies, which make their funding decisions independently of Government, can make grants to support good causes in the Territories to organisations based in the UK and working in the Territories, where applications meet the relevant criteria and the distributors have the legal vires to do so.

Sport

DCMS provide support to the Territories to combat drug use in sport. In line with commitments under the UNESCO Anti-Doping Convention the UK has set up an organisation to provide education and testing and is taking measures to restrict the availability of banned substances and withhold funding from non-compliant sports and athletes. Territory Governments are responsible for setting up and implementing their own programmes. UK Anti-Doping, an arm's length body of DCMS, is responsible for the implementation and management of UK anti-doping policy and works to support the Territories to comply with these requirements. The UK successfully applied on behalf of the Cayman Islands for US$4,000 from the UNESCO Fund for the Elimination of Doping in Sport to fund an anti-doping awareness workshop.

The Overseas Territories and the Olympics

In 1996 the International Olympic Committee (IOC) amended its Olympic Charter to define 'country' to mean 'an independent state recognised by the international community', as the basis for determining applications for National Olympic Committees (NOC). Bermuda, the Cayman Islands and the British Virgin Islands had all been recognised by the IOC before this date and are therefore the only three Territories that have their own Olympic teams. All three will be sending teams to the London 2012 Olympics.

Any individual from Territories not recognised by the IOC, who holds a valid British passport, is eligible to compete for the Great Britain Olympic Team (Team GB) provided that: a) they are affiliated to the relevant British National Governing Body of sport (NGB) which is a member of the BOA; and in turn is affiliated to the appropriate International Federation of that sport; and b) they meet the Olympic qualifying standards for their chosen sport.

Shara Proctor of Anguilla, a 23-year-old long jumper, made her debut at the European Team Championships in June 2011 representing Great Britain, where she took third place with a jump of 6.6m. In March 2012 she broke the British indoor record with a long jump of 6.89 metres.

Priorities for Action

> continue to provide development assistance to Territories in need.
> improve education systems and encourage and enable students to study in the UK.
> build sustainable healthcare systems and prepare for health emergencies in line with international obligations.
> encourage employment and ensure the most vulnerable members of society are protected.
> build partnerships between the Territories and UK local government.
> celebrate and cherish the cultural heritage of the Territories and support participation in international sporting events.

6: Productive Links with the Wider World

Overview

Realising our vision for the Overseas Territories in an increasingly interconnected world requires active engagement with other states and international organisations. The UK Government is responsible for the external relations of the Territories but we encourage Territory Governments to play an active role in building productive links with the wider world. A number of responses to the public consultation suggested that the UK and Territory Governments could do more to work together to harness international support for the Territories.

The Territories have a special relationship with the EU because of the UK's membership. Many of the Territories have privileged access to the EU market which creates opportunities for trade, investment and the development of beneficial business links. The EU provides substantial financial and practical support to some Territories through a range of assistance programmes.

The Territories are part of the Commonwealth through their connection to the UK. The UK Government wants to strengthen the links between the Commonwealth and the Territories. The Commonwealth family includes many small island nations and provides a wealth of opportunities to exchange experience and build practical co-operation on issues of common interest.

The UK Government encourages the Territories to engage directly with regional groups as appropriate, including the Caribbean Community (CARICOM), and the Pacific Community.

Where the UK Government is leading internationally on issues of concern to the Territories we will make every effort to ensure the Territories are consulted and their interests defended. Where it is appropriate we will continue to include representatives of Territory Governments as part of UK delegations.

We will similarly encourage as appropriate the Territories to engage directly with other international bodies including the UN. We will continue to support the Territories to represent their own interests in the financial services and tax arena, including in the Global Forum and the Caribbean Financial Action Task Force and in other international fora.

The UK Government expects the Territories to use attendance at international fora productively, use international assistance effectively and live up to their international commitments.

European Union



When the UK joined the European Union in 1973 special arrangements were made for the UK's non-European Overseas Territories in line with those already in place for French and Dutch Territories. This special relationship with those Territories is aimed at promoting their economic and social development and helping them establish closer economic relations with the EU as a whole. As a result of this association those Territories have been able to benefit from preferential trade arrangements and direct financial assistance.

The Overseas Association Decision (OAD)

Part 4 of the Treaty on the Functioning of the EU and an EU Decision govern the relationship between the Territories and the EU. The current Decision is due to expire at the end of 2013. We will work with the Commission and the Overseas Territories to build on the benefits of the current Decision further to improve the quality and standard of living in the Territories. The new Decision should ensure that adequate funding and trade provisions remain and include an acknowledgement of the unique environment found in the Territories. Gibraltar and the Sovereign Base Areas are excluded from this arrangement because they are located within Europe, and their relationship with the EU is dealt with separately. Bermuda is not included in the current Decision by choice, but is considering whether they want to be included in revised arrangements.

Under the OAD, Territories benefit from quota free and duty free access to European markets as well as preferential Rules of Origin. We want EU policy to foster greater trade and economic co-operation both amongst the Territories subject to the OAD, and with neighbouring countries. Although EU law does not in general apply in the non-European Territories it can sometimes impact on their economies. We will give those Territories as much notification as possible of proposed EU legislation which might have an effect on them. Public servants at the UK Representation in Brussels and across Whitehall look out for policies that might impact on them.



Falklands trawler John Cheek unloading frozen fish at Stanley, Falkland Islands
Credit: Falklands Islands Government

Gibraltar and the European Union

Although Gibraltar does not form part of the UK it is within the European Union as part of the UK's membership by virtue of Article 355(3) of the Treaty on the Functioning of the European Union.

Under the terms of UK membership of the EU, certain parts of the Treaty do not apply to Gibraltar. As a result, Gibraltar has exemptions from four main areas of EU policy: the Common Customs Territory and Common Commercial Policy (thus although EU rules on free movement of services apply to Gibraltar, rules on the free movement of goods do not); the Common Agricultural Policy; the Common Fisheries Policy; and the requirement to levy VAT. Gibraltarians are British Nationals for EU purposes and have rights of free movement within the EU.

While the UK Government is ultimately responsible under the Treaty for the implementation of EU law in Gibraltar, EU measures are implemented within the Territory by means of local legislation enacted by the Gibraltar Parliament or by subsidiary legislation.

Following a ruling by the European Court of Human Rights in 1999, the franchise for European Parliament elections was extended to Gibraltar by means of the European Parliament Representation Act 2003 and accompanying regulations. These measures provided for the creation of a new electoral region combining Gibraltar with the existing South West England constituency. The Gibraltar electorate voted for the first time in European Parliament elections in 2004. This did not change the constitutional relationship between the UK and Gibraltar.

EU helps the Falkland Islands' Fishing Industry

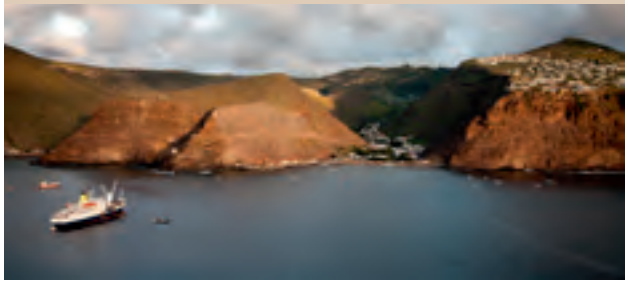
Preferential access to the EU market via Rules of Origin (RoO) laws, with derogations where required, has allowed the main export industry of fisheries to expand considerably over recent years in the Falkland Islands. This approximately US$150m annual industry faces a remote and challenging environment with few economies of scale and considerable logistical difficulties. Without preferential access to the European market this industry would not be economically viable within the Falkland Islands.

The EU is a significant donor to the Territories. In the period 2008 – 2013 approximately €60 million is being allocated to programmes for the Territories from the European Development Fund (EDF). The richer Territories do not receive direct funding but benefit from regional programmes, such as support for small and medium sized enterprises in the Caribbean. Some of the Territories have struggled to access EU funding in a timely way. We want the Commission to continue to provide funding for the Territories that need assistance and to simplify procedures, reduce bureaucracy and speed up decision making, to enable the Territories to have easier access to these funds.

Participation in other EU programmes also increases the visibility of the Overseas Territories in Europe. Territories are eligible under the current Overseas Association Decision for funding from EU education and research programmes such as Leonardo da Vinci and Erasmus. We want these funding programmes to remain open to the Territories and for them to be eligible for other EU funding streams.

EU Money Helps Improve Access to St Helena, Ascension and Tristan da Cunha

Jamestown, the capital of St Helena, lies in a narrow valley and its wharf was subject to frequent rock-falls from unstable cliffs. EU funding has enabled cliffs to be stabilised and the wharf widened. The wharf, which provides the only access to the island, is now a safer place and can stay open in rough weather. EU funding also enabled the construction of a new passenger terminal building which provides a much more comfortable arrival for visitors wishing to sample the fascinating history and beautiful landscape of the island.



View of Jamestown, St Helena, from the sea
Credit: Mark Lavaud

The harbour on Tristan da Cunha was in imminent danger of collapse. EU funding enabled emergency repair upgrading, thus keeping the world's most isolated inhabited island open for business. The EU has also funded vital improvements to the sea port and Wideawake airfield on Ascension.

The London based representatives from the British Territories play an important role in promoting Territory interests in Europe. We welcome and support this work. We also welcome a recent Territory initiative to support the establishment of a bureau to promote the interests of all the European Overseas Territories in Brussels and provide a central focal point for researching funding opportunities.

Commonwealth



The modern Commonwealth brings together all continents, almost two billion people, and all the world's major faiths. Its membership is based on common history, culture and values and includes many of the fastest growing economies in the world. It fosters business, civil society and parliamentary links.

The Territories are part of the Commonwealth through their connection to the UK. The Commonwealth family includes many small island nations and provides a wealth of opportunities to exchange experience and build practical co-operation on issues of common interest, such as governance, climate change and economic diversification. There are already a number of areas where the Commonwealth is working with the Territories.

The Territories have their own branches of the Commonwealth Parliamentary Association (CPA) and participate in the CPA's annual conference, as well as in the programmes and seminars they run. An important strand of CPA work is to support links between smaller states and the Territories. The Territories also have their own Commonwealth Games Associations, which means that they can send teams to the Commonwealth Games and participate, as observers, in the Commonwealth Sports' Ministers meetings that take place in the margins of the Games. Representatives of the Territories' civil society and business communities are invited to participate in the Commonwealth Youth, Business and People's Forums, which take place biennially ahead of the Commonwealth Heads of Government Meeting (CHOGM).

We will ensure that the Territories are consulted on future CHOGM agendas, and that they have the opportunity to feed in their comments, and we will continue to inform them of CHOGM outcomes. In addition, they are invited to attend other meetings such as the Commonwealth Finance Ministers' meeting as part of the UK delegation. We will continue to liaise with the Territories in advance of relevant Ministerial meetings so that their interests can best be represented.

The Territories are invited to join the Commonwealth of Learning, which works to improve access to open and distance learning opportunities for people in the Commonwealth's developing countries. Montserrat has recently joined the Virtual University of Small States of the Commonwealth.

The Territories already participate in the Malta-Commonwealth Third Country Training Programme which aims to strengthen skills and capacity in small states in areas where Malta has expertise, for example in banking and finance, and coastal management. As a result of our discussions with the Commonwealth Secretariat, the Territories will be able to use the Commonwealth Small States Office in Geneva, and have been invited to participate in the Commonwealth's 2012 Small States Conference. We will also work with the Commonwealth Secretariat to ensure that the Territories benefit from programmes specifically aimed at the Small States, for example on climate change risk management and the financial regulatory network initiative.

The UK wants to strengthen links between the Commonwealth and the Territories. We are exploring the possibility of creating observer or associate member status of the Commonwealth from which the Territories might benefit. Some Commonwealth bodies, such as the Commonwealth Foundation and Commonwealth Local Government Forum already offer associate member status. The Anguilla National Trust has received grants from the Foundation.

Pitcairn Islander Receives a Commonwealth Foundation Award

In 2011 Meralda Warren, a 7th generation descendent of the Bounty mutineers, became the first Pitcairn Islander to receive a Commonwealth Foundation Award for her work in rediscovering the traditional Pacific island art of making decorative bark cloths called tapa. This art had originally been brought to Pitcairn by Polynesian women taken on board the Bounty in 1789, but had died out.

Travel to and from this remote and isolated community is expensive and opportunities limited. The award allowed Meralda to accept an invitation to be the keynote speaker at the first Maori and Pacific Textile Symposium at the Te Papa Museum in Wellington. The award also provided Meralda with the opportunity to promote Pitcairn arts and crafts through workshops and an exhibition of her work.

Meralda is now passing on her skills and knowledge to others on Pitcairn. In particular to the children, some of whom have already produced some excellent examples of tapa cloth, beautifully painted with Pitcairn scenes. On receiving the award, Meralda said; *"I am very honoured to be the first Pitcairn Islander to achieve recognition and support. It is my hope that this recognition will open doorways for future generations of Pitcairners so they too can make their dream a reality and aim for a positive future."*



Meralda Warren, Commonwealth Foundation Award winner
Credit: Meralda Warren

The United Nations



The Territories already interact with different parts of the United Nations, either in their own right or through the UK.

Territory representatives have joined UK delegations to special UN meetings and UN conferences, including the UN Conference on Women and the World Summit on the Information Society as well as UN meetings related to the situation of Small Island Developing States. The UK will continue to look for further opportunities for the Territories to attend relevant UN meetings.

Some Territories have particular relationships with some of the UN Specialised Agencies. The UK's membership of the Universal Postal Union (UPU) includes all the Territories that have their own postal systems. The Caribbean Territories are separate members of the World Meteorological Organisation (WMO) as they run their own meteorological network. They are able to cast their own vote and send their own representatives to WMO meetings in Geneva. The British Virgin Islands and the Cayman Islands are associate members of UNESCO. The Caribbean Territories and Bermuda participate in and contribute to the work of the World Health Organisation's regional body, the Pan-American Health Organisation (PAHO).

UN Decolonisation Committee

The UK believes that the UN's Decolonisation Committee (the C24) no longer has a relevant role to play in respect of our Territories. The British Territories on the Committee's list have a large measure of internal self-government and have all chosen to retain their link to the UK. In the UK's view, all our Territories should have been delisted a long time ago. Nevertheless, given that some Members of the UN wish to retain the Committee, some democratically elected Territory representatives wish to present their own positions directly to the Committee, and to the Fourth Committee of the General Assembly, at annual meetings of these Committees. The UK Government will continue to support this and these Territories' right to determine their own futures.

Regional Organisations in the Caribbean

The Caribbean Territories and Bermuda are full or associate members of a number of regional organisations including the Caribbean Community (CARICOM). We encourage these links. At our initiative the Territories were invited to the UK Caribbean Forum in January 2012 where they were able to discuss common concerns such as tackling organised crime and climate change with the independent Caribbean states. We believe that there is scope to increase co-operation with the Territories of France, the Netherlands and the US.

As already mentioned in Chapter 1 some of the Caribbean Territories are full members of the Caribbean Disaster Emergency Management Agency (CDEMA), a subsidiary of CARICOM, which supports its members in all aspects of disaster preparedness and response. The UK Government supports CDEMA's work.

How can Territories join International Organisations?

If an Overseas Territory Government wishes to enter into negotiations with an international or regional organisation, or to conclude a treaty with it, it requires the authority of the UK Government. Such authority can be given in the form of a specific or general entrustment (i.e. a letter to the Territory Government confirming that it can enter into negotiations and/or conclude a treaty). Before issuing an entrustment or agreeing to the conclusion of a treaty, the UK Government will consider whether the Territory is able to meet the obligations that membership of the treaty imposes. In recent years general entrustments have been given to the Cayman Islands, the British Virgin Islands and Montserrat as part of their constitutional reviews. Bermuda's 1968 General Entrustment was updated in 2009. These general entrustments give these Territories greater freedom to engage with regional organisations and governments across a range of issues.

Co-operation in the Southern Oceans

The populated Territories in the South Atlantic are too isolated geographically to benefit from regional organisations. The Falkland Islands, St Helena, Ascension and Tristan da Cunha have recognised that they can benefit from shared experience and have therefore organised themselves into the South Atlantic Co-operation Forum. This organises quarterly political meetings and expert level engagement on issues such as fisheries and tourism. The UK Government welcomes and supports this. The South Atlantic Territories form a regional system offering new strategic and economic opportunities for the future, including in respect of South Georgia & the South Sandwich Islands and the British Antarctic Territory where these opportunities are consistent with our international obligations within the Antarctic Treaty System.

The EU is funding collaboration between the Secretariat of the Pacific Community and Pitcairn to combat drought. Pitcairn Islanders are experiencing longer, more severe periods of drought. The effects can be devastating on many fronts, from crop production to drinking water consumption or for fire fighting purposes. The project is monitoring the weather on Pitcairn, and using this information to bolster the island's water catchment, storage, treatment and distribution systems.

Tristan da Cunha Develops Links with the Isle of Man

The most remote inhabited island in the world and the island which is home to the world's oldest parliament have been developing useful links. The Tristan da Cunha Chief Islander, Ian Lavarello, visited the Isle of Man in November 2011 as part of a study tour looking at the system of governance on the island. The Chief Islander gave a presentation about Tristan to the Tynwald and was able to investigate how the Isle of Man manages its fishing, agriculture and tourism industries along with sales of stamps and commemorative coins – all activities directly relevant to the Tristan economy. Building on these beginnings the two islands are now looking at possible options for further co-operation which might include nurse training and tourism development.

Priorities for Action

> develop the Territories' special relationship with the EU, particularly in trade, educational and cultural links.
> ensure EU support is continued, processes are simplified and assistance is used effectively, including through successful negotiation of the successor to the Overseas Association Decision.
> strengthen engagement with the Commonwealth, particularly programmes for small states.
> encourage co-operation with regional partners in the Caribbean.
> develop with the South Atlantic Territories a long-term strategy which takes full advantage of the regional system stretching from Ascension to the Antarctic.

Conclusion

We have set out in this Paper the Coalition Government's overall approach to the UK's Overseas Territories. The Government is determined to live up to its responsibilities towards all the Territories. We have demonstrated our commitment through our actions over the past two years. All UK Government Departments have undertaken to engage with and support the Territories in their areas of expertise and competence. This Paper and the links to the Departments' own Papers set out the extensive work in hand. We have launched the construction of an international airport on St Helena. We have taken new initiatives to improve our stewardship of the rich environmental assets in the unpopulated territories. We are defending robustly Territories which face external threats.

We have made good progress, but much remains to be done. We will work with Territory Governments to implement priorities identified in this Paper in ways that are appropriate for each Territory. The agenda identified in this Paper will evolve as new challenges and opportunities emerge. We expect the relationships to continue to evolve. We hope this Paper will encourage wider interest in and support for the Territories, bringing in new ideas and enthusiasm.

The Government is both ambitious and optimistic for the future of our Territories. We believe the UK is important to the future of the Territories and that the Territories are an important part of the future of the UK.

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Cove Bay, Anguilla
Credit: Medio Images





Anguilla

General

Anguilla is the most northerly of the Leeward Islands in the Eastern Caribbean. It is a flat island with an area of some 91 sq km but limited natural resources. It has, however, one of the most important largely unbroken coral reefs in the Eastern Caribbean. Its coastal and marine biodiversity (including fish, seabirds and marine turtles) is the island's most important natural asset.

Government

Colonised by British and Irish settlers in 1650, Anguilla has had an eventful shared history with its neighbour St Kitts and Nevis and was administered at times as a single colony and an associated state with St Kitts and Nevis. The Anguillians, believing their interests were being ignored and wishing to retain their direct links with Britain, sought separation at various times in the 1950s and 60s. This disquiet culminated in what is known as "the Anguilla revolution" of 1967. Anguilla came under direct UK administration in the 1970s, and eventually became a separate British Dependent Territory in 1980. Government is executed through a Governor appointed by the Crown, an Executive Council which has the general control and direction of government, and a House of Assembly. The Governor has reserved powers in respect of legislation, and is responsible for external affairs, offshore finance, defence and internal security (including the police force) and aspects of the public service. The Executive Council consists of the Chief Minister, not more than three other Ministers and the Attorney General and Deputy Governor. The House of Assembly has 12 members. Elections are held every five years and last took place in February 2010.



Economy

Anguilla has built a reputation as a beautiful, safe, exclusive and high-end tourism destination. Tourism is the mainstay of the economy, although construction and financial services have also played roles in Anguilla's development.



Sandy Ground Bay, Anguilla
Credit: Tony Bates

The international financial services industry has steadily grown over the last decade and Anguilla is now a major location for captive insurance vehicles – in 2010 it was ranked fifth in the world with 252 captives domiciled in the jurisdiction. The Financial Services Commission, the island's regulatory body, was established as an independent, self-funded statutory authority in 2004 and oversees all Anguilla's international financial services activities. Anguilla was assessed by the OECD Peer Review Group in 2011 and was successful in proceeding to Phase II of the

assessment programme. Anguilla's anti-money laundering and counter-terrorist financing systems were assessed in 2010 by the Caribbean Financial Action Task Force for compliance against the recognised international standard. The Task Force ranked Anguilla among the best in the region.

Anguilla graduated from UK bilateral development assistance in 2003 and then experienced economic growth averaging 14% per annum between 2003 and 2007. The global downturn starting in 2008 hit Anguilla's economy and public finances hard. Recently the UK has provided technical assistance from a regional risk management allocation to help Anguilla effectively manage its public finances and improve the effectiveness and efficiency of delivering public services.

» Anguilla has one of the most important largely unbroken reefs in the Eastern Caribbean. Its coastal and maritime biodiversity is the island's most important natural feature. «

Key facts

> **Currency**	Eastern Caribbean Dollar
> **Population**	16,318 (estimated 2010)
> **Capital**	The Valley
> **Government Website**	http://www.gov.ai/



Bermuda

General

Bermuda, a group of over 130 islands and islets, lies 1,046 km east of the coast of North Carolina. The total land area is 54 sq km. The warming effect of the Gulf Stream makes Bermuda the most northerly group of coral islands in the world. Small surviving areas of natural habitat support 14 endemic plants and the Bermuda Cahow, the only endemic bird in Bermuda.

Approximately 65 per cent of the population are of African descent and the remainder of European extraction (including expatriates). Portuguese settlers from the Azores have been coming to Bermuda for about 150 years.



St Peter's Church in St George's, Bermuda is the oldest Anglican church in the world outside the United Kingdom.
Credit: Tony Bates

Government

Bermuda is Britain's oldest territory and its Parliament, which first met in 1620, is the oldest legislature in the Commonwealth outside the British Isles. It is a largely self-governing territory with a high degree of control over its own affairs. The Governor retains responsibility for external affairs, defence, including the armed forces, internal security and the police. Bermuda has two legislative chambers, the House of Assembly and the Senate. The last General Election was held in December 2007.



Economy

Offshore finance (especially reinsurance) and tourism are the main pillars of the economy. There are more than 15,300 Bermuda-based international companies, 2650 local companies, 430 overseas partnerships and 940 other non-resident companies, many with a global business empire. They include subsidiaries of 75% of the Fortune 100 and their European equivalents. In insurance and reinsurance, Bermuda has an industry capital base exceeding US$35 billion and gross premiums of US$24 billion. It ranks with Lloyds of London and New York as a global leader. Tourism accounts for 15 per cent of Bermuda's overseas earnings. There are few natural resources and little manufacturing activity.

≫ Bermuda is Britain's oldest territory and its Parliament, which first met in 1620, is the oldest legislature in the Commonwealth outside the British Isles ≪

Key facts

> **Currency**	Bermuda Dollar (parity with US$)
> **Population**	64,722 (June 2011 estimate)
> **Capital**	Hamilton
> **Government Website**	http://www.gov.bm



British Antarctic Territory (BAT)

General

The British Antarctic Territory (BAT) comprises that sector of the Antarctic south of latitude 60°S and bounded by longitudes 20°W and 80°W. It is the UK's largest Overseas Territory covering around 1,700,000 sq km, but it has no permanent population. The UK has the longest established claim to territory in the Antarctic with letters patent having been issued in 1908. Territorial sovereignty in Antarctica is however held in abeyance by the Antarctic Treaty 1959, which provides an internationally agreed regime for the governance of the continent. For just over 50 years now, the Antarctic Treaty has preserved Antarctica for peace and science and is arguably one of the world's most successful international agreements.

The Government of the Territory, in consultation with a range of stakeholders, has developed an ambitious rolling five year strategy, which sets out objectives and funding priorities. The objectives include ensuring security and upholding British sovereignty; raising awareness of British interests in Antarctica; protecting the environment; and delivering effective administrative and financial governance. These objectives are underpinned by the overarching FCO objective to ensure that the UK plays an active and influential role in upholding the Antarctic Treaty System. This strategy, covering 2009-2013, is reviewed annually and is available through www.britishantarcticterritory.fco.gov.uk.

The Government of the Territory takes pride in ensuring that the historic leadership shown by the UK in early Antarctic exploration and scientific endeavour is matched today by rigorous and effective governance and international engagement across the whole range of Antarctic issues.

The UK's presence in the Territory is primarily provided by the British Antarctic Survey (BAS). BAS has three research stations within the



Territory; two year-round, Rothera and Halley, plus a further summer-only station, Signy. The work of the stations is supported by two Royal Research Ships, the Ernest Shackleton and James Clark Ross and a fleet of five aircraft. The UK is also represented each year in Antarctica by the Royal Navy. The current Ice Patrol Vessel, HMS Protector, made her maiden Antarctic voyage during the austral summer 2011/12. As well as supporting the work of the FCO and BAS, the Royal Navy ships carry out extensive hydrographic surveying work and perform important inspections, environment and logistics work. An additional presence is provided by a summer-only team from the UK Antarctic Heritage Trust which runs the historic base at Port Lockroy, the most visited site in Antarctica.

Government

In 1989 responsibility for administering the Territory was assumed by a Commissioner appointed by the Foreign Secretary. Previously it was a British Dependent Territory administered by the Falklands Islands (1962 – 1989) and a Dependency of the Falkland Islands (1908 – 1962). The Commissioner appoints such officers as the Chief Justice and Senior Magistrate, as required. He has powers to make laws, subject to certain conditions, and the BAT has a suite of its own laws, together with both judicial and postal administrations. Legislation enacted by the Territory is in line with, and implements, international regulations under the Antarctic Treaty System (i.e. the Antarctic Treaty and its Environmental Protocol, and the Convention on

the Conservation of Antarctic Marine Living Resources), as well as other relevant international instruments.

Antarctic Treaty Parties have recently agreed a new Annex to the Treaty's Protocol on Environmental Protection, which requires Antarctic operators to take all necessary remedial steps in the event of an environmental emergency. The UK is keen to be among the first to ratify the Annex, and is preparing a new Antarctic Bill that will be introduced as soon as Parliamentary time allows, both in recognition of the environmental importance of the Territory and as part of our continuing leading role in the Antarctic Treaty System.

Economy

The Territory is self-financing; generating revenue primarily from the sale of stamps and coins and income tax from overwintering British Antarctic Survey scientists and others. The majority of British Antarctic Territory revenue is reinvested in projects which support the BAT strategy – focusing on protecting the environment, conserving British heritage and education and outreach.

Environment

Environmental protection is an integral part of the Territory's strategy and amongst its highest priorities: the Antarctic Peninsula is one of the fastest warming, and therefore most rapidly changing, places on the planet.



Iceberg formations, Ronge Island, British Antarctic Territory
Credit: Paul Stansfield

We are working to develop a better understanding of the Territory's environment and to develop and implement the best Antarctic environmental practices. In addition, we are enhancing our expertise on tourism management and minimising human impact, along with identifying and developing protection and conservation measures for flora and fauna across the Territory. We are also proactively managing key Protected Areas in the Territory, identifying future environmental challenges (including climate change), and developing mitigation measures.

» the Antarctic Peninsula is one of the fastest warming, and therefore most rapidly changing, places on the planet «

Key facts

> **Number of visitors**	26,000 (2010/11)
> **Indigenous human population**	0
> **Number of penguins**	20 million pairs (estimate)
> **Administration centre**	London (largest British science base in the Territory is Rothera Research Station)
> **Government Website**	http://britishantarcticterritory.fco.gov.uk/en/



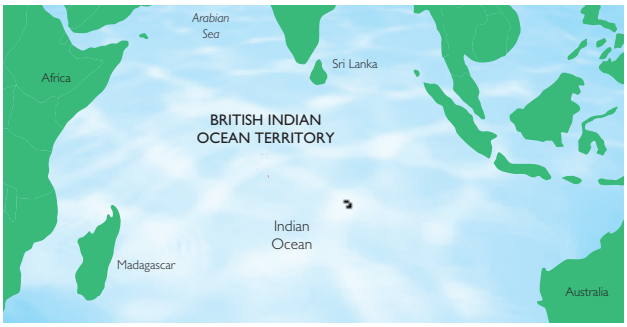
British Indian Ocean Territory (BIOT)

General

BIOT is close to the very centre of the Indian Ocean, mid-way between Tanzania and Indonesia. Its nearest neighbours are the Maldives and Sri Lanka. The Territory covers 640,000 sq km of ocean (more than twice the size of the UK) but the land area is only 60 sq km. The largest and most southerly of some 55 islands, Diego Garcia, accounts for more than half the land area. The other islands are very small, none larger than Hyde Park.

The islands were uninhabited until the late 18th century. The French established coconut plantations using slave labour in 1793. After emancipation, many slaves became contract employees and remained on the islands. They were then referred to as Ilois but are now usually known as Chagossians.

The islands of the Chagos Archipelago have been British territory since 1814 when they were ceded to Britain with Mauritius (which then included the Seychelles). For administrative convenience, and following the French practice, they were administered as a dependency of Mauritius until 1965 when, with the full agreement of the Mauritian Council of Ministers, they were detached to form part of the newly established colony of the British Indian Ocean Territory. At the same time Britain paid £3 million to Mauritius in consideration of the detachment of the islands. Three other island groups, formerly part of the Seychelles, made up the rest of the Territory, but these were returned to the Seychelles when it gained independence in 1976. The Government of Mauritius claims sovereignty of the Territory. The UK does not recognise this claim but successive governments have given undertakings to the Government of Mauritius to cede the Territory to Mauritius when it is no longer required for defence purposes.



In 1966 the UK agreed with the US to make the BIOT available for the defence purposes of the two countries. The Crown purchased the freehold title to the land in the islands in 1967. The copra plantations were run down as their commercial future was already unviable, and the last of the contract workers and their children left the Territory in 1972/73. Successive British Governments have expressed regrets about the way resettlement was carried out. Britain made £650,000 available to the Government of Mauritius in 1973 and a further ex-gratia sum of £4 million in 1982 to the Ilois Trust Fund in order to assist the resettlement of the contract workers in Mauritius. The British Overseas Territories Act 2002 granted British citizenship to Overseas Territories citizens, including a large number of Chagossians. This gave them a right of abode in the UK. Some Chagossians have brought a case against the UK at the European Court of Human Rights for the right to return to BIOT and for further compensation.

The BIOT has no permanent population, only UK and US military personnel and the civilian employees of contractors to the military, who are mostly Filipino. The number of people on Diego Garcia varies significantly, depending on military needs. In early 2012 it was around 2,500. There are no inhabitants on the other islands. Access to the BIOT is restricted and a permit is required. There are no commercial flights to the BIOT and permits are only issued to yachts in safe passage. The British Indian Ocean Territory is not a tourist destination.

Government

The BIOT is governed by a Commissioner, Deputy Commissioner and Administrator based in the FCO in London. The Commissioner's representative in Diego Garcia is a Royal Navy commander who combines this role with his military duties as Commander British Forces.

The constitution of the BIOT is set out in the British Indian Ocean Territory Order 1976. The 1976 Order gives the Commissioner full power to make laws for the Territory. Two Orders in Council in 2004 provided that there is no right of abode and imposed immigration controls.

In the Territory, the Commissioner's representative holds the office of Magistrate and is responsible for handling routine cases and also, through his subordinate officers, for the enforcement of both the criminal law and laws regulating matters such as customs, immigration and conservation.

A series of exchanges of notes between the UK and the US regulates matters arising from the use of the Territory for defence purposes. The current agreement runs until 2016 and allows for a roll-over for a further twenty years.

Economy

There is no economy in the normal sense; and no industrial production or commercial agricultural activities. Since the declaration of the Marine Protected Area (MPA), no commercial fishing licences are sold.

The British military presence is funded by the Ministry of Defence.

The Commissioner proclaimed the BIOT Marine Protected Area (MPA) on 1 April 2010 to ensure the on-going protection of this unique environment of global significance. The BIOT MPA is currently the world's largest full no-take MPA. A Science Advisory Group was set up in 2011 to make recommendations on a science strategy for the Territory.

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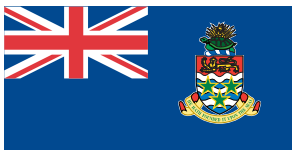
Manta Ray, British Indian Ocean Territory
Credit: Anne Sheppard



Cayman Islands

General

Discovered by Christopher Columbus in 1503 the three Cayman Islands (Grand Cayman, Cayman Brac and Little Cayman) are situated some 260 km north-west of Jamaica in the Caribbean Sea. The islands have an area of about 260 sq km. 'Cayman' comes from a Carib word for the marine crocodiles, once found on their shores. The vast majority of the population live on the largest of the three islands, Grand Cayman. English is the principal language.

Government

The present Constitution came into force on 6 November 2009 and provides for a Ministerial system of Government. The Governor retains responsibility for aspects of the public service, defence, external affairs and internal security including the police.

The Legislative Assembly comprises the Speaker, fifteen elected members and two ex-officio members (the Deputy Governor and the Attorney General). Elections are held every four years, most recently in May 2009. The Constitution also provides for a Cabinet consisting of the Premier, four other Ministers (rising to six when the number of Members of the Legislative Assembly increases from fifteen to eighteen) and the two ex-officio members of the Legislative Assembly. The Governor presides at meetings of Cabinet. Cabinet has responsibility for the formulation of policy, except in the areas reserved to the Governor.



Economy

International offshore finance and tourism are the major economic activities. In 2010, there were circa 300,000 stay-over visitors and some 1.5 million cruise ship visitors. At the end of that year there were 371 bank and trust companies, 739 captive insurance companies, 9,003 licensed or registered mutual funds and 91,206 registered companies in the Cayman Islands.

The principal sources of government revenue are import duties, company, bank and trust licence fees, work permit fees and stamp duties. There is no national insurance, no income or payroll tax, no company or corporation tax, no inheritance tax, no capital gains or gift taxes and no VAT. Although imports outstrip exports by about 100:1, the visible trade gap is more than offset by invisible earnings from the financial services and tourism sectors.

The Cayman Islands have done much over the years to protect their flora and fauna. The Islands have 25 endemic species of plants and reptiles, and over 200 species of birds. A botanical park and bird sanctuary on Grand Cayman provide safe environments for endangered species of birds and lizards. The National Trust is engaged in long-term projects to preserve the unique wildlife and flora indigenous to Cayman Brac.

≫ The Islands have 25 endemic species of plants and reptiles, and over 200 species of birds. A botanical park and bird sanctuary on Grand Cayman provide safe environments for endangered species of birds and lizards ≪



Seven Mile Beach, Cayman Islands
Credit: Cayman Islands Department of Tourism

Key facts

> **Currency**	Cayman Islands Dollar (fixed at 1 CI$ = US $1.25)
> **Population**	55,456 (2010)
> **Capital**	George Town (on Grand Cayman)
> **Government Website**	www.gov.ky



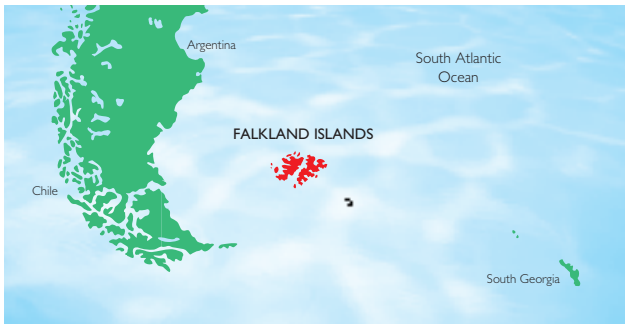
Falkland Islands

General

The Falkland Islands are an archipelago of around 700 islands in the South Atlantic, the largest being East Falkland and West Falkland. They are situated about 770km (480 miles) north-east of Cape Horn and 480km (300 miles) from the nearest point on the South American mainland. The Islands have a total land area of 12,173 sq km (4,700 sq miles) – about the size of Northern Ireland – and a permanent population of 2,995 (2006 census). The capital is Stanley, which is the only town on the Islands, though it qualifies as a city by virtue of its cathedral. Elsewhere in Camp (the local term derived from Spanish for countryside (campo)), there are a number of smaller settlements.

The majority of the population of the Falkland Islands are British by birth or descent and many can trace their family origins in the Islands back to the early nineteenth century. There are Anglican, Roman Catholic and non-conformist churches on the Falklands.

There are over 250 species of plant in the Falkland Islands, of which 164 are recorded as native – including the Islands' national flower, the Pale Maiden. The Islands are also noted for their abundant range of wildlife, particularly the Rockhopper, Magellanic, Gentoo, King and Marconi penguins.



Government

Navigators of several countries have been credited with first sighting the Falklands but the earliest sighting that has been conclusively authenticated was by the Dutch sailor Sebald van Weert in 1600. The first known landing was made in 1690 by a British naval captain, John Strong. He named the Islands after Viscount Falkland, First Lord of the Admiralty at the time. A British expedition reached West Falkland in 1765, and anchored in a harbour which it named Port Egmont. It took formal possession of it and of 'all the neighbouring islands' for King George III. The following year, another British expedition established a settlement of about 100 people at Port Egmont. This settlement was withdrawn on economic grounds in 1774, but British sovereignty was never relinquished or abandoned. There was no indigenous or settled population of the Islands before 1833, when British administration of the Islands was resumed and this has continued until the present day. The Falklands were invaded and illegally occupied by Argentine military forces on 2 April 1982. A British task force was dispatched immediately and, following a conflict in which over 900 British and Argentine lives were lost, the Argentine forces surrendered on 14 June 1982.

Argentina continues to assert a claim to sovereignty over the Falkland Islands. The United Kingdom has no doubt about its sovereignty over the Islands. The principle of self-determination, enshrined in the UN Charter, underlies our position. There can be no negotiation on the sovereignty of the Islands unless and until the Islanders so wish. The Islanders regularly make it clear that they wish to remain British. On 12 June 2012, The Falkland Islands Government announced its intention to hold a referendum on the political status of the Falkland Islands.

The present Constitution dates from January 2009. The Constitution recognises the Islanders' right to self-determination. Executive authority is vested in HM The Queen and exercised by a Governor on her behalf, with the advice of the Executive Council and Legislative Assembly, and in accordance with the Constitution. The Governor presides over an Executive Council composed of five members: three elected and two ex-officio (the Chief Executive, Financial Secretary). In addition, the Attorney General and the Commander of the British Forces in the Falkland Islands attend by invitation. The Legislative Assembly has eight members elected by universal adult suffrage as well as the two ex-officio members of the Executive Council. It is chaired by a speaker.

Elected Members have a substantial measure of responsibility for the conduct of their Territory's affairs. The Governor is obliged to consult the Executive Council in the exercise of his functions (except in specified circumstances, for example on defence and security issues, where he must consult and follow the advice of the Commander of the British Forces in the Islands) and on foreign affairs issues. Although he has the constitutional power to act against the advice of the Executive Council, he would be required, without delay, to report such a matter to the UK Government with the reasons for his action.



Falkland Islands
Credit: Overseas Territories Directorate

Economy

Since 1982 the economy of the Islands has grown rapidly. Initially this was as a result of UK development aid, but by 1998 the Islands were self-sufficient in all areas except defence. The Falkland Islands Government's stated aim is to ensure a diverse and sustainable economy for the future. The latest Islands Plan (2010 – 2015) is available at their website: http://www.falklands.gov.fk/. It outlines their vision for improved financial management, quality of life and communications while ensuring a sustainable economy.

The role of tourism in the Islands' economy is also increasing. Tourist numbers continue to grow, with many attracted by the diverse wildlife. Besides the tourists who fly in to stay on the Islands, the number of cruise ship passengers making day trips to Stanley and the surrounding countryside has grown significantly.

Agriculture was the chief industry for most of the last century and remains an important part of the Islands' economy and culture. Though its contribution to GDP in recent years has been lower than the fisheries sector, it remains one of the largest sectors for employment outside of the public sector. The Government has recently encouraged the modernisation of this sector, for example setting up a modern abattoir designed to meet EU standards and strongly supporting

organic farming. Offshore oil exploration is underway in the Northern and Southern Basins of the Islands.

≫ The Falkland Islands Government's stated aim is to ensure a diverse and sustainable economy for the future ≪

Key facts

> **Currency:**	Falkland Islands Pound (parity with Pound Sterling)
> **Population:**	2995 (2006 Census)
> **Capital:**	Stanley
> **Government Website:**	http://www.falklands.gov.fk/



Gibraltar

General

Gibraltar is a rocky peninsula rising from the south coast of Iberia. It has a total area of 5.8 sq km and is just under five km long from north to south. It has a land border with Spain.

The population (2010 figures) is 29,441, of whom 24,127 are Gibraltarians. Most Gibraltarians claim British, Genoese or Maltese ancestry. English is the official language, but Spanish is widely spoken. About four-fifths of the population are Roman Catholic, along with significant Protestant, Jewish, Hindu and Muslim communities.

Government

Sovereignty of Gibraltar was ceded to the UK by Spain under the Treaty of Utrecht of 1713. Spain has, nonetheless, repeatedly sought to regain sovereignty. However Spanish pressure, including the closure of the border from 1969 until the early 1980s, has largely served to strengthen Gibraltarians' sense of identity. The UK Government has reaffirmed that it will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their wishes, and that furthermore, the UK will not enter into a process of sovereignty negotiations with which Gibraltar is not content.



Gibraltar's current constitution dates from 2006. Following negotiations between the UK and Gibraltar, it was approved in a referendum on 30 November 2006 by over 60% of those who voted, and came into force on 2 January 2007. It modernised the UK-Gibraltar relationship, giving Gibraltar control over its internal affairs. The Governor remains responsible for external affairs, defence, internal security and ensuring good government, including responsibility for some public appointments, while the Government of Gibraltar has responsibility for all areas not specifically assigned to the Governor, including economic and environmental management and provision of education, healthcare and other social and public services.

Gibraltar's legislature, the Parliament, consists of 17 elected Members plus a Speaker. Elections take place every four years. The Territory consists of a single constituency and each elector may vote for up to ten candidates. The most recent elections were held on 8 December 2011.

Gibraltar is within the European Union by virtue of Article 355(3) of the Treaty on the Functioning of the European Union. However, under the UK's Act of Accession, Gibraltar is excluded from four areas of EU policy: the Common Customs Territory and Common Commercial Policy (and thus EU rules on the free movement of goods do not apply); the Common Agricultural Policy; the Common Fisheries Policy; and the requirement to levy VAT. Gibraltarians have rights of free movement within the EU. While the UK Government is ultimately responsible under the Treaty for the implementation of EU Law in Gibraltar, EU measures are in practice implemented within Gibraltar by means of legislation enacted by Gibraltar's Parliament.

Economy

Since the late 1970s Gibraltar has diversified its economy, developed niche sectors which require little land but offer high added value, and adapted to reflect changing circumstances, including the re-opening of the border with Spain. Gibraltar has a thriving economy dominated by four main sectors. The financial services sector accounts for about 22% of GDP (2010 figures); it is regulated by the Gibraltar Financial Services Commission and conforms to EU standards. Retail/tourism makes up 25% of GDP – the Cruise Ship Terminal, which opened in 1997, received 303,371 visitor arrivals in 2010. Shipping accounts for 20% of GDP. The online gaming sector has also become a pillar of the economy in Gibraltar, accounting for a similar percentage (and around 2000 jobs). The former Royal Naval Dockyard is now privately owned and operated.



Rock of Gibraltar
Credit iStockphoto

≫ Gibraltar is a rocky peninsula rising from the south coast of Iberia ≪

Key facts

> **Currency:**	Gibraltar Pound (Pound Sterling notes & coins issued by the Government of Gibraltar)
> **Population:**	29,441 (2010)
> **Capital:**	Gibraltar
> **Government Website:**	http://www.gibraltar.gov.gi/



Montserrat

General

Montserrat is one of the Leeward Islands in the Eastern Caribbean, lying 43 km south-west of Antigua and 64 km north-west of Guadeloupe. The island is 17 km long and 11 km wide, occupying an area of 102 sq km, entirely volcanic and very mountainous. Named after a monastery in Spain by Columbus during his second great voyage in 1493, the island became a British Colony in 1632. The first settlers were largely Irish. Montserrat was captured twice by the French for short periods but was finally restored to Britain in 1783.

English is the official language. Christianity is the principal religion and the main denominations are Anglican, Roman Catholic and Methodist.

The Soufriere Hills Volcano has been active since 1995, with a fluctuating level of activity. The capital, Plymouth and several other villages were destroyed in 1997. An area around the volcano, approximately two-thirds of the island, has been designated a Special Vulnerable Area and three areas around the coastline have been designated as Maritime Exclusion Zones. The volcano is closely monitored by the Montserrat Volcano Observatory. A Hazard Level System was introduced in August 2008 and information on the current hazard level can be found on the Observatory website (www.mvo.ms). There has been no significant activity at the volcano since February 2010, representing the longest pause since the first volcanic eruptions in 1995.



Sunset at Woodlands Beach, Montserrat
Credit: Tony Bates



Government

Government is executed through a Governor appointed by the Crown, a Cabinet which has the general control and direction of government, and a Legislative Assembly. The Governor retains responsibility for external affairs, defence, internal security including the police, aspects of the public service and regulation of offshore finance. The Cabinet is chaired by the Governor and consists of the Premier and three other Ministers, as well as the Cabinet Secretary, Financial Secretary, Attorney General and Deputy Governor. The Legislative Assembly consists of nine elected members and the same ex-officio members as Cabinet. The Deputy Governor may attend but has no voting rights in the Legislative Assembly.

A new constitution for Montserrat came into force on 27 September 2011. The new constitution gives more power to the government of Montserrat in the field of international relations and strengthens and expands the fundamental rights and freedoms of those living in Montserrat, reflecting the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The Constitution establishes a number of new Commissions to deal with complaints, integrity, mercy and elections. It establishes a National Advisory Council, and retains the existing Public Service Commission. These are all designed to enhance democracy and good government, and to give greater powers to local politicians and senior civil servants.

Elections are held every five years and last took place in September 2009.

Economy

Montserrat's economy is dominated by the rebuilding of the island's infrastructure since the start of volcanic activity. A new capital is under development in the north of the island and work continues to re-house the population and government. Tourism and agriculture continue to show solid growth and contribute most to the economy outside the public sector and construction. Prospects for future growth are good, given the significant public investment in Little Bay town and port as well as ferry and air connections.

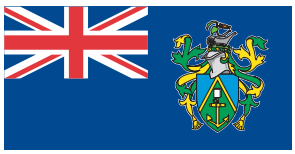
Montserrat aims to grow its declining and ageing population (4,922 in 2011 compared with 11,314 in 1991) back to pre-crisis levels. Currently around 25% of the population are immigrants, largely from other Caribbean countries. Approximately 10% of the population is in receipt of some form of social assistance scheme, all of which operate strict eligibility regimes.

The UK has provided financial support to Montserrat since the start of volcanic activity in 1995. This was initially in the form of humanitarian assistance and is now focussed on rebuilding public infrastructure and the provision of basic public services. Both the Government of Montserrat and the UK are working to develop the economy so Montserrat becomes self sufficient in the medium term.

≫ Prospects for future growth are good, given the significant public investment in Little Bay town and port as well as ferry and air connections ≪

Key facts

> **Currency**	Eastern Caribbean Dollar
> **Population**	4922 (2011)
> **Capital**	Little Bay (planned)
> **Government Website**	http://www.gov.ms/



Pitcairn, Henderson, Ducie and Oeno

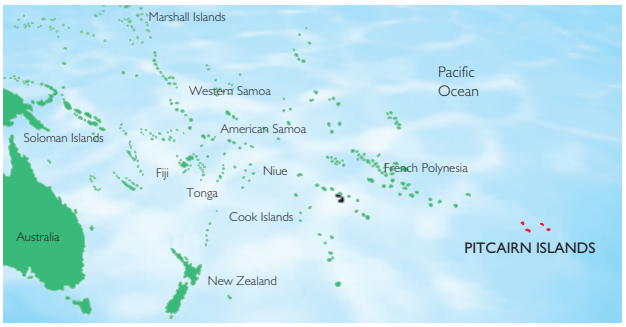
General

The Pitcairn Islands comprise Pitcairn Island itself and three uninhabited islands, Henderson, Ducie and Oeno. Pitcairn is approximately three km long and 1.5 km wide. It was first settled in 1790 by some of the HMS Bounty mutineers and their Tahitian companions. Pitcairn was left uninhabited between 1856 and 1859 when the entire population was resettled on Norfolk Island. The present community are descendants from two parties who, not wishing to remain on Norfolk, returned to Pitcairn in 1859 and 1864 respectively.

The population totals only 54, all living in the only settlement, Adamstown. The official languages of Pitcairn are English and Pitkern, the latter becoming an official language by declaration of the Island Council in 1997. This is a mixture of English and Tahitian with the former predominating.

Henderson Island is the best example in the Pacific of a large raised coral atoll and is an important breeding ground for seabirds. Henderson has been designated as a UNESCO World Heritage Site. The UK and Pitcairn Governments have been working with the Royal Society for the Protection of Birds (RSPB) to safeguard Henderson's biodiversity through a project to remove non-indigenous rats.

≫ Pitcairn was first settled in 1790 by some of the HMS Bounty mutineers and their Tahitian companions ≪



Government

Pitcairn is a British settlement under the British Settlements Act of 1887, although the Islanders usually date their recognition as a British Territory to a constitution of 1838 devised with the help of a visiting Royal Navy officer. The office of the Governor was established in 1970, after Fiji (whose Governor had been responsible for Pitcairn since 1952) became independent from the UK. The British High Commissioner to New Zealand is appointed concurrently as Governor (Non-Resident) of Pitcairn.

In September 2009, a consultation period began on a new Constitution better to meet the needs of Pitcairn in the 21st century. The new Constitution came into force in March 2010. For the first time the new Constitution included a fundamental rights chapter. It also established the role of the Island Council in the Constitution and obliges the Governor to consult with the Island Council before making laws (and, in cases where the Governor acts contrary to advice of the Island Council, entitles any member of the Council to submit his or her views on the matter to a UK Secretary of State). The new Constitution affirms the independent role of the Pitcairn courts and judicial officers and guarantees the independence of the public service. Pitcairn Islanders manage their internal affairs through the Pitcairn Island Council, for which elections are held every two years.

Economy

The economy of Pitcairn is largely based on subsistence fishing, horticulture, and the sale of handicrafts. Pitcairn's primary source of income was traditionally the sale of postage stamps, but a downturn in the market led to financial reserves being exhausted and Pitcairn now receives budgetary aid from the UK. The Pitcairn Government is trying to boost revenue through small business development, the sale of .pn domain names, honey production and by increasing tourism.

The population of the Territory is self-employed or works for local government. There is no formal taxation. The dwindling and ageing population of the Island has become an increasing concern. The UK is assisting the Pitcairn Government in developing plans to tackle population decrease and develop the Island's economy and society.



Longboat shed, Pitcairn Island
Credit: Ian Cramman

The UK has provided bilateral aid to Pitcairn since 2002/03. In 2010/11 this aid amounted to £2,447,000.

Over the last decade the UK Government has provided extensive development assistance for a range of projects designed to help provide an environment which encourages economic and social development and meet the reasonable assistance needs of the community. These have included a health centre, rebuilding the school, upgrading telecommunications and a sealed road from the jetty to the main settlement. A regular shipping service was established in December 2009 and this provides a necessary life-line in terms of freight and passenger services.

Work is also progressing on projects to provide sustainable wind energy and an alternate harbour to make the landing of supplies, tourists (particularly from cruise ships) and islanders easier and safer.

Key facts

> **Currency:**	New Zealand Dollar
> **Population:**	54 (February 2012)
> **Administrative centre:**	Adamstown
> **Government Website:**	http://www.government.pn/



St. Helena, Ascension and Tristan da Cunha

St Helena, Ascension and Tristan da Cunha are three island territories which together form a single territorial grouping under the Crown.

St Helena

General

St Helena is a small island of volcanic origin in the South Atlantic with an area of 122 sq km. It is 1,930 km from the west coast of Africa and 2,900 km from South America. The nearest land is Ascension, 1,125 km away.

St Helena was discovered by the Portuguese navigator, Juan da Nova, on St Helena Day (21 May) 1502. Its existence was kept secret until the English seafarer Thomas Cavendish found it in 1588. In 1658, a Charter from Richard Cromwell, Lord Protector, authorised the British East India Company to colonise and fortify the Island, which it did the following year. Napoleon was exiled on St Helena from 1815 until his death there in 1821. It became a Crown Colony in 1834.

St Helena is currently accessible by sea only. In November 2011 a contract was signed between the St Helena Government and the construction company Basil Read to construct an airport. An airport could transform St Helena from an island in decline into a prosperous and thriving community. The UK Government will finance the airport and St Helena will do all it can to develop and eventually graduate from budgetary aid.



Government

A new Constitution was introduced in 2009, containing a comprehensive suite of fundamental human rights, including provisions to guarantee a fair trial. The St Helena Constitution Order provides for a Legislative Council consisting of the Speaker, twelve elected members and three ex-officio members (the Chief Secretary, the Financial Secretary and the Attorney General). The last general election took place on 4 November 2009. The Governor enacts laws acting in his or her discretion. The Executive Council consists of five elected members of the Legislative Council and the ex-officio members. The Governor has responsibility for the conduct of government business relating to defence, external affairs, internal security including the police, shipping, finance, administration of justice, and aspects of the public service.

Economy

St Helena's Gross Domestic Product (GDP) stood at £15.5 million in 2009/10. The economy has expanded sluggishly, averaging growth of 0.7% per annum over the past 10 years (in real terms). The main driver of growth has been financial support from the UK Government, with the public sector employing 44% of the working population.

In order to make the most of the airport development, the St Helena Government has embarked on a programme of far reaching reforms to open its economy up for tourism and to encourage greater levels of inward investment. These reforms are designed to make the island a more attractive place to live, invest, work and to visit. A ten-year Economic Development Plan is also being written that will outline what activities will be undertaken in the coming years to attract investors, develop tourism sites and critically to enable the people of the Territory to participate fully in the local private sector.

The total aid package from the Department for International Development averaged £23.5m a year over the three years from 2009/10 to 2011/12. DFID provides development support to St Helena to meet the reasonable assistance needs of citizens cost-effectively and to promote greater self-sufficiency. DFID's direct budgetary aid currently provides over half of the St Helena Government's recurrent budget but this proportion will decrease as the island's economy grows and revenues increase. Budgetary aid helps fund the delivery of basic public services such as health care, education and social security. DFID aid also maintains maritime access by subsidising the operation of the Royal Mail Ship St Helena. The final component of DFID's aid supports specific interventions, such as the provision of technical expertise, a project to modernise and increase efficiency in the public sector, and support to a number of infrastructure development projects.

Key facts

> **Currency:**	Pound Sterling and St Helena Pound (at parity)
> **Population:**	4000 (2009/10)
> **Capital:**	Jamestown
> **Government Website:**	http://www.sainthelena.gov.sh/



Jamestown harbour, St Helena seen from Jacob's Ladder
Credit: Chrystele Todd

≫ Its existence was kept secret until the English seafarer Thomas Cavendish found it in 1588 ≪



Ascension

General

Ascension is in the South Atlantic, some 1,125 km north-west of St Helena and around 3,200km east of Brazil. It covers an area of 90 sq km and is of volcanic origin. The last eruption was about 600 years ago.

Ascension was discovered in 1501 by the Portuguese and "found" again on Ascension Day 1503 by Alphonse d'Abuquerque, who named the island. In 1815, when Napoleon was a prisoner on St Helena, a small British naval garrison was stationed on Ascension. The island remained under Admiralty supervision until 1922 when it was made a Dependency of St Helena.

During the Second World War the US Government built 'Wideawake' airstrip on the island. In 1957 a US Air Force presence was re-established and the airstrip and ancillary facilities enlarged. It is now a missile tracking station and an airfield used by UK and US Air Forces. In 1982 it became the crucial stop for Royal Air Force flights to and from the Falklands. Ascension continues to provide a re-fuelling stop-over point for RAF flights to the Falklands and a small UK military presence to support these flights.

Ascension is also used by Cable and Wireless, the BBC and the Composite Signals Organisation as well as the Royal Air Force. These 'user' organisations financed all non-military activities on the island until 2001/2. A plebiscite was held on Ascension in 2002. 95% of those who voted chose the option of forming an Island Council. The first elections took place in November 2002. There is no indigenous population and no right of abode.



Ascension from the sea
Credit: Colin Wells

Ascension has globally important populations of seabirds and turtles. In addition Ascension is home to many endemic species – 22 plant, 26 invertebrate and seven fish types. The Ascension Island Government funds a Conservation Department to protect the Island's biodiversity with major partners such as the University of Exeter, Kew Gardens and the RSPB using funding from the UK and Ascension Governments, and the Darwin Fund. The central Green Mountain area is now a National Park.

Government

Executive authority for the Territory is exercised by the Governor resident on St Helena, either directly or through the resident Administrator of Ascension. There is an Island Council. The Governor receives advice from the Island Council and consults it when making laws. The composition and functions of the Island Council are prescribed by law. The current Island Council consists of five elected members plus three ex-officio members, the Administrator, the Attorney General and the Director of Financial Services. Ex-officio members have no vote.

≫ Ascension has globally important populations of seabirds and turtles ≪

Key facts

> **Currency:**	Pound Sterling and St Helena Pound (at parity)
> **Population:**	873 [December 2011]
> **Capital:**	Georgetown
> **Government Website:**	http://www.ascension-island.gov.ac/



Tristan da Cunha

General

Tristan da Cunha is a small, isolated island of volcanic origin in the South Atlantic. It is almost circular in shape and has an area of 98 sq km. Gough Island, Inaccessible and Nightingale islands make up the Tristan da Cunha Group. A team of South African meteorologists live on Gough. Inaccessible and Nightingale are uninhabited. The nearest neighbours to the group are St Helena, 2,100 km to the north. Cape Town is 2,400 km to the east.

Tristan da Cunha was discovered in 1506 by the Portuguese navigator Tristao da Cunha who did not land but named the island after himself. It was garrisoned and possessed by the British in 1816.

There are no air services. Transport to and from the island is provided by nine return sailings a year from Cape Town by fishery concession vessels and a further annual visit by the South African research vessel, SA Agulhas. Due to heavy seas the harbour is accessible for only 60 to 70 days a year. Improvements to the harbour are vital to Tristan da Cunha's future.

The islands have very distinctive endemic flora and fauna and are important breeding grounds for many seabirds. Gough and Inaccessible Islands have UNESCO World Heritage Site designation. The volcano is still active and last erupted in October 1961. The population was evacuated to the UK, but returned in 1963.

Government

Executive authority for the Territory is exercised by the Governor resident on St Helena, either directly or through the resident Administrator of Tristan. There is an Island Council. The Governor receives advice from the Island Council and consults the Island Council when making laws.

The composition and functions of the Island Council are prescribed by law. The Island Council consists of the Administrator, who is President, eight elected members, at least one of whom must be a woman and three members appointed by the Administrator. The Chief Islander is appointed by the President and is the councillor who declares himself or herself willing to act as Chief Islander and who receives the most votes for that post.

Economy

Tristan da Cunha is largely self-sufficient. The economy relies predominantly on the income from the island's highly sustainable lobster fishery. Fluctuating market demand and prices for Tristan lobster has a direct effect on Territory revenue and government reserves have been substantially depleted in recent years.

Other sources of current income – a small scale tourist industry based on three or four tourist ships per annum and the sale of stamps and coins – are limited and further potential economic developments, such as the sale of mineral water, will require considerable capital investment.

Despite the economic challenges, the Tristan Government is committed to trying to balance its budget through efficiencies and effective management of the finances.

Annual bilateral assistance to Tristan da Cunha is modest and consists of support for the provision of medical care and assistance with education, public works and government reform. In addition the UK has funded several repairs to Tristan's harbour, and is working with the Tristan Government in developing a longer term plan for the harbour.

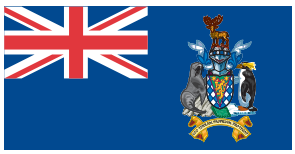


Chief islander surveys Nightingale Island
Credit: Sean Burns

Key facts

> **Currency:**	Pound Sterling
> **Population:**	261 (February 2012)
> **Capital:**	Edinburgh of the Seven Seas
> **Government Website:**	http://www.tristandc.com/government.php

≫ The economy relies predominantly on the income from the island's highly sustainable lobster fishery ≪



South Georgia & the South Sandwich Islands (SGSSI)

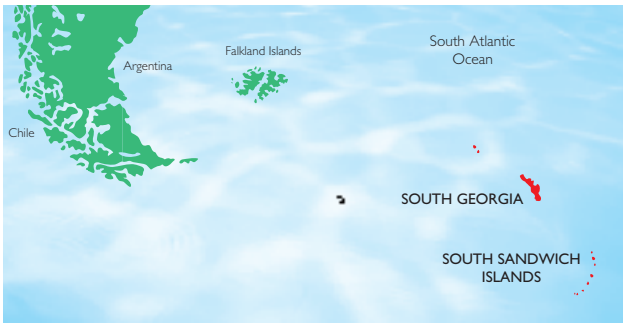
General

South Georgia is situated 1290 km south east of the Falkland Islands and occupies an area of 3,755 sq km. It is a mountainous sub-Antarctic island, more than half of which is permanently ice covered, with Mount Paget rising to 2,934m. The South Sandwich Islands lie 760 km south east of South Georgia and comprise a chain of eleven small volcanic islands stretching over 240 km. The climate is wholly Antarctic and the islands may be surrounded by pack ice during the winter months. The SGSSI maritime zone occupies in excess of 1,000,000 sq km of the Southern Ocean, equivalent to over four times the terrestrial area of the United Kingdom.

Captain Cook claimed South Georgia for the UK in 1775, the year in which he also discovered the South Sandwich Islands. SGSSI has a rich heritage. Its unique natural environment is internationally recognised and featured in the BBC's *Frozen Planet* series in 2011. South Georgia has a prominent history as the gateway to Antarctica for polar explorers, including Sir Ernest Shackleton. It was also a centre for land-based whaling during the early 20th Century, which provides much of the cultural heritage of the island.



King Edward Point, South Georgia
Credit: Dr Martin Collins



The Territory is internationally recognised for its biological importance, and sustains major populations of seabirds and mammals, including globally threatened species. The South Sandwich Islands represent a maritime ecosystem scarcely modified by human activities, their only inhabitants being millions of breeding penguins and other seabirds. The principles of environmental protection and sustainable ecosystem management are enshrined within the Government of SGSSI's legislation and policies including measures to protect against invasive and non-native species that threaten the natural environment. A programme to eradicate rats – which pose one of the greatest threats – from South Georgia is currently underway.

≫ The Territory…sustains major populations of seabirds and mammals, including globally threatened species ≪

Government

SGSSI has been under continuous British administration since 1908 apart from a short period of Argentine occupation in 1982. SGSSI has been a separate UK Overseas Territory since 1985, before which it was a Dependency of the Falkland Islands. There is no indigenous population, although South Georgia is home to two scientific bases maintained by the British Antarctic Survey, as well as SGSSI Government representatives based at the Administrative Centre, King Edward Point.

SGSSI has its own constitution and is administered by a Commissioner, who is currently the person who holds the office of Governor of the Falkland Islands, based in Stanley. The Commissioner is supported by officials of the Government of SGSSI. The Government of SGSSI is responsible for making its own laws which cover the principal activities of the Territory. This legislation is in line with, and implements, regulations under the Antarctic Treaty System (including the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)) and other international agreements. The UK retains overall responsibility for good governance, defence and foreign policy. In consultation with stakeholders the Government of SGSSI and the UK have developed complementary rolling five year strategies which underpin our respective activities.

Economy

SGSSI is self-financing and generates income primarily through fisheries and tourism. Fishing is the lifeblood of the economy and generates over 75% of the Territory's revenue. The toothfish fishery exceeds the standards laid down by CCAMLR and is the third highest scoring Marine Stewardship Council certified fishery in the world. Its management is underpinned by scientific research, much of it conducted on South Georgia. The Government of SGSSI also issues a range of stamps and coins annually which generated over £150,000 in revenue in 2010. Tourism contributes over 15% of revenues and over 7000 visitors arrive in South Georgia every year, many of them en route to the Antarctic Peninsula.

Key Facts

> **Currency:**	Pound Sterling
> **Indigenous Human Population:**	0
> **Macaroni Penguin Population:**	1 million breeding pairs (estimate)
> **Administrative Centre:**	King Edward Point
> **Government website:**	www.sgisland.gs

Sovereign Base Areas of Akrotiri and Dhekelia on Cyprus (SBAs)

General

The SBAs are those areas of Cyprus that remained under British sovereignty when the 1960 Treaty of Establishment created an independent Republic of Cyprus (RoC). The SBAs cover around 256 square kilometres. Most of this land (some 60%) is privately owned by Cypriot nationals. The British population of the SBAs is around 7,500 and includes Service personnel, UK-based civilians and their families. In addition there is a population of around 10,000 Cypriots. The Cypriots living in the areas are recognised residents of the SBA but are European Union (EU) and RoC citizens.

There are two locations: the Western Sovereign Base Area (or WSBA), which consists of Episkopi and Akrotiri stations, and the Eastern Sovereign Base Area (or ESBA), which consists of Dhekelia station and Ayios Nikolaos. As such, the SBAs have never been part of the RoC, they are not on temporary loan, nor have they been ceded to the UK. The SBAs are run as military bases, not colonial territories. It is because of this military focus that the SBAs are administered by the Ministry of Defence, and not the Foreign and Commonwealth Office, which administers other overseas territories.

There are in most areas no entry or exit controls between the SBAs and the rest of Cyprus, and the boundary itself is marked only by inconspicuous pillars. Although there is free access to the majority of SBA Territory, access to the military bases is restricted.

Government

Under the 1960 Treaty of Establishment, the bases remain sovereign British territory under the Crown unless the Government of the United Kingdom, in view of changes in its military requirements, decide to divest itself of the sovereignty or effective control over the SBAs or any part thereof. The military requirement for the bases still exists and there are no plans to withdraw from the SBAs.



Aerial view of Sovereign Base Areas
Credit: Crown Copyright (Ministry of Defence)

Civil government of the SBAs is the responsibility of the Administrator, and is carried out by the SBA Administration on his behalf. The philosophy for the administration of the SBAs was stated by the UK Government in 1960 through an appendix to the Treaty of Establishment known as Appendix O. Appendix O declared that the UK's key policy objectives in administering the Areas were:

- The effective use of the SBAs as military bases;
- Full co-operation with the Republic of Cyprus;
- Protection of the interests of those resident or working in the SBAs;

Legislation in the SBAs is made by the Administrator but, in general, mirrors the RoC's laws, in line with the UK's declaration that the laws applicable to the Cypriot population of the SBAs would be, as far as possible, the same as in the Republic.

When Cyprus joined the EU in May 2004, the SBAs did not become part of the EU but Protocol 3 to the 2003 Accession Treaty, acknowledging the open boundaries, applied specific provisions of the EU Treaties to the SBAs mainly in the areas of Agriculture & Fisheries, Social Security, and Customs and Fiscal. The ESBA and corridor road that links Dhekelia to Ayios Nikolaos is a de facto EU external border, bringing immigration and customs responsibilities for the SBA administration.

Economy

The UK Government declaration accompanying the Treaty of Establishment currently restricts the establishment of civilian commercial or industrial enterprises within the SBAs, unless they are connected with military requirements but British Forces Cyprus and the Sovereign Base Areas Administration do provide some direct local employment opportunities.

The Cyprus Review 2011

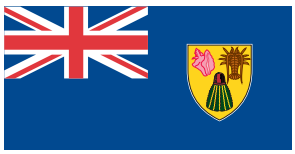
In May 2011, in order to implement the SDSR conclusions, the Defence Secretary announced that a review of the British SBAs in Cyprus would be undertaken. On announcing its completion in December 2011, the Defence Secretary confirmed Her Majesty's Government's enduring commitment to the SBAs in Cyprus. The key considerations in affirming this commitment were:

– The SBAs, situated in a region of geo-political importance, remain high priority for the UK's long-term national security interests.

– The SBAs provide an adaptable and capable Forward Mounting Base, the utility of which has been amply demonstrated: for example in aircraft basing during the Libya campaign and as a logistic hub for operations in Afghanistan.

– In addition, the SBAs are expected to make a significant contribution to the logistic drawdown from Afghanistan, as well as to wider humanitarian and conflict prevention activities in the region. They also continue to provide excellent training opportunities for the Armed Forces.

This announcement offered a timely opportunity to put the necessary financial support for the SBAs – and access to wider Government expertise – in place. The MOD will continue to work closely with Other Government Departments to ensure there are sustainable plans to support the SBAs, including by means of ensuring that the SBAs are treated equitably with other Overseas Territories.



Turks and Caicos Islands

General

The Turks and Caicos Islands (TCI) form the south-eastern extremity of the Bahamas chain and lie north of Haiti and south-east of Miami. The Territory comprises some 40 islands and cays. Six islands are permanently inhabited: Grand Turk – the capital; Salt Cay; South Caicos; Middle Caicos; North Caicos; and Providenciales.



TCI Islanders account for about one third of the total population: there are many immigrants from other Caribbean Islands and North America as well as significant numbers of illegal migrants. English is the main language. The main religion is Christianity.

Juan Ponce De Leon discovered the islands in 1512. Locals claim that the islands were the first landfall of Christopher Columbus in 1492. For several centuries the islands changed hands between the French, Spanish and British. They remained virtually uninhabited until 1678 when they were settled by a group of Bermudians who started to extract salt and timber. The islands became part of the Bahamas in 1799. In 1848 the islanders were granted separate colonial status with an elected Legislative Board and an administrative President. From 1872 until 1962 the islands were part of Jamaica. In 1959 an Administrator for TCI was appointed. From 1965 until 1973 the Governor of the Bahamas was also the Governor of TCI. Since 1973 the islands have had a Governor in their own right

Government

In 2009 a Commission of Inquiry concluded that there was a high probability of systemic corruption among Ministers, members of the legislature and public officials in the former TCI Government. As a result of these findings, parts of the Constitution providing for Ministerial Government and the House of Assembly as well as the automatic right to trial by jury were suspended. Powers and functions previously exercised by Ministers are – at the time of publication – exercised by the Governor acting in his discretion. A Special Investigation and Prosecution Team (SIPT) consisting of former police officers, lawyers and senior counsel from the UK was appointed to investigate matters identified in the 2009 Commission of Inquiry report. A prominent international law firm was appointed to carry out civil recovery work.

An FCO/DFID joint Written Ministerial Statement in December 2010 set out eight milestones that would have to be met before elections could take place:

- implementation of a new Turks and Caicos Islands Constitution Order, in support of recommendations of the Commission of Inquiry, which underpins good governance and sound public financial management;
- introduction of a number of new Ordinances, including those making provision for: (i) the electoral process and regulation of political parties; (ii) integrity and accountability in public life; (iii) public financial management;
- establishment of robust and transparent public financial management processes to provide a stable economic environment and a strengthening of the Turks and Caicos Islands Government's capacity to manage its public finances;
- implementation of budget measures to put the Turks and Caicos Islands Government on track to achieve a fiscal surplus in the financial year ending March 2013;
- implementation of a transparent and fair process for acquisition of Belongership;

- significant progress with the civil and criminal processes recommended by the Commission of Inquiry, and implementation of measures to enable these to continue unimpeded;
- implementation of a new Crown Land policy;
- substantial progress in the reform of the Public Service.

On 12 June 2012 the UK Government announced that it judged there had been significant and sufficient progress on the eight milestones and on putting in place robust financial controls and set 9 November as the date for elections.

Economy

In the last thirty years TCI has developed from being dependent on budgetary aid and technical assistance from the UK (until 2003) to a territory with a booming economy based primarily on tourism, with a small financial services sector. The Territory has become a popular up market holiday destination. By 2007 TCI had a per capita income of US$23,768. Growth hit a peak of 15% per annum.

However in 2008 TCI's economy was hit by the global financial crisis and by Hurricane Ike which caused widespread damage. The economy suffered further in 2009 when the gross mismanagement of public finances, corrupt practices and unsustainable levels of debt servicing were revealed following the suspension of parts of the Constitution. In 2011, in response to the unfolding financial plight of the Turks and Caicos Islands Government, DFID put in place a five year guarantee with commercial lenders, to provide the TCI Government with access to a maximum capital amount of US$260 million over the guarantee period. A Chief Financial Officer was appointed to meet the urgent task of addressing the TCI Government's structural deficit. Once the Territory is in fiscal surplus it will be able to start to pay off its debt and should, after the five year period is over, if not before, be able to secure new and reduced bank lending without the need for a UK Government guarantee.



Holiday Resort, Turks and Caicos Islands
Credit: iStockphoto

Key facts

Currency:	US$
Population:	36,600 (2008 est)
Capital:	Cockburn Town, Grand Turk
Government Website:	http://www.gov.tc

In 2011 the tourism sector began to recover, and in 2012 arrivals were around 10% up from the previous year. The extension of the runway at Providenciales Airport and further development on Grand Turk as a destination for cruise ships should ensure that TCI's tourism market remains buoyant. Foreign investors, mainly from North America and the UK, play a significant role in the Islands' economic life particularly in the development of tourism resorts and real estate.

Since the suspension of parts of the constitution in 2009, the UK has funded a wide range of technical assistance in the key areas highlighted in the Commission of Inquiry report, including public financial management, Crown Land, Public Sector Reform, legislative drafting, Immigration and Customs. Canada has provided and funded the Commissioner and Deputy Commissioner of Police for two years.

≫ The Territory has become a popular up market holiday destination ≪



Virgin Islands (commonly known as the British Virgin Islands)

General

The Virgin Islands comprises over 60 islands, islets and cays situated in the north-eastern arc of the Caribbean archipelago covering a geographical area of 152 sq km. The Territory is located about 97 km east of Puerto Rico. The main islands of Tortola, Virgin Gorda, Anegada and Jost Van Dyke are home to most of the Territory's 29,000 people. The capital, Road Town, is located on the main island of Tortola.

The population is predominantly of African descent. The remainder are of European, American and Asian extraction. Approximately half the population are immigrants from other Caribbean islands. The majority of the population is Christian. English is the main language and Spanish is the second most widely used language.



Government

Discovered by Christopher Columbus in 1493, the islands came into British possession in 1666 when planters took control from the original Dutch settlers, and have been a British colony since 1672. The Constitution provides for a Cabinet comprising the Premier, four other Ministers and one ex-officio member, the Attorney General. Cabinet is responsible for the formulation and implementation of policy, though the Governor has responsibility for external affairs, defence, internal security, aspects of the public service and the administration of the courts. The House of Assembly comprises 13 elected members, nine representing individual districts and four elected by a territory-wide vote. The Attorney General, an appointed official, is also an ex-officio member of the House of Assembly. Elections are held at least every four years and the last election took place in November 2011.



Roadtown
Credit: Tony Bates

Economy

The main pillars of the economy are financial services and tourism. The financial services sector has grown rapidly in the last decades and now generates about 60% of total government revenue. The Territory specialises in international business companies and has a dominant share of around 45% of the global market for this product. By the end of 2011 there were in excess of 450,000 registrations. Tourism accounts for 30% of GDP.

The Territory is known for its numerous white sand beaches as well as being one of the world's greatest sailing destinations. Agriculture and manufacturing each account for less than 5% of GDP.

≫ The Territory specialises in international business companies and has a dominant share of around 45% of the global market for this product. ≪

Key facts

Currency:	US Dollar
Population:	29,537 (2010 estimate)
Capital:	Road Town (Tortola)
Government Website:	http://www.bvi.org.uk/

Front cover photographs

Left:
Hamilton, Bermuda
Credit: Alfred Wekelo

Right:
Neko Harbour, British Antarctic Territory
Credit: iStockphoto



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Leader of Her Majesty's Loyal Opposition

Response to Commission of Inquiry Letter

dated May 17, 2021

Prepared by:

Honourable Marlon A. Penn

Leader of Her Majesty's Loyal Opposition

(8th District Representative; Member, National Democratic Party)

Mobile: [redacted]

Email: [redacted]

June 11, 2021

Commissioner
The Rt Hon Sir Gary Hickinbottom
BVI International Arbitration Centre
3rd Floor, Ritter House
Wickham's Cay II
Road Town, Tortola.

ufs Richard G Rowe and Daniel Fligelstone Davies
Silk Legal (BVI) Inc
30 DeCastro Street
Road Town, Tortola.

Dear Commissioner Hickinbottom,

I refer to the letter dated May 17, 2021 from the "Commission" addressed to Silk Legal (BVI) Inc, advising that members of the House of Assembly of the Virgin Islands have "participant status' and that the "Commission" would like to hear the views of "members" on certain matters.

Before I get into the matter of expressing my views, I feel compelled to advise that my response is that as Leader of the Opposition, who represents the National Democratic Party in the House of Assembly, you ought to be aware that there other members of the Opposition of different political parties. Therefore, I cannot agree to a "Position Statement" as it is termed from the Members as a whole.

Commissioner Hickinbottom, I acknowledge that good governance is the cornerstone of any well-functioning government in successful democracies. As such, I regard the practice of good governance as not only critical for the overall development of our society, but especially necessary to keep the trust of the people we serve.

Today in the British Virgin Islands, one of our primary benchmarks of good governance rests with The Virgin Islands Constitution Order 2007. That was some 14 years ago. Our society has since progressed to where further constitutional advancement is merited. Accordingly, as an elected official dating back to when I was first elected to the House of Assembly, I have always sought to give priority to improving governance through systemic and institutional changes to ensure that government works better for all.

Commissioner Hickinbottom, I acknowledge the questions that have been put before "Members" and provide my views in the attached document and in the following areas; not necessarily in seriatim, but in a manner consistent with how I wish to express my views. However, I have provided a reference table below where you can find answers in my response to the questions raised. I welcome the opportunity to further discuss these matters with you.

1. Governance, Good Governance and Poor Governance
2. Constitutional Advancement
3. Legislative Reform and Strengthening Institutional Practices
4. Government Operations and the Public Service
5. Law and Order
6. Safety and Security
7. Communications

Questions	**Answers**
(1) What do you understand by the term "good governance"?	See my section 1. Governance, Good Governance and Poor Governance.
1. What do you understand by the term "poor governance"?	See my section 1. Governance, Good Governance and Poor Governance.

2. To what extent do you consider good governance to be important in sustaining public confidence in all elements of government?	See my section 1. Governance, Good Governance and Poor Governance.
3. As a member of the House of Assembly, what role, if any, do you have in ensuring there is good governance and how have you carried out that role?	Advocating for constitutional advancement, legislative reform, strengthening policies and practices of the government departments and statutory bodies and further developing the civil service and police force. See my sections; 2. Constitutional Advancement, 3. Legislative Reform and Strengthening Institutional Practices, 4. Government Operations and the Public Service, 5. Law and Order and 6. Safety and Security. 7. Communications
4. What mechanisms, statutory or otherwise, make up the current system in place in the BVI to ensure good governance?	See my sections; 2. Constitutional Advancement, 3. Legislative Reform and Strengthening Institutional Practices, 4. Government Operations and the Public Service, 5. Law and Order and 6. Safety and Security. 7. Communications

5. What do you consider to be the strengths and weaknesses of that system?	See my sections; 2. Constitutional Advancement, 3. Legislative Reform and Strengthening Institutional Practices, 4. Government Operations and the Public Service, 5. Law and Order and 6. Safety and Security. 7. Communications
6. What steps do you as Members of the House of Assembly consider should be taken to promote the strengths and remedy the weaknesses you have identified so as (if you have answered (4) above in the positive) to sustain public confidence in all elements of government?	See my sections; 2. Constitutional Advancement, 3. Legislative Reform and Strengthening Institutional Practices, 4. Government Operations and the Public Service, 5. Law and Order and 6. Safety and Security. 7. Communications
7. What are the standards by which good governance is currently measured in the BVI?	Good governance is currently measured through public perception and the elections process. Where a government is seen or not seen to be practicing good governance, it is removed through the election cycle.

8. In what way, if any, do you consider those standards to be insufficient?	If a government is seen not to be practicing good governance, the voters have to wait until the next election cycle to remove that government. There are limited mechanisms in place to put checks and balances on a sitting government.
9. What steps do you, as Members of the House of Assembly, consider should be taken to ensure that the standards of governance in place will sustain public confidence in all elements of government?	See my sections; 2. Constitutional Advancement, 3. Legislative Reform and Strengthening Institutional Practices, 4. Government Operations and the Public Service, 5. Law and Order and 6. Safety and Security. 7. Communications

Yours Truly,

…….....

Hon. Marlon Penn
Leader of Her Majesty's Loyal Opposition
(8th District Representative; Member, National Democratic Party)

cc: Hon. Mark Vanterpool
(4th District Representative; Member, National Democratic Party)

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1. GOVERNANCE, GOOD GOVERNANCE AND POOR GOVERNANCE

Good governance is not merely a buzz word, not something you say or tout. It is something you do! It is a form of governance that should be incessantly pursued and practiced.

United Nations Economic and Social Commission for Asia and the Pacific ("ESCAP") defines Governance as the process of decision making and the process by which decisions are implemented (or not implemented). It is the complex process where Governments and Government bodies wield power, and enact and promulgate public policies which directly affect human and institutional interactions, and economic and social development.

Governance is a system and process, not a single activity and, therefore successful implementation of a good governance strategy requires a systematic approach that incorporates strategic planning, development and, effective implementation of laws and policies, checks and balances on power and authority and, regular elections.

In the context of national governance, and of a democratic society such as the Virgin Islands, I am of the view that good governance should comprise the following major characteristics:

a) Participatory
b) Consensus oriented
c) Accountable
d) Transparent
e) Responsive
f) Effective and Efficient
g) Equitable and Inclusive
h) Follows the rule of law

Good governance is responsive to the present and future needs of society. It centres on how governments conduct public affairs, manage public resources and, the responsibilities of governments to meet the needs of the masses as opposed to a select group in society.

When all of the above characteristics of good governance are in place, decisions made and implemented are always for the common good, there is the proper and effective utilisation of resources, corruption is minimised, the views of minorities are taken into account, and the voices of the most vulnerable in society are heard.

Poor Governance is the opposite of the aforementioned. It results from the lack of adherence to good governance principles, policies, and practices. For example lack of transparency and accountability are bad practices that undermine confidence in our government and governing institutions. Ultimately, non-adherence to the principles of good governance could result in corrupt and other nefarious practices; and well ultimately retard social and economic progress.

2. CONSTITUTIONAL ADVANCEMENT

Good governance cannot exist in a vacuum. Its fundamental basis is underpinned by the laws and, rules which govern our Territory. At the highest level, this is our Constitution. Over the years we have had various constitutional changes culminating in the latest "The Virgin Islands 2007 Constitution" which reflects our advancement as a territory and our desire for greater autonomy to manage our affairs.

I believe that a Constitutional review is necessary and is both an enabler and a prerequisite to a deepening of the democratic institutions of government, as well as to enhance good governance, transparency and, accountability which will ultimately deliver political, social and economic maturity. There are a number of further advancements and changes to our constitution that should be explored as a means to improving our Governance. Among others these are:

a) The introduction of term limits for certain elected representatives and particularly the role of Premier. This will ensure that that the territory has the benefit of diverse competencies at the highest level of leadership.

b) More clearly articulating the role of and responsibilities of the Leader of the Opposition and, institutionalising an "Office of the Leader of the Opposition" as a means to driving and improving accountability. Currently the Constitution merely speaks to the appointment of the Leader of the Opposition. The Leader of the Opposition should be vested with clearer roles and responsibilities as well as with institutional support and resources to effectively carry out those responsibilities.

c) The appointment of the Leader of the Opposition as Member of the National Security Council (NSC); or alternatively providing mechanisms for greater participation or input on matters of national security; by the Leader of the Opposition. This will allow for greater and wider participation from an additional Member of the House of Assembly (HOA), who represents the views of the wider BVI population. In addition, we would like to have a representative from civil society as a member the NSC to provide greater perspective from the population.

d) Increase the number of Ministers (through relevant amendments to the Constitution) so as to allow for a larger number of Ministers to manage the voluminous and complex ministerial portfolios. This could lead to greater efficiency, effectiveness, and responsiveness as well as greater participation.

e) Require the Speaker of the House of Assembly to be chosen only from among the elected members of the HOA. This will allow for greater accountability to the people of the Virgin Islands who elected that Member to the HOA (and therefore better governance of the HOA), rather than the intrinsic allegiance that may arise if a public member were elected as Speaker by the governing party.

f) The elimination of powers that could be unilaterally invoked by the United Kingdom, such as Orders in Council. The exercise of that power (actual or threatened) is wholly inconsistent with key characteristics of good governance which demands that governance is participatory, consensus oriented, equitable and inclusive. For example, the UK's decision to unilaterally impose public registers of beneficial ownership on its Overseas Territories (OTs) by threat of Order in Council underscores the need for a new and fundamentally different 'constitutional construct'; one better suited to the strategic goals and aspirations of BVI and its people.

g) Introduction of a bicameral system in the legislature to provide for greater scrutiny of bills and government policies.

h) Implement a recall device where voters can remove an elected official who is not properly discharging his/ her duties, from office before that official's term has ended.

i) Enactment of the Human Rights commission, which is highlighted in our 2007 constitution.

j) Constitutional changes to allow greater self-government by the local elected government:

   i. Cabinet to be only made up of elected members who have been appointed Ministers and, the Premier to chair Cabinet. In addition, Junior Ministers to be allowed to attend Cabinet and be part of the deliberations, even though they may not have a vote.
   ii. The portfolio of the Civil Service to be moved to an elected member who has been appointed Minister responsible for that subject area.
   iii. Clarification of the positions of Junior Ministers so that they can be appointed to any Ministry that requires additional management.
   iv. District councils to allow the "Sister Islands" and larger constituencies greater management of their local affairs.

3. LEGISLATIVE REFORM AND STRENGTHENING INSTITUTIONAL PRACTICES

Beyond constitutional reform, there are a number of other key legislative requirements that could be instrumental in achieving good governance, and, in particular to allow for greater transparency and accountability.

In BVI, over the years, we have made some strides in implementing some such legislation and best practices. I am proud that my National Democratic Party Government (NDPG) (both before and during my time as an elected member) implemented or supported the implementation of various pieces of legislation.

For example:

- The Public Finance Management Act and its Regulations, to provide for stronger and better management of our public finances.

- Our Protocols for Effective Financial Management furthers that objective through our commitment to transparency, accountability, value for money, medium-term planning and management of risks, and by adhering to standards of best practice in our financial management.

- In addition, recognising the close nature of our society, NDPG implemented the Register of Interests for elected members as a matter of transparency and openness. As well, NDPG started a few years ago to publish Cabinet decisions to provide an open window into our deliberations; subject to relevant safeguards.

- Greater efficiencies through technology, online publications and databases, and fully navigable websites could be helpful in maximising transparency in the Cabinet decision process. This was started under an NDP Administration where the Cabinet process was digitised and an eGovernment strategy formalised and adopted. We need to go further with the roll out of that strategy.

I believe and accept that there is more work to be done. This is why, I share the aspiration of many Virgin Islanders and, Members of the HOA that it is important to pass and implement a Freedom of Information Legislation, a strong Ministerial Code of Conduct, and an improved Procurement Legislation.

I also believe that it is imperative that we enhance the functions and resources of the Office of Director of Public Prosecutions, Office of the Attorney General Chambers, Internal Auditor Unit, Auditor General, the Complaints Commission and that of the Office of the Leader of the Opposition. These roles can be a strong driver of greater accountability.

Another important reform and necessary reform is the introduction of rules on campaign financing and a limit on political donations, in order to ensure free and fair elections and full transparency in the election process.

Scribing laws, regulations, rules and practices is important, however, these actions must be supported through effective implementation mechanisms, such as "regulatory impact risk assessments," which would provide for an important and informed process on the efficacy of such laws, regulations, rules and practices.

The likelihood of actually achieving good governance is greatly enhanced as we would then be in a better position to develop and improve the delivery and implementation mechanisms. Therefore it is imperative that we commit necessary resources, enhance our capacities, utilise more and greater technology and strengthen our institutional practices in order to achieve effective good governance.

4. GOVERNMENT OPERATIONS and the PUBLIC SERVICE

I firmly believe that the "Public Service" need to be "fit for purpose". The impact of the 2017 natural disaster events, and the recent Corona Virus pandemic caused significant disruption to government operations, detracting from incremental improvements over the past several years. The Governance Action Plan of a re-elected NDP Government shall include reforms to deliver greater continuity in the event of future disasters as well as greater efficiency and improvements in the provision of government services.

Among other things there needs to be a greater focus on:

a) Redesigning the public service by merging some critical services to create greater efficiencies, critically assessing the needs of the public, assigning the right resources to meet those demands and building capacity where there may be gaps.

b) Committing greater funding and resources to training and re-training of the public service to deliver "world-class services".

c) Implementing the automation of government services (E-government Initiative), including application and processing of permits and licenses and collection of fees and taxes.

d) Greening the public services, including reducing the use of paper files, by digitising government documents.

e) Implementing a performance monitoring framework for statutory bodies and ensuring that they are aligned to the overall goals of their portfolio ministry.

f) Formalising and encouraging public/private collaborations for services and initiatives that are best served by significant private sector input or support.

g) Fast tracking pilot E-government initiatives that focus on services that are critical to "Sister Islands" residents, such as paying fees and taxes and applying for licenses and permits, in order to minimise the need for travel to Tortola.

h) Instituting a programme that rewards persons for creating efficiencies and savings in government operations.

i) Introducing the already drafted "Public Service Management Act" that speaks to a modern public service and seeks to:

   i. Establish a high performing apolitical service that is responsive to Government priorities.
   ii. Focus on the delivery of services in a professional and non-partisan way.
   iii. Promote the effectiveness and efficiency of government ministries and departments.
   iv. Provide for the administration of service and the employment and management of officers and employees;
   v. Provide for the rights and obligations of officers and employees.
   vi. Promote equality of employment opportunity in the service.

5. LAW AND ORDER

Maintaining law and order is fundamental to our security, social well-being and the success of BVI's economy. Therefore, it shall be my mandate to continue to foster better collaboration between national security agencies. To this end, where possible, my actions will include a focus on:

a) Expanding the composition of the National Security Council to include the Leader of the Opposition and a representative from Civil Society so that a broader diversity of perspectives, views and expertise are brought to bear in making decisions.

b) Implementing institutional changes that will promote greater cohesion and cooperation between various agencies. In this regard, proposed actions include:

i. Integrating the criminal justice system so that courts, police and other law enforcement agencies work more harmoniously.
ii. Modernising the court system, including a family court to address domestic issues and a small claims court to assist debt collection.
iii. Strengthening law enforcement with the addition of necessary human and technical resources.

c) Supporting the Royal Virgin Islands Police Force initiative for greater community policing, in order to create a stronger bond with members of the communities that are being policed.

d) Identifying and addressing the root causes of crime and ongoing gun-related activities that are destroying families.

e) Seeking to eradicate the gun culture through building stronger relations between communities and law enforcement.

f) Appointing a Gun Violence Reduction Coordinator to have a singular focus on implementing strategies to reduce the incidence of gun violence. The coordinator will review the effectiveness of existing strategies/legislation, while ensuring that all social services are effective in dealing with the root causes of crime.

g) Introducing legislation to decriminalise cannabis possession for amounts under seven grams to ensure that young people are not prevented from future opportunities due to having a criminal record. To also allow persons who have been convicted of possession of the same, to have their conviction expunged.

h) Introducing an independent Commission of Investigations that is civilian staffed and aims to provide checks and balances on police powers.

6. SAFETY AND SECURITY

The Virgin Islands is a large ocean territory that is located in the hurricane alley of the Caribbean where it is subject to the annual hurricane season. It is also a territory that has limited available land space and a small population. These particular factors give rise to a number of threats that good governance must address, in order to protect citizens and visitors.

a) Large ocean territory – The Virgin Islands has an 80,000 sq km economic / fishing zone so we need to protect our oceans as well as land area. The threats include drugs and gun smuggling, illegal immigrants, poaching, border breaches, disasters at sea, natural disasters.

   Technology, partnerships with our neighbouring countries and assistance from the UK are needed to protect such a large area.

b) Disaster Preparedness – Hurricanes and potentially other natural disasters such as earthquakes and tsunamis are annual threats. Disaster preparedness and management needs to be elevated to a national security threat and the National Emergency Operations Centre ("NEOC") (with the Department of Disaster Management reporting to it) needs to become a more structured organisation with dedicated leadership, a budget and the necessary resources.

c) Health Security – COVID-19, the global pandemic has exposed the vulnerabilities that such pandemics or even multiple injuries say from a large gathering or visiting cruise-ship could have on the health system. Preparedness for global pandemic, local contagious diseases and multiple injuries / casualties that affect a large portion of the population should be elevated to a national security risk. The Health Emergency Operations Centre ("HEOC") needs to become a more structured organisation with dedicated leadership, a budget and the necessary resources.

d) Food Security – Needs to be classified as a national security risk and a plan of action developed so that the territory is able to sustain itself for a 6 month period in the event it is cutoff from the rest of the world. A policy and the capacity for self-sufficiency in a few key food groups, proteins (from long line / deep sea fishing), vegetables (from greenhouse farming), and water (from desalination) should be developed and financed.

e) Energy Security – Needs to be classified as a national security risk and a plan of action developed so that in the event of a disaster such as the 2017 hurricanes that the territory is able to generate electricity to support its citizens, visitors and the economy. A national policy for energy security to include key elements such as renewable energy, construction of additional generating capacity and substations, placing the connections to key loads such as supermarkets, water desalination plants, etc underground, fuel storage capacity for 2-3 months of electricity generation, etc needs to be developed and financed.

f) Economic Security – The 2017 hurricanes and now the COVID-19 global pandemic has exposed the need for multiple legs to the economy and the need for its diversification. An economic pillar should be defined and a policy developed that once an industry is identified as an economic pillar, that the education and workforce development systems and other infrastructure must be put in place to support that economic pillar. At any given time, even during a major disaster or a global pandemic, there should be at least two major industries operating in the Virgin Islands.

7. COMMUNICATIONS

Commissioner Hickinbottom, I recognise that better communication with residents and other stakeholders is important in delivering good governance. Accordingly, as an elected leader, I will continue to encourage greater engagement, participation and ownership of the territory's development.

Greater engagement can be had through:

a) Establishing a Unit for Public Outreach and Engagement within the Office of the Premier to spearhead a more effective approach to government communication that reflects 21st Century reality.

b) Continuing to diversify the mechanisms for the delivery of Government communications with a focus on more dynamic media channels.

c) Promoting a culture and practice of more public consultation in relation to major governmental initiatives and issues.

d) Reinstitute "Government on the Road" where at least once bi-annually, the Government conducts town hall meetings to update the public on the Government initiatives and to receive feedback from the public on its priorities, creating a continual awareness among our people that they have a right to participate in the Governance of their country.

e) Introduce a programme for residents' input towards proposing innovative and creative solutions for efficiency of government operations and make use of the referenda process to make decisions on sensitive issues. This could be spearheaded through the district councils mentioned earlier.

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

Deputy Governor's Report 2018

6 Months in Office | March - August, 2018



David D. Archer, Jr.
Deputy Governor

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Introduction



David D. Archer, Jr
Deputy Governor

In the spirit of accountability, transparency and the future of the Public Service where Freedom of Information legislation will be instituted, this six-month in office report provides an update on some of the salient parts of the work of the Deputy Governor, Mr. David D. Archer, Jr. since being sworn in on 1st March, 2018. The role of the Deputy Governor as identified in the Virgin Islands Constitution Order Section 38 is to:

- assist the Governor in the exercise of his or her functions relating to matters for which the Governor is responsible under section 60;
- assist the Governor in the exercise of his or her other functions, being functions in the exercise of which the Governor is not obliged to act in accordance with the advice of any other person or authority, as the Governor, acting in his or her discretion, may direct; and
- perform such other functions, not of a ministerial nature, as (subject to this Constitution and any other law) may be assigned to the Deputy Governor, at the request of the Premier, by the Governor acting in his or her discretion.

One of the primary roles of the Deputy Governor, in support of the Governor, is to oversee the management and development of the Public Service; to lead the Public Service to ensure the effective delivery of the Government's programmes, and to maintain the highest standards of service delivery and good governance.

The Office of the Deputy Governor is managed by an accounting Permanent Secretary (Mrs. Carolyn Stoutt Igwe) and oversees the following departments:

- Royal Virgin Islands Police Force
- Civil Registry and Passport Office
- Department of Disaster Management
- Supreme Court and the Commercial Court
- Magistracy
- Department of Human Resources
- Attorney General's Chambers
- Office of the Director of Public Prosecutions
- Archives and Records Management Unit
- Office of the Supervisor of Elections
- Sister Islands Programme Unit

The Permanent Secretary is responsible for reporting annually to the House of Assembly on the operations of the Deputy Governor's Office. This report is not intended to be an annual report on the work of the Deputy Governor's Office which is managed by the Permanent Secretary. Rather, the report speaks directly to the work of the Deputy Governor according to the Virgin Islands Constitution Section 38. The main mandate for the past six months in office has been to develop, lead and implement the Public Sector Transformation Initiative which became imperative after the hurricanes in September, 2017. The Government was forced to look at the way business was conducted with the intent of restructuring, re-engaging and transforming with a focus on accountability, transparency, productivity and good governance.

This report will expose areas of the role of the Deputy Governor which would not normally be produced for the knowledge of the public but is done in the spirit of the future state of the Public Service where the right to certain information can be requested as part of a framework that will support freedom of information in the future of the Public Service.

Public Sector Transformation

In October 2017, following the historical and unprecedented catastrophic events of the floods and hurricanes which ferociously struck the Territory, Cabinet approved a proposal for the Strategic Direction for an Improved Public Service. The strategic direction created a multidimensional approach to the revision of Government services and operations with specific focus on service-wide efficiency through: (1) establishing the strategic direction for an improved Public Service under the theme, **"A stronger more resilient, more effective Public Service"** and; (2) agreeing on the necessary policies that would aid with cost-saving measures of up to 25% less for the management of a more efficient Public Service**.**

Top Priority Initiatives

Outlined below are the top 14 initiatives that will be the focus of the transformation plan in the next quarter.

Broad Area	Initiative	Estimated Time Frame
E-Government	Complete comprehensive e-government strategy and plan	31st October, 2018
	Implement the e-government platform and legislative framework.	23rd December, 2018

	Telecommunications Regulatory Commission (TRC) to create a business case for fast, reliable wireless internet	31st October, 2018
	Implement the first fully automated e-government service	15th February, 2018
Good Governance Standards	Public Service Management Bill	January 2019
	Integrity Commission	23rd December, 2018
	Ministerial Code of Conduct	23rd December, 2018
	Data Protection Act	January 2019
	Freedom of Information Legislation	February 2019
Improved Customer Service	Public Service Customer Service Virtual Mailbox	15th November, 2018
	Liquor Licence Act	23rd December, 2018
	Customer Service Training for Frontline Officers (HM Customs and Immigration Department)	December 2018
Redesign of the Public Service	Completed green redesign concept of the Central Administration Complex	31st October, 2018
	Revitalisation of the Civil Service Association	30th November, 2018

Completed Transformation Initiatives

Outlined below are transformation initiatives that have been completed since the project's initiation.

Category	**Initiative**	**Ministry/Department**
Greening the Public Service	BVI Open for Business Online Map	Town and Country Planning
	Housing Recovery Assistance Programme Electronic Data Capturing Mechanism	Social Development Department
	Replanting Initiative - Seeds of Love	BVI Tourist Board
	Development of online portal to receive applications for seafarer documents	Virgin Islands Shipping Registry

	Continuous implementation of DOCOVA system throughout the Public Service	Department of Information Technology
Public/Private Sector Partnerships	Completion of Media Relations in Crisis for Disaster Preparedness for Media Professionals	Department of Information and Public Relations
	Teen Cert - ESHS Students Received Training	Department of Disaster Management
E-Government	BVI Open for Business Online Map	Town and Country Planning
	Development of online portal to receive applications for seafarer documents	Virgin Islands Shipping Registry
	Department of Information Technology's Network Infrastructure Update	Department of Information Technology
Rebuilding Security	UK Donation of two (2) Armed Response Vehicles	RVIPF
	Cabinet approval of $5 million towards country security with Security taskforce created inclusive of: Ministry of Finance HM Customs Immigration Department HM Prison BVI Airport Authority BVI Ports Authority Royal Virgin Islands Police Force	RVIPF
	Re-establishment of all courts	Deputy Governor's Office
Good Governance	Project Management Support Received from the United Nations Development Programme (UNDP)	Premier's Office
Improved Customer Service	BVI Open for Business Online Map	Town and Country Planning
	Completion of Media Relations in Crisis for Disaster Preparedness for Media Professionals	Department of Information and Public Relations

Alignment of Statutory Agencies	Hospitality Assured Programme Certification Completed	BVI Tourist Board
Broad Areas	Completion of Media Relations in Crisis for Disaster Preparedness for Media Professionals	Department of Information and Public Relations
	Project Management Support Received from UNDP	Premier's Office
	Formulation/Establishment of Transformation Communications Team	Deputy Governor's Office
	J. D. Edwards Accounting System Upgrade	Department of Information Technology
	Installation of 24 Weather Stations	Department of Disaster Management
	Review of the Territory's National Disaster Management Plan	Deputy Governor's Office
	Launch of the Public Service Transformation Initiative and Recognition Ceremony for Stellar Departments	Deputy Governor's Office

Quick Wins

Centralisation of Apostille Services

The Office of the Deputy Governor centralised Apostille Services on 1st March, 2018. Services were previously provided from two other locations—the Supreme Court and Civil Registry and Passport Office. An Information Paper was submitted to Cabinet in March, 2018 to inform them of the centralisation of services.

Revenue Collection

All revenue collecting departments have been enabled to receive payment for any Government Service as identified as a quick win for operational efficiency in Cabinet Memo No. 298/2017.

Redesign of Non-Legal Operational Components for Statutory Agencies

The Ministry of Finance has already conducted research on this matter and are now ready to hold discussions with the group that receive subventions from Central Government to ensure that the non-legal components of their operations are redesigned in comparison to the remainder of the Public Service.

Provision of Material Assistance Grants

The Ministry of Health and Social Development provided financial assistance to 235 households to obtain building material to commence repairs to their homes.

Implementation of Vehicle Usage Policy

Mid-April 2018, the Ministry of Communications & Works implemented a Vehicle Usage Policy for vehicles donated by the UK Government's Department of Foreign Investment Development which resulted in improved accountability and maintenance management.

Implementation of Vehicle Usage Policy – Existing Fleet

The Ministry of Communications & Works created a Vehicle Usage Policy for all Government fleet vehicles, to be managed by Facilities Management Unit which will improve accountability and maintenance management. The ministry has dialogued with the Ministry of Finance and fully implemented the initiative on 1st July, 2018.

Ceremony to Recognise Stellar Departments and Official Launch of the Public Service Transformation Initiative

The Deputy Governor spearheads the transformation of the Public Service initiative which will bring the Virgin Islands Public Service to world-class standards.

A ceremony to recognise stellar departments and officially launch the Public Service Transformation Initiative was held in March at the Tortola Pier Park. Following the September 2017 hurricanes, the event was designed to bring all public officers together to extend gratitude for the work they do, and to provide more information regarding the on-going Transformation Initiative.



Department Heads under the Ministry of Communications and Works

To promote and provide detailed information to the listening public and public officers, discussions on the Public Service Transformation Initiative were conducted by the Deputy Governor via radio and internet-based talk shows. Guest appearances were made on ZBVI Radio (780AM) and CBN Radio (90.9FM).

1. 20th March – 'Honestly Speaking' hosted by Mr. Claude Skelton-Cline
2. 21st March – 'BVI Have Your Say' hosted by Mr. Doug Wheatley and Mr. Natalio Wheatley (Sowande Uhuru)
3. 22nd March – 'Umoja' hosted by Mr. Cromwell Smith (Edju En Ka)
4. 24th March – 'Stay Woke' hosted by Ms. Zoe Walcott
5. 14th April – 'Pulse VI' with the Pulse VI team

To engage, inform and keep the Public Service involved, the Deputy Governor issues monthly messages.

Monthly Messages

To ensure information is relayed to public officers and the public about what is happening in the Office of the Deputy Governor and throughout the Public Service, the Deputy Governor issues a monthly message. Each message focuses on a different topic but relays information on an important area involving the Public Service.

In March, the Virgin Islands community was offered written words of comfort on the 6th month anniversary of the worst combination of hurricanes and storms ever experienced in the Virgin Islands and the entire Atlantic. A copy is attached at **Appendix A**.

In April, a video message titled 'Inside the Governor's Group' focused on the Public Service Transformation Initiative and its importance was created. The video can be viewed online by visiting: https://www.youtube.com/watch?v=hU_dlBm6tzU&t=28s.

In May, the views and opinions of public officers describing the importance of the Public Service Transformation Initiative were solicited. The video message for May's Monthly message can be viewed online by visiting: https://www.youtube.com/watch?v=v3uylNOjQNk&t=65s

In June, public officers were offered an extensive list of 30 Professional Tips offering advice in several areas including self-development and work ethic.

In July, 40 professional tips and advice which were received from professionals throughout the Public Service were combined to create the July monthly message.

Monthly Message Topics at A Glance:

March – Written Message: Message of Gratitude to the Public Service (Appendix A)

April – Video Message: Inside the Governor's Group - Deputy Governor's Monthly Message for April (https://www.youtube.com/watch?v=hU_dlBm6tzU&t=28s)

May – Video Message: Why is the Public Service Transformation Important? (https://www.youtube.com/watch?v=v3uylNOjQNk&t=65s)

June – Written Message: 30 Professional Tips by the Deputy Governor
https://www.facebook.com/DeputyGovernorBVI/photos/a.1758845307485558/1845202918849796/?type=3&theater

July – Written Message: 40 Professional Tips by the Public Service
https://www.facebook.com/DeputyGovernorBVI/photos/a.1758845307485558/1911015845601836/?type=3&theater

Another form of communication used to inform public officers of policy or legislation matters affecting the Public Service is the usage of informational circulars.

Circulars

The Deputy Governor is responsible for relating to the Public Service, matters of new policy and updates affecting the working lives of each public officer. Copies of these circulars are included as **Appendix B**.

Circular No. 2 of 2018 titled Tsunami Simulation Exercise "Caribwave18" issued on March 13, 2018, informed and encouraged public officers on the importance of participating in the CaribWave 18 tsunami simulation exercise coordinated by the Department of Disaster Management.

Circular No. 3 of 2018 titled Public Service Transformation Initiative Launch issued on 26th March, 2018 gave an overview of the event and informed public officers of their mandatory attendance.

Circular No. 4 of 2018 titled UK Sanctions and Anti-Money Laundering Bill and Public Officers Right to Assembly issued on 16th May, 2018 provided a background to the discussions on the Bill and informed public officers of their rights of assembly as laid out in the Virgin Islands Constitution Order (2007).

Circular No. 5 of 2018 titled Public Officers' Right to Assembly – Marches and Protests issued on 31st May, 2018 informed public officers of their rights of assembly as laid out in the Virgin Islands Constitution Order (2007).

Circular No. 6 of 2018 titled One Year Anniversary of Hurricane Irma – Service of Thanksgiving, Reflection and Restoration encouraged public officers to attend the commemorative service on the occasion of the "First Anniversary of Hurricane Irma" and informed of the early closure of Government offices, with the exception of essential services, to allow public officers to attend the momentous event.

To keep abreast of regional and international best practices, the Deputy Governor attends meetings, some of which are mandatory in the role.

Overseas Meetings and Conferences

Overseas meetings and conferences present opportunities for training, gathering information, gaining exposure to new and exciting ways to conduct business for the public, and most importantly, networking and establishing lasting partnerships.

Heads of Public Service (HOPS) Conference



The Deputy Governor attended the Heads of Public Service (HOPS) Conference in London from 16th – 20th April. The meeting provided Deputy Governors of all UK Overseas Territories an opportunity to discuss the on-going Conflict, Stability and Security Fund (CSSF) programme, public sector reform efforts, as well as their own challenges, and offered an opportunity to network and share best practices.

The meeting also served as the Deputy Governor's formal introduction to the Foreign and Commonwealth Office in his new role. The meeting included visits with Lord

Andrew Dunlop, (former Government Minister); Mr. Robert Chuck, Deputy Director of Civil Service Talent; Ms. Tina Hamilton and Ms. Janet Rodemark, Head of the Caribbean Team at the Foreign and Commonwealth Office; Mr. Benito Wheatley, Director and UK/EU Representative of the BVI London Office; and Ms. Kindra Pickering, one of the public officers currently studying in the UK.

At the HOPS Conference, discussions about what worked, what lessons have been learned, and what the priorities should be going forward for each Territory also took place.

The agenda covered:

- Summary of public sector challenges and priorities across the territories, particularly in a post-crisis content;
- International perspectives on Civil Service;
- Developing capacity in Public Services (Governance – Proprietary/ethics and talent management);
- Developing capacity in public financial management;
- Brexit implications, discussion and legislative update;
- Saving money for the taxpayer – Good procurement practice;
- Anti-corruption;
- Child safeguarding: Supporting territories to Strengthen systems;
- Prison reform – A partnership approach;
- Disaster management;
- The value of staff surveys; and
- Home Office Overseas Territories Coordination Unit.

The total shared cost between the BVI Government and the UK Government to attend this conference was approximately $10,393.88USD which included airfare, accommodations and subsistence.

Caribbean Centre for Development Administration (CARICAD)



The Deputy Governor travelled to Jamaica from 25th – 29th June to attend the 35th Annual Caribbean Centre for Development Administration (CARICAD) Board Meeting and the 5th Annual Caribbean Leadership Project Symposium in Jamaica.

During this visit, a meeting with Mr. Maurice Barnes of eGov Jamaica Limited took place and provided tips and guidelines to assist with the proper implementation of an e-government platform for the Public Service of the Virgin Islands.

Upon returning from the CARICAD conference, visions for the future state of the Public Service and the Territory were enlightened and renewed. Conversations about the progression of the Caribbean and a new outlook for the year 2030 began.

The total shared cost between the BVI Government and the Board of CARICAD to attend this meeting was approximately $4,057.94 which included airfare, accommodations and subsistence.

Local Meetings and Conferences

The Deputy Governor hosts several local meetings for Senior Managers', Heads of Departments, E-Government Steering Committee, District Officers' and Financial Investigation Agency Board. In August, a meeting was held to discuss and provide updates on the Border Security Plan with vital border security agencies including HM Customs, BVI Ports Authority, Immigration Department, BVI Airports Authority, HM Prisons and Police.

Additionally, the Deputy Governor attends meetings to discuss varying topics such as relationships between the private and public sectors and statutory agencies and private sector businesses. For instance, a meeting was attended hosted by Green VI titled Bug Out Stakeholders Meeting to discuss the importance of mosquito eradication. Similar meetings hosted by Green VI to discuss refurbishment of museums throughout the BVI also took place.

Local conferences that prove beneficial to the business of the Public Service are also attended.

Senior Managers Meetings

The Deputy Governor serves as the reporting head of all Senior Managers. To ensure the Public Service is functioning in a manner that promotes productivity, partnerships and the values of integrity in public life, the Deputy Governor holds monthly meetings on the first Friday of each month with the Senior Management Team of the Public Service. The Senior Management Team is comprised of the Deputy Governor, Financial Secretary, all Permanent Secretaries, Cabinet Secretary and the Director of Human

Resources. Outlined below are the main topics discussed at each of the monthly meetings held from March to June 2018. There was no formal meeting in August, however, discussions were held through various communication mediums.

Topics Discussed in March:

1. Transformation of the Public Service

Topics Discussed in April:

1. Ministerial Updates on Public Sector Transformation
2. Update on Cruise Readiness Project
3. Upcoming Heads of Department Meeting
4. 2018 Disaster Preparedness
5. Update on 2018 Budget

Topics Discussed in May:

1. Discussion: UK Public Register – Beneficial Ownership
2. Development and Recovery Agency
3. Ministerial Transformation Plans
4. 2018 Performance Objectives
5. 2018 Public Service Week

Topics Discussed in June:

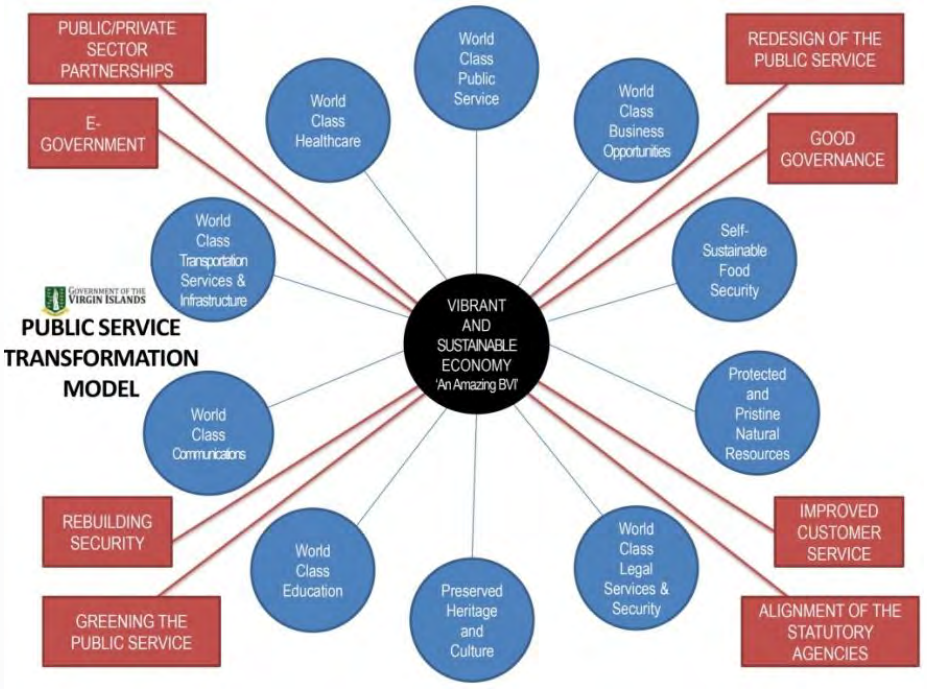
1. Role of Senior Managers in the Transformation, Recovery and Development Agenda for the Public Service and the Territory

Public Service Transformation Visioning Day

As an alternative to the July Senior Managers' Meeting, the Public Service Transformation Visioning Day was held on Friday, 13th July, 2018, as a day of visioning surrounding the Public Service Transformation Model. Using the Transformation Model, measurable future states were defined from the economic areas (blue circles) relating to ministries and departments and agreed by the leaders within the Public Service.



The Public Service Transformation Model was developed to provide a visual display of the Public Service Transformation Initiative. It shows the relationship between the broad strategies of the initiative and the overall economic benefits that will be garnered by the Territory when the initiatives are implemented successfully.



The outcome of the day was accomplished through visioning sessions. Groups were established, headed by a group leader and tasked with creating single or multiple visions to be voted on by all participants. The vision statement most identified by the participants was agreed as the main vision for the specific economic area. Plans on what the future state of the Public Service would look like in 2030 were also agreed. Each visioning group was also asked to identify short-term (12-month) initiatives to advance towards the future state of the identified economic area. The future state for the Public Service identified from the Visioning Day is as follows:

<u>Future State (2030):</u>

a. A Green Public Service with reliance on 85% green energy sources, using only sustainable and recyclable materials with an established waste to energy strategy.
b. A robust governance framework embedded in the Public Service allowing for transparency, accountability, openness, fairness, objectivity, honesty, selflessness, political impartiality, apolitical, leadership and integrity in conducting business in public life.
c. A talent management programme where all public officers are afforded the opportunity to reach their fullest potentials through learning and development opportunities.

d. A global exemplar in customer service with a Public Service organisation that provides accessible, professional, streamlined services that exceed customer expectation.
e. Clear and transparent guidelines with streamlined services, laws and processes.
f. An organisation that embraces innovation, technology and provides value for money.
g. An organisational structure that facilitates the effective delivery of services in a timely manner according to published standards.
h. An environment which provides growth, professional development and competitive benefits.
i. Fully automated services to the public using an e-government platform.
j. An embedded culture of national justice.
k. Trained officers who are fit for purpose, accountable, competent, efficient and responsive.
l. Employees who are motivated and feel valued allowing them to offer dedicated, selfless service to the organisation.
m. Centralised childcare centres and a gym on the premises of the Central Administration Complex for public officers.
n. An internationally recognised organisation ranking between number 1 and 5.

Heads of Department Meeting

The first Heads of Department meeting conducted since taking office was held on Friday 13th April, 2018 at the Government House Reception Hall. It commenced at 9:00 a.m. and concluded at 11:00 a.m. These meetings are held quarterly with the next meeting scheduled to take place in mid-September.

Topics discussed in April:

1. Reflection of Mr. Elton Georges, CMG, OBE by Permanent Secretary, DGO – Mrs. Carolyn Stoutt Igwe
2. Introduction of Senior Managers by Ministerial Human Resources Managers
3. Public Sector Transformation and Introduction of the Public Service Transformation Model by Mrs. Michelle Donovan-Stevens, Director, Department of Human Resources, Ms. Abbarah Brown, Personal Assistant to the Deputy Governor and Mr. David D. Archer, Jr., Deputy Governor
4. Human Resources Reports by Mrs. Michelle Donovan-Stevens, Director, Department of Human Resources and Ms. Kaisa Penn, Human Resources Manager, Organisational Development and Workforce Planning

E-Government Steering Committee Meetings

The purpose of the E-Government Steering Committee is to discuss, plan and implement the e-government platform for the Public Service. The members of the steering committee were selected and assigned by the Deputy Governor in collaboration with the Premier's Office which leads this component of the Transformation Initiative. Each member serves an important role in the planning and implementation of the e-government platform. Meetings were held on 6th February, 23rd March, 6th May and 19th June, 2018.

Members of the Steering Committee are:

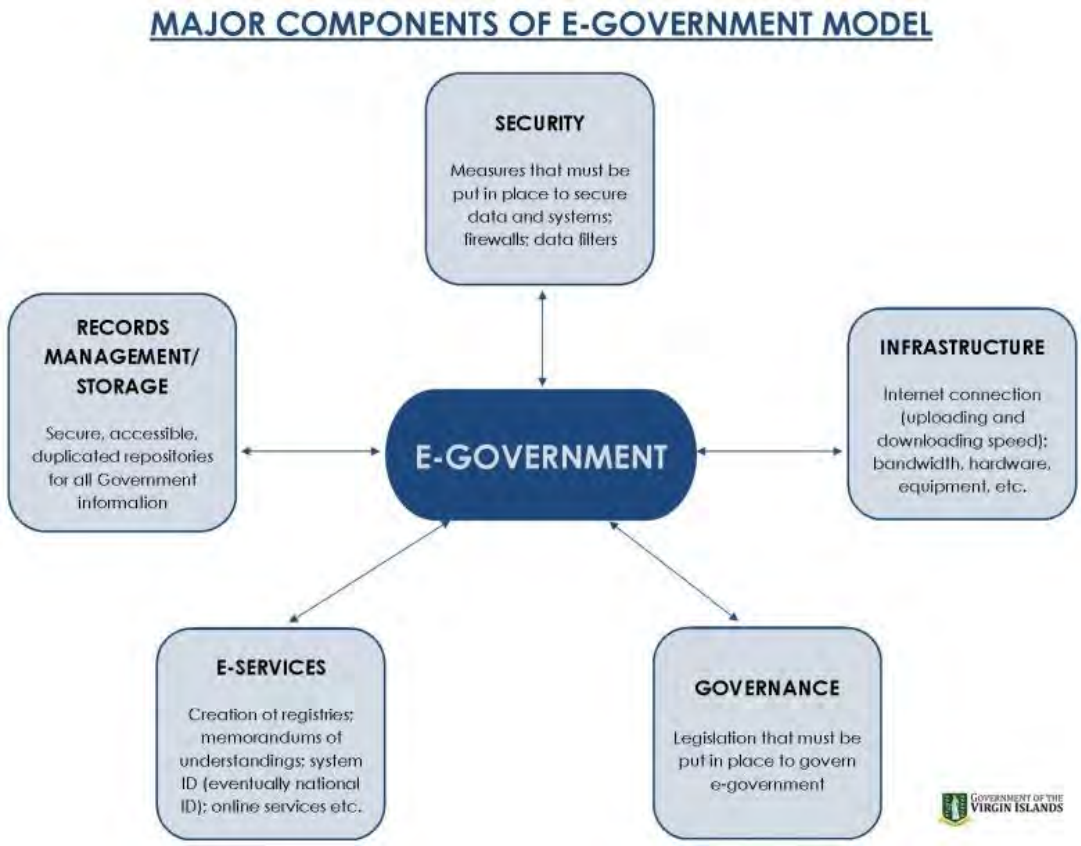
1. Junior Minister for Trade and Investment Promotion, Hon. Marlon Penn
2. Deputy Governor, Mr. David D. Archer, Jr.
3. Financial Secretary, Mr. Glenroy Forbes
4. Acting Permanent Secretary, Premier's Office, Ms. Dawn J. Smith
5. Acting Permanent Secretary, Deputy Governor's Office, Mrs. Carolyn Stoutt Igwe
6. Permanent Secretary, Ministry of Communications & Work, Mr. Anthony McMaster
7. Acting Deputy Secretary, Ministry of Communications & Works, Mr. Andrew St. Hilaire
8. Director of Information Technology, Mrs. Anna-Belle Skelton Malone
9. Deputy Director of Information Technology, Ms. Lucia Donovan
10. Chief Records Management Officer, Mr. Christopher Varlack
11. Programmer III, Department of Information Technology, Mr. Craig Creque

E-Government consultants were invited to meet the Steering Committee on 19th June. Dr. Ian Levy, Technical Director of the National Cyber Security Centre (NCSC) and Mr. Harry Wearne, Technical Director for Incident Response within the UK National Cyber Security Centre offered advice and suggestions to the Steering Committee regarding the implementation of the e-government platform for the Government of the Virgin Islands.

The E-Government Model shown below indicates the major components of the overall platform. These components serve as the main focal point for the strategic implementation:

1. Security: Measures that must be put in place to secure data and systems; firewalls; data filters
2. Infrastructure: Internet connection (uploading and downloading speed); bandwidth, hardware, equipment, etc.

3. Governance: Legislation that must be put in place to govern e-government
4. E-Services: Creation of registries; memorandums of understandings; system ID (eventually national ID); online services, etc.
5. Records Management/Storage: Secure, accessible, duplicated repositories for all Government information



FinTech Immersion Conference

On invitation from the Premier's Office, the Deputy Governor played an advisory role in the implementation of the first FinTech Immersion Conference facilitated by Professor Keith Carter of the National University of Singapore. The conference allowed private and public sector leaders the opportunity to be exposed to the world of digital technology. The conference covered the following subjects and involved a special session with the managers of the Public Service and Members of the Cabinet:

1. Strategy development best practices and cases;
2. Blockchain, ICOs, Exchanges, Artificial Intelligence;
3. Wealth and job creation opportunities for countries that can pivot;
4. Monetising data and developing unique funding streams;
5. Actionable Intelligence eco-system for data-driven decision making;

6. Possibilities and Roadmaps;
7. Digital disruption: How countries are leaping forward;
8. Increasing capacity and profitability, up-skill the population to compete in the new internet economy; and
9. Cybersecurity: The fit with customer journey and constituent support.

Policy Matters Advanced for Decisions

In relation to the Public Service Transformation Initiative, the Deputy Governor in collaboration with the Acting Permanent Secretary in the Office of the Deputy Governor advanced policy matters to Cabinet for decisions geared towards greater efficiency, improved customer service and the overall strategic direction of the Public Service.

Completed Polices

1. Centralisation of Apostilles Services

This occurred on 1st March, 2018. Apostille services were offered by a total of three offices prior to the passage of the 2017 hurricanes. As part of the Transformation Initiative, it was decided that centralisation of the services was necessary.

2. Emergency Communications and Hazard Monitoring Networks

This policy sought approval to expedite the public tender process. This will allow for the accelerated procurement of equipment needed to re-establish the Territory's emergency communications and hazard monitoring networks that were destroyed by Hurricanes Irma and Maria.

3. Declaration of Spaces for Magistrate's Court to be held on Tortola

An order was established to revoke the Magistrate's Court Order, 2008 which declared places where the Magistrate's Court could be held. Approval was sought for the Magistrate's Court Order, 2018 which provides for additional places where the Magistrate's Court could be held with greater flexibility.

4. Strategic Direction for an Improved Public Service – Deputy Governor's Office

Approval was sought to approve the strategic direction for an improved Public Service under the theme, "A stronger more resilient, more effective, Public Service".

5. Engagement and Motivation of the Public Service

Notice regarding the development and implementation of a staff survey to gather current data on public officers' thoughts about their job engagement, the impact of

the transformation process on public officers, and how to further transform the Public Service to be stronger, more resilient and more effective.

6. The Virgin Islands Hazard Impact Preliminary Readiness Report

This report was prepared to review the readiness of the Territory and agree on the strategic priority areas to be addressed prior to the peak of the 2018 hurricane season.

7. Disaster Management (Amendment) Act, 2018

Approval was granted to amend the Virgin Islands Disaster Management Act, 2017 to expedite the removal of derelict marine vessels from the Territory.

8. Development of an Estate Plan for Prioritising Critical Assets

The estate plan provided assessment and repair recommendations (short and long-term) for the estates that house the emergency services and border protection agencies.

9. DDM Smart App by Digicel

Approval was received for the creation and launch of the app by the Department of Disaster Management to provide live notifications of weather conditions in the BVI.

10. West End Ferry Terminal and Office Accommodations

The national security risk to employees working at the West End Jetty was identified, and a plan for better accommodation is being agreed.

11. Public Service Customer Service Virtual Mailbox

This initiative will offer an outlet for clients to provide feedback on the service they receive from Government officers and offices.

12. Charter for the Public Services of the Caribbean Community

This document is designed to identify the constituents of a professional and effective public sector. The CARICAD (Caribbean Centre for Development Administration) charter for its member states is designed to aid Public Services in the development as well as improve managerial abilities while transforming and modernising. The Government provided feedback on the contents of the Charter.

Although some policies have already been approved, there are a few that are still being reviewed by the requisite authorities. Some of those policies are presented below.

Policies Being Reviewed

1. **Witness Anonymity Legislation – DPP**

Legislation is being considered to enable a witness in criminal proceedings to be granted anonymity when giving evidence before a court. This is due to a reasonable fear on the part of the witness or another person of death, injury, retaliation, recrimination or oppression or serious damage to property, if the witness is identified.

2. **Interim Public Service Transformation Plan**

The Interim Public Service Transformation Plan provides guidance to all relevant stakeholders for the overall transformation process within the Public Service

3. **E-Government**

An e-government platform will be developed to support a modern, effective, efficient Public Service organisation, allowing for the ease of conducting services offered by the Public Service.

4. **Public Service Management Bill**

A comprehensive and modern Public Service management framework to establish appropriate mechanisms and structures. The bill will create broad policies on the employment, deployment and development of human resources, and the development of a management system in which the responsibility and capacity to make decisions are appropriately placed at various levels of management, guided by the principles of natural justice, separation of powers, rule of law, good governance and the fundamental rights and freedoms of individuals.

5. **Freedom of Information Act**

This Act will serve to provide members of the public with the right of access to official documents of the Government and public authorities.

6. **Public Service Transformation Visioning Day Report**

The completed Public Service Visioning Day Report will be presented to Cabinet for information, and to the Recovery and Development Agency to ensure true alignment with the Recovery Plan of the BVI. The information contained in this report will be utilised in each ministry and department to guide the development of strategic plans, work plans, and individual performance plans to ensure true buy-in for the visions created.

7. Integrity in Public Life

The introduction of an Integrity in Public Life Act will provide for the establishment of an Integrity Commission for the purpose of establishing probity, integrity and accountability in public life. It will seek to preserve and promote the integrity of public officials and institutions.

8. Ministerial Code of Conduct

The Ministerial Code is a document that sets out guidelines and standards for Government Ministers. It is expected that Ministers would execute their duties according to the highest standards of constitutional and personal conduct.

9. Purchase of Elections Technology (Voting Machines)

Approval is being requested for the use of election technology (voting machines) for the 2019 General Elections.

10. Visa Waiver Policy

Approval will be sought to strengthen the visa waiver policy and to create a one-stop shop for visa matters by transferring the processing of visa waivers to the Civil Registry and Passport Office.

11. Liquor Licence Bill

The new Bill will seek to increase the number of sittings throughout the year and decrease processing time by appointing a licensing board to receive, review and make decisions on applications. Licenses are proposed to be valid for one year and will eliminate the need for temporary liquor licenses issued by the Governor.

12. Police Act

The revised Police Act consolidates amendments, regulations and codes of practice, along with recent developments in police terms and conditions, advances in crime-fighting technology and the professionalisation of the constitutional role of the RVIPF.

Appointments as Acting Governor

In accordance with Section 37 of the Virgin Islands Constitution Order, 2007 which states:

"During any period when the office of Governor is vacant, or the Governor is absent from the Virgin Islands or is for any other reason unable to perform the functions of his

or her office, the Deputy Governor shall, during Her Majesty's pleasure, act in the office of Governor and shall perform the functions of that office accordingly."

As such, Mr. Archer has served as Acting Governor for the periods:

- 29th March to 3rd April
- 4th April to 13th April (Deputy to Governor)
- 17th to 26th May
- 12th to 24th July
- 12th to 27th August

Courtesy Visits

In the role of Deputy Governor and Acting Governor, courtesy visits are needed. Courtesy visits are often made when dignitaries from other countries are visiting as a form of respect to the local authority. Additionally, some courtesy visits would provide opportunities to establish relationships that may benefit the Public Service in the future.

During the first month in office, the Deputy Governor paid courtesy visits to Ministers of Government, Members of the Judiciary, Senior Managers, and Heads of Departments, Units and Statutory Agencies under the Governor's Group. The intent was to foster a positive working relationship.

Additionally, courtesy visits with individuals and organisations, both locally and overseas, have taken place:

1. 8th March – Mr. Ruari Bourke, Secretary of BVI Bar Association and other members
2. 23rd March – Courtesy lunch with Justice David Chivers, Justice Vicki-Ann Ellis and Justice Kim Adderley
3. 4th April – Director, BVI Tourist Board, Mrs. Sharon Flax-Brutus
4. 5th April - Visited by the Lion's Club District Governor, Mr. Sherwayne Greenidge, President, Mr. Carvin Malone and other honourable members of the BVI Lions Club.
5. 13th April – Visited by Mr. Stephen O'Malley, Resident Representative of United Nations Development Programme (UNDP) who provided recovery support to the Territory

6. 15th April – Visited by Mrs. Valerie Martens-Monier, Conservator from CARBICA (Caribbean Regional Branch of the International Council on Archives) in support of Records and Information Management Month activities
7. 9th May – Visited by Mrs. Caroline Fawkes, Supervisor of USVI Elections, Mr. Wesley Willis, Business Development Manager of Elections Systems and Software, and Mrs. Sherry Mendges, Sales Support Specialist to give a brief overview of electronic voting systems.
8. 20th June – Courtesy visit and informative meeting with Incoming District Director of Toastmasters International for the Caribbean Region, Ms. Anita Ramprasad to discuss the possibility of creating a Toastmaster's Club within the Public Service
9. 12th July – Visited by Mr. Alex Musson, BVI Debt Advisor retained by the Government of the Virgin Islands to advise on debt related matters including debt raising in relation to the proposed UK guarantee.
10. 12th July – Visited by Mr. Vikas Dubey, Representative from NewGen Software (Coordinated by Archives and Records Management Unit)
11. 19th July – Visited by Be Voyageur LLC, a non-profit organisation that assists worldwide with recovery efforts after natural disasters
12. 20th July – Visited by Ms. Marie Legault, High Commissioner of Canada in Barbados

Public Service Outreach

Focusing and providing emphasis on service continuity, public officers' needs and concerns throughout the entire Public Service, inclusive of the Sister Islands, while ensuring relationships are established with public officers are important and crucial to the successful transformation of the organisation.

Sister Island Visits

To make first-hand contact with public officers on the sister islands, the Deputy Governor travelled to the Sister Islands, Virgin Gorda in March and Jost Van Dyke and Anegada in April, to make note of the conditions after the hurricanes and to address issues and concerns public officers wished to discuss and bring to his attention.

Visits to Displaced Offices

Several Government offices were identified as displaced or working under difficult conditions after the hurricanes. His Excellency the Governor and the Deputy Governor visited these public officers in March where they expressed gratitude to public officers

for the work they have been doing and to offer encouragement as the Public Service continues to work on making conditions better.

The offices visited on that day were:

1. Public Works Department
2. Water & Sewerage Department
3. Environmental Health Division
4. Public Health Unit
5. HM Customs
6. Inland Revenue
7. BVI Postal Services
8. Conservation & Fisheries
9. National Parks Trust
10. Library Services
11. Magistrate's Court
12. Premier's Office
13. Ministry of Natural Resources and Labour
14. Ministry of Communications and Works
15. Treasury Department
16. Department of Information Technology
17. Survey Department
18. Town & Country Planning Department
19. Land Registry
20. Ministry of Finance

Public Officers and the public are also kept abreast of happenings in the Office of the Deputy Governor and the Public Service with the establishment of social media accounts with Facebook, Instagram and Twitter.

Social Media

Regular postings are made on all accounts about happenings in the Public Service, the Office of the Deputy Governor, throughout the Territory, Caribbean and World. Be sure to like and follow his social media accounts.

Facebook - @DeputyGovernorBVI (http://fb.me/DeputyGovernorBVI)
Twitter - @DeputyGovBVI
Instagram - @DeputyGovernorBVI

Community Outreach and Involvement

The Deputy Governor continuously engages with non-profit and other community-based groups to offer his support. He has attended events and participated in activities including:

Events

1. 8th March – BVI Finance: 'Opportunities for the BVI in Asia Cocktail Event' with speakers Mr. Ian Mann, Harneys and Ms. Dawn Smith, Ag. Permanent Secretary, Premier's Office
2. 19th March – End of Term Dinner for Justice Barry Leon
3. 22nd April – BVI Earth Day Celebration
4. 5th May – Greencrete VI's 5th Anniversary Celebration and Launch of New Products
5. 11th & 12th May – BVI Charter Yacht Society Mid-Year Charter Yacht Show
6. 9th June – Queen's Birthday Parade Celebration
7. 14th June – Official Celebration for BVI Athletes
8. 15th June – Investiture Ceremony for Mrs. Monica Allen on receiving the British Empire Medal
9. 21st June – BVI Red Cross Medal for Service and Bravery Ceremony to show support to public officers who received awards for their service during and after the 2017 storms.
10. 2nd July – Territory Day Ceremony
11. 6th July – Anegada Community Meeting with His Excellency the Governor and the Department of Disaster Management
12. 21st August – Congratulatory Ceremony for Chevening Awards Recipients
13. 24th August – A Taster's Delight Launch Event hosted by Tortola Pier Park

Speaking Engagements

1. 29th March – Class of 2000 'Guess Who's Coming to Dinner' event
2. 6th July – Anegada Community Meeting hosted by the Department of Disaster Management and His Excellency the Governor
3. 22nd August – Virgin Islands CDM Strategy and Country Work Programme Stakeholder Consultation Opening Ceremony
4. 24th August – M.A.L.E (Mentoring Anointed Leaders Everywhere) Summer Camp 2018 as a guest speaker to offer words of encouragement
5. 26th August – Cane Garden Bay Baptist Church Rededication Ceremony

Conclusion

The contents of this report are meant to provide information on the operations of the Office of the Deputy Governor. There are a variety of good governance initiatives including the Ministerial Code of Conduct and Human Rights Commission that are currently being championed by this office. Along with those initiatives, the Public Service Management Bill, Integrity Commission, Register of Interests and Freedom of Information (FOI) Bill are priorities to complete the full circle of a good governance framework.

When this takes place, there will be a legal framework for the work of the Public Service and with FOI, the public will have the right to certain information which ensures a certain level of transparency and accountability within the Public Service. The composition of this report foresees that day and hopefully serves as a future model for the Public Service and its leaders.

A transformed Public Service remains a priority, as being between number 1 and 5 in the world in certain services is a vision to be achieved by the year 2030. With the human capacity within the Public Service and the continuous exposure to international best practices, the Public Service will get there! Transformational initiatives are already taking place and persons' eagerness to be better is evident. Service to clients is a priority and the e-government platform with a focus on digital services delivered is foundational to the success of the Transformation Initiative.

Notwithstanding, the approach to this transformation is to build people while simultaneously building programmes and projects. Long lasting change can only take place when the people driving the transformation also transform. The Public Service is on its way and the choice of not being successful is non-existent, because a successful service drives a successful economy. A stronger, smarter, greener, better and more efficient and effective BVI is therefore at the forefront of the work that must be done in the Public Service.

The successful relationship between ministries and departments with the Recovery and Development Agency is paramount to a transformed Public Service and a newly recovered and developed Virgin Islands. With the competence of Senior Managers, Department Heads and the body of public officers, there is confidence that the foundation for an exceptional Public Service has already been laid. The plan is to merge

this competence with a love for our clients and deliver services with pace, passion and empathy for those we serve.

Thank you for reading this report and should there be questions or comments about the contents of this report, please email the Deputy Governor at DArcher@gov.vg.

Thank you.



David D. Archer, Jr
Deputy Governor

Appendices

1. **Appendix A – Deputy Governor's Monthly Messages**
   a. March
   b. June
   c. July

2. **Appendix B – Office of the Deputy Governor Circulars**
   a. Circular No. 2 of 2018 – Tsunami Simulation Exercise "Caribwave18"
   b. Circular No. 3 of 2018 – Public Service Transformation Initiative Launch
   c. Circular No. 4 of 2018 – UK Sanctions and Anti-Money Laundering Bill and Public Officers Right to Assembly
   d. Circular No. 5 of 2018 – Public Officers' Right to Assembly – Marches and Protests
   e. Circular No. 6 of 2018 – One Year Anniversary of Hurricane Irma – Service of Thanksgiving, Reflection and Restoration

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

DEPUTY GOVERNOR'S MONTHLY MESSAGE FOR MARCH

On this the 6-month anniversary of Hurricane Irma, I write to extend my regards, care and comfort to you, your families and the persons you interact with in the community. After six months, I was able yesterday to return to my home and sleep under my own roof, as construction continues. While I felt good about being able to do so, I know that there are also persons not as fortunate. I empathize with you!

Immediately, my mind and heart went to the Virgin Islands Community, but specifically, to you as Public Officers. I have heard of your stories of struggle following the recent hurricanes and I know for some persons regardless of age or grade, it has been and continues to be difficult. I understand you!

I am aware that notwithstanding any personal struggles you might have, you have been called upon to transform the Public Service. It is important for you to know that if we collectively push through any personal challenges and engage ourselves and others around us, we can achieve greatness. It is therefore possible while we work on our personal responsibilities, for us to build a Public Service which is stronger, more resilient, more efficient and ready to be ranked with other world class Public Services in the World. This is a challenge I know each Public Officer can rise to. I have the confidence in you!

As your new Deputy Governor, I am pleased to be leading you during this period. You also need to know that in order for us to have a greater Public Service, we all have to do our part which might not always feel comfortable; but as a Public Service family we will do great things together. I am confident the Public Service has the human resources capacity, intelligence and competencies for us to become greater. I will support you!

In the upcoming weeks, my goal is to utilise all possible mediums to let you know I care, expect greatness from you and will do my best to create and maintain a Public Service that allows you to grow, dream, think big, make mistakes, be encouraged and always receive a hand towards a brighter you, Public Service and Virgin Islands. I will work with you!

Please email me at anewpuplicservice@gov.vg with your comments and feedback about transforming the Public Service. Continue to think highly about yourselves, the Public Service and the Territory of the Virgin Islands. I am here to serve you!

Sincerely,

David DaCosta Archer, Jr
Deputy Governor

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

30 PROFESSIONAL TIPS BY DEPUTY GOVERNOR

1. Always keep the customer as the focus when making decisions. Don't let the process distract you from your obligation to serve clients.
2. Never leave for tomorrow what you can do today. Be absolutely sure it cannot be done within the same day as the action affects someone's life.
3. When giving an answer of no, explain why. Persons have a right to know why you made the decision even if they do not agree.
4. View the development of your team as your most important role. Developing your team is also part of your "work" and should not be viewed as secondary.
5. Always see yourself in the role you want to become, and perform in your current role as if you have reached the next level.
6. Never be afraid to say I do not know or I need help. It is still professional to identify when you need support.
7. Find the people in your profession who are doing well and ask them to support you.
8. View your job as contributing to the overall success of your Territory.
9. As a public officer, my #1 role is to help people at all times.
10. Always research best practices in your field. Don't wait until you hear about it, research what is trending in your professional field.
11. Never forget to turn on your 'Out of Office' when on leave.
12. Return all telephone calls within 24 hours.
13. Without prompting, ask employees how they are doing.
14. Always ask for a deadline when given a task.
15. Ask your supervisor what is important to them and what they are trying to achieve.
16. When presenting an idea always have the pros and cons.
17. Your appearance is important when delivering the right message.
18. At the end of the day, you are always responsible for your own success.
19. Managers provide instructions while leaders inspire others to do.
20. Always anticipate where your supervisor is trying to go and present options before being asked.
21. Never try to just get by, do your task with a zeal for perfection.
22. Don't interrupt persons when they are speaking. Active listening requires patience.
23. Never use the word "but" after a compliment, it erases the strength and passion of the previous compliment.
24. To be a great leader, first serve someone else with all your might and grit.
25. Never be afraid to stand out and up for your beliefs, even if you stand alone.
26. Only share your most bizarre professional dreams with those who will support you. Keep quiet and work diligently on your plan of success.
27. Remember to thank those around you who helped in your achievements.
28. Never criticize your team publically; you are actually criticizing your leadership.
29. Stop to celebrate small accomplishments as you work towards the bigger task.
30. Spend less time defending your work and more time perfecting your work.

David D. Archer, Jr.

GOVERNMENT OF THE VIRGIN ISLANDS
Deputy Governor's Office

40 PROFESSIONAL TIPS

BY MEMBERS OF THE PUBLIC SERVICE

1. A light is only dim if it's shining on another light. It does not matter how dim a light is once in darkness it shines brightly. – *Mr. Giovanni Herbert*
2. Always answer all e-mails before the day is done, even if it's just an acknowledgement of the request. – *Ms. Natalie Hodge*
3. Always be inquisitive and try to learn new things. No matter how well you feel you know your job, there is always room to learn from others. – *Mr. Patrick Ormond (via Facebook)*
4. Always greet your clients with a smile, and make sure your attire speaks well of you. – *Ms. Ziina Hanley*
5. Always make a good first impression. – *Mrs. Sharon Jennings*
6. Always try to be a better version of yourself today than you were yesterday. – *Mr. Anthony McMaster*
7. Answer the phone with a smile. – *Mrs. Helen Seymour*
8. Be kinder than necessary, everyone you meet is fighting some kind of battle. – *Ms. Kasia Penn*
9. Be pleasant and respectful to your co-workers. – *Ms. Theresa Penn*
10. Be the best you that you can be; someday you will need someone like you. 'Maintain your professional posture at all times'. – *Mrs. Michelle Donovan-Stevens*
11. Be the excellence you want to experience. – *Ms. Abbarah Brown*
12. Be true to yourself. When making decisions, determine if doing something simply to satisfy a boss or a customer was the best thing to do versus actually doing the best thing. – *Mr. Christopher Varlack*
13. Be who you say you are both personally and professionally. – *Ms. Cara Christopher*
14. Character is who you are when no one is looking; integrity is your ability to say 'no'. - John Wooden – *Mr. Christopher Varlack*
15. Colossians 3:23 – "Whatever you do, work with all your heart, as working for the Lord, not for human masters." – *Anonymous*
16. "Don't take counsel of your fears or naysayers." - General Colin Powell – *Ms. Dawn J. Smith*
17. Don't whine about problems. Identify opportunities in the challenges and offer solutions. – *Ms. Theresa Penn*
18. Even if you don't win - keep a winning attitude. You may be your biggest enemy - Believe in yourself! Be your biggest fan!!! Be proud of who you are - your journey and your story. – *Ms. Linette Rabsatt*
19. Every day, ensure you add value to someone's life either by resolving an issue within the realms of Government whether it's related to your office or not. It might be by providing a listening ear or through words of encouragement; however it is done, never complete your day unless you have contributed positively to someone's life. – *Mr. Ronald Smith-Berkeley*
20. Everyday this is what I start my day with: Proverbs 3:5 – "Trust in the Lord, oh my soul, and lean not on your own understanding, in all your ways acknowledge Him and He shall direct your path." – *Dr. Marcia Potter*
21. Everyone makes mistakes, but never try to hide them and ensure that when you do make a mistake, you learn from it. – *Mr. Patrick Ormond (via Facebook)*
22. Get involved in all activities in your office; it builds camaraderie and personal growth. – *Mr. Vincent Wheatley*
23. Give without expectations. – *Mr. Cryton Brown*
24. Good communication goes a long way. – *Ms. Enid Lennard*
25. "I am a proud Public Officer. I keep God first, not in the middle, not through the pile, not at the end, but first so that I always remember to put others first." – *Mrs. Arliene T. Penn*
26. I have shared this with my senior staff: "If you are going to achieve excellence in big things, you develop the habit in little matters. Excellence is not an exception, it is a prevailing attitude." General Colin Powell – *Dr. Marcia Potter*
27. Isaiah 58:6 – 9 [6]"Is not this the kind of fasting (Public Service) I have chosen: to loose the chains of injustice and untie the cords of the yoke, to set the oppressed free and break every yoke?
[7] Is it not to share your food with the hungry and to provide the poor wanderer with shelter—when you see the naked, to clothe them, and not to turn away from your own flesh and blood?
[8] Then your light will break forth like the dawn, and your healing will quickly appear; then your righteousness will go before you, and the glory of the Lord will be your rear guard.
[9] Then you will call, and the Lord will answer; you will cry for help, and he will say: Here am I."
This has been my guide since the hurricane – *Anonymous*
28. James 1:5 – "But if any of you lacks wisdom, let him ask of God, who gives to all generously and without reproach, and it will be given to him." – *Mrs. Carolyn Stoutt Igwe*
29. Listen carefully. People want to be heard so you should give people a chance to explain their ideas properly. – *Ms. Meredith Fahie*
30. Maintain a positive attitude and inspire those around you. – *Ms. Theresa Penn*
31. Mediocrity is not a standard. Your work is a reflection of you and should always be done to the best of your ability. – *Ms. Kedimone Rubaine*
32. Never compromise your good work ethic because you never know who sees you as a role model. – *Ms. Sandra Ward*
33. "Never get so fascinated by the extraordinary that you forget the ordinary." – Magdalen Nabb – *Dr. Marcia Potter*
34. Pleasure in your job puts perfection in your work. – *Ms Cherryl Fahie*
35. "Progress comes from intelligent use of experience." - Elbert Hubbard – *Ms. Andra Phillip*
36. Be careful when using a fullstop to make sure it dosn't convey a message of sterness or aggression. Look again at your message to make sure the fullstop dosn't make it sound unintentionally menacing or uptight. – *Ms. Jennifer Flemming*
37. "See the light in others, and treat them as if that is all you see." - Dr. Wayne Dyer – *Mrs. Petrona Davies*
38. Sometimes you have to walk away from a problem to see the solution. It takes little or no effort to "TRY". We just need some confidence to get going. – *Ms. Linette Rabsatt*
39. Treat every task you are given as though it is of the utmost importance and do it efficiently and to the best of your ability, however unimportant it may seem to you. It may be important to others for reasons you are not aware of; in other words, do your best. – *Mr. Patrick Ormond (via Facebook)*
40. Treat everyone you deal with with respect. Everyone gets frustrated from time to time but showing anger is unlikely to lead to the result you want. – *Mr. Patrick Ormond (via Facebook)*

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

CIRCULAR

OFFICE OF THE DEPUTY GOVERNOR CIRCULAR NO. 02 OF 2018

FROM: Deputy Governor

TO: Attorney General
Financial Secretary
Cabinet Secretary
Permanent Secretaries
Heads of Department
All Public Officers

DATE: 13th March, 2018

SUBJECT: **Tsunami Simulation Exercise "Caribwave18"**

Good day, this message is **important** and can be **lifesaving**; please take it seriously.

By now many of you will be aware that on 15th March, 2018 we are expected to join other Caribbean countries, as well as the United States and Canadian east coast states in the annual tsunami response exercise "Caribewave18".

This year's exercise simulates a 7.6 magnitude earthquake in the Mona Passage just west of Puerto Rico. **This is an important exercise for us considering our vulnerability to earthquakes and tsunamis.**

The DDM will be coordinating various components of the exercise, and every government ministry, department and statutory agency needs to participate. Survival during these sudden onset events is highly dependent on your level of preparedness.

Considering the frequency of earthquakes that occur in the BVI and in the wider Caribbean, the tsunami advisory that was issued most recently, and the heightened alert issued on 12th March to indicate increased activity with *Kick 'em Jenny* (submarine volcano located approximately 8 miles north of Grenada); it is important that participation is taken seriously.

If you have not yet registered for this exercise, please contact DDM at 468-4198 **urgently** to obtain information as it relates to this exercise and the various evacuation routes identified throughout the Territory.

Government of the Virgin Islands | Central Administration Building | #33 Administration Drive | Road Town
TORTOLA VG1110 | VIRGIN ISLANDS

Tel: (284) 468-2195 | **Fax:** (284) 468-3198 | **Email:** dgo@gov.vg | **Website:** www.bvi.gov.vg

An accountability roll call will be done at the conclusion of the exercise. Let us ensure that we remain in a heightened state of readiness, and I look forward to full participation by all. Thank you.

I wish you the highest productivity for the balance of your day.

David D. Archer, Jr.
Deputy Governor

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

CIRCULAR

OFFICE OF THE DEPUTY GOVERNOR CIRCULAR NO. 03 OF 2018

FROM: Deputy Governor

TO: Attorney General
Financial Secretary
Cabinet Secretary
Permanent Secretaries
Heads of Department

DATE: 19th March, 2018

SUBJECT: **Public Service Transformation Initiative Launch – 26th March, 2018**

Good morning, I trust you had an enjoyable weekend and are motivated to serve with compassion, pride and energy.

As managers, your commitment to leading a transformed Public Service is critical if we are to be successful in achieving amazing results. We are in the process of transforming the Public Service, and you have been asked to lead this extremely important process.

To ensure you are fully prepared to lead the process and all public officers understand and buy-in to the concept, a ceremony is being planned to officially launch the initiative. The mandatory event is also designed to bring all public officers together to say thank you for the work they do, especially after the recent hurricanes. It is important that this is done.

The event is scheduled for Monday, 26th March, 2018 from 9:00 a.m. – 10:00 a.m. at the Tortola Pier Park lawn. The atmosphere will be a relaxed setting, filled with energy, enthusiasm and a renewed sense of direction for the Public Service. I trust you will see the importance of this event.

You are asked to encourage your staff to wear the team colours based on our Public Service Week teams, and you should ensure your staff assembles together with you at the event.

This event is mandatory for public officers except for essential services and teachers. Each office is asked to maintain a front level staff to provide answers to clients who may come to the office during the time of the event.

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Collectively, we will transform the Public Service one day at a time and one change at a time. I am excited to be your partner in this process.

Thank you for your support, and I look forward to seeing you and your teams at the event.

Sincerely,

David D. Archer, Jr.
Deputy Governor

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

CIRCULAR

OFFICE OF THE DEPUTY GOVERNOR CIRCULAR NO. 04 OF 2018

FROM: Deputy Governor

TO: Attorney General
Financial Secretary
Cabinet Secretary
Permanent Secretaries
Heads of Department
All Public Officers

DATE: 16th May, 2018

SUBJECT: **UK Sanctions and Anti-Money Laundering Bill and Public Officers' Right to Assembly**

Good day public officers, by now you should be aware of the current discussions taking place regarding the captioned Bill.

The purpose of this communication is to provide a background to the discussions on the Bill and to inform you of your rights of assembly as laid out in the Virgin Islands Constitution Order (2007).

The UK Sanctions and Anti-Money Laundering Bill introduces measures to tackle criminal activities, including money laundering across international finance. The Bill has the following objectives:

(1) To create powers for the government to make regulations to impose sanctions;
(2) To allow financial, immigration, trade, aircraft and shipping sanctions to be imposed;
(3) To allow for regulations to create exceptions and licences to allow activities to take place that would otherwise be prohibited or restricted by sanctions;
(4) To have ministerial and judicial review processes to allow individuals and organisations to challenge sanctions imposed on them; and
(5) To allow regulations to be made to update existing provisions on anti-money laundering and terrorist financing, particularly the Money Laundering Regulations 2017, to be updated after the UK's exit from the EU.

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Following the escalating situation with Russia, the UK Government tabled amendments which would enable sanctions to be imposed for serious human rights violations. Additionally, an amendment included a requirement for the Overseas Territories to implement public registers of beneficial ownership by the end of 2020.

The Bill started in the House of Lords. The new amendment was passed in the House of Commons and the Bill is now awaiting consideration of the amendments within the House of Lords. The discussion and decision on the Bill in the House of Lords will be on Monday 21st May, 2018. Please visit https://www.parliament.uk/education/about-your-parliament/how-laws-are-made/ for more information on the UK Parliamentary System and how Laws are made.

Regarding the current decision on the Bill, the Governor said, "I believe that the BVI is a well-regulated jurisdiction with an effective register of beneficial ownership (BOSSs) that is accessible by law enforcement. Since 2013, the BVI has made it clear that the jurisdiction is committed to implementing public registers when they become the global standard. "

In addition, the Premier said, "We cannot avoid the fact that this decision poses a significant reputational and economic threat to these islands and its financial services industry." He said the BVI has continued to meet information exchange and internal cooperation obligations to the UK and other countries to meet international standards throughout the international business industry. The current discussion around the Bill in the BVI has led to an a-political public protest being organised called the Decision March, on the foundation that if the Bill is passed, the imposition of an Order in Council to enforce the Bill is a breach of the human rights of the people of the British Virgin Islands and a violation of the constitutional freedom of the BVI to determine its financial future.

The Public Service acknowledges the importance of freedom of expression and of assembly and association which have been conferred on all persons by the Virgin Islands Constitution Order, 2007 (Sections 23 and 24).These freedoms are essential in a democratic society such as ours. But these rights are not absolute. In the case of Public officers, it is legally permissible for restrictions to be imposed on the enjoyment of these rights if those restrictions are reasonably required for the performance of their functions.

In light of the above and against the backdrop of the planned march scheduled for 24th May, 2018, public officers who intend to participate in the march are advised as follows:

(1) The Public Service will remain open on the date of the march from 8:30 am to 4:30 pm.
(2) Public officers wishing to attend the march may do so provided they have permission from their heads of Department, by obtaining leave in accordance with the established leave policies within the public service.
(3) Heads of Departments should not withhold the request for leave unless the request affects the proper performance of the functions of their organisations.
(4) Public officers who attend and participate in the march with the permission of their Heads of Departments will not be subjected to any organisational injustices from management or other public officers.
(5) Public officers who feel they have been denied attendance to the march for reasons unrelated to the functioning of the organization should report the same to the Director of Human Resources.
(6) Public officers who feel they have been subjected to organisational injustices from management or other public officers as a result of attending the march should report the same to the Director of Human Resources.

As Deputy Governor, I encourage public officers to be engaged in matters that could have impact on the Public Service, the Territory and themselves. Equally, I encourage exercising your constitutional and human rights.

The information provided is extensive and also serves as a reference document. If there is a need for further and personal clarity on the information provided, please email me at DArcher@gov.vg. Additionally, if departments wish to gather more information on the Bill, they may email the Assistant Secretary in the Premier's Office, Mr. Malvern Brathwaite at MBrathwaite@gov.vg.

Thank you.

David D. Archer, Jr.
Deputy Governor

P.S. For ease of reference, the relevant sections (23 and 24) of the Virgin Islands Constitution Order, 2007 are included.

Section 23 (Protection of Freedom of Expression) of the Constitution provides relevantly as follows:

(1) No person shall be hindered in the enjoyment of his or her freedom of expression.

(2) A person's freedom of expression includes freedom to hold opinions without interference, freedom to receive information and ideas without interference, freedom to disseminate information and ideas without interference (whether to the public generally or to any person or class of persons) and freedom from interference with his or her correspondence or other means of communication.

(3) Nothing contained in law or done under its authority shall be held to contravene this section to the extent that it is reasonably justified in a democratic society-

(a) in the interest of defence, public safety, public order, public morality or public health:

(b) for the purpose of protecting the reputation, rights and freedoms of other persons, or the private lives of persons concern in legal proceedings or proceedings before a statutory tribunals, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telecommunications, posts, broadcasting or public shows; or

(c) that it imposes restrictions on public officers that are reasonably required for the proper performance of their functions.

(4) For the purposes of subsection (3), "law" in subsection 3 includes directions in writing regarding the conduct of public officers generally or any class of public officer issued by the Government of the Virgin Islands.

Section 24 (Protection of Freedom of Assembly and Association) of the Constitution provides relevantly as follows:

(1) No person shall be hindered in the enjoyment of his or her freedom of peaceful assembly and association.

(2) The freedom of peaceful assembly and association includes the right to assemble freely and associate with other persons and, in particular, to form or belong to political parties or trade unions or other lawful associations for the promotion of his or her interest.

(3) Nothing contained in law or done under its authority shall be held to contravene this section to the extent that it is reasonably justified in a democratic society-
   (a) in the interest of defence, public safety, public order, public morality or public health:
   (b) for the purpose of protecting the reputation, rights and freedoms of other persons, or
   (c) that it imposes restrictions on public officers that are reasonably required for the proper performance of their functions.

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

CIRCULAR

OFFICE OF THE DEPUTY GOVERNOR CIRCULAR NO. 05 OF 2018

FROM: Deputy Governor

TO: Attorney General
Financial Secretary
Cabinet Secretary
Permanent Secretaries
Heads of Department
All Public Officers

DATE: 16th May, 2018

SUBJECT: **Public Officers' Right to Assembly – Marches and Protests**

Good day public officers, the purpose of this communication is to inform you of your rights of assembly as laid out in the Virgin Islands Constitution Order (2007).

The Public Service acknowledges the importance of freedom of expression and of assembly and association which have been conferred on all persons by the Virgin Islands Constitution Order, 2007 (Sections 23 and 24). These freedoms are essential in a democratic society such as ours, but these rights are not absolute. In the case of public officers, it is legally permissible for restrictions to be imposed on the enjoyment of these rights if those restrictions are reasonably required for the performance of their functions.

In light of the above and against the backdrop of any planned marches or protests, public officers who intend to participate are advised as follows:

(1) The Public Service will remain open on the date of marches and protests from 8:30 a.m. to 4:30 p.m.

(2) Public officers wishing to attend marches and protests may do so provided they have permission from their Heads of Department, by obtaining leave in accordance with the established leave policies within the Public Service.

(3) Heads of Departments should not withhold the request for leave unless the request affects the proper performance of the functions of their organisations.

Government of the Virgin Islands | Central Administration Building | #33 Administration Drive | Road Town
TORTOLA VG1110 | VIRGIN ISLANDS

Tel: (284) 468-2195 | **Fax:** (284) 468-3198 | **Email:** dgo@gov.vg | **Website:** www.bvi.gov.vg

(4) Public officers who attend and participate in marches and protests with the permission of their Heads of Departments will not be subjected to disciplinary action by reason of such attendance and participation.

(5) Public officers who have been denied permission to attend and participate in marches or protests for reasons unrelated to the proper performance of their functions or the functioning of the Public Service should report the same to the Director of Human Resources.

(6) Public officers who are subjected to disciplinary action in the Public Service for attending marches or protests should report the same to the Director of Human Resources.

As Deputy Governor, I encourage public officers to be engaged in matters that could have an impact on the Public Service, the Territory and themselves. Equally, I encourage exercising your constitutional and human rights.

If there is a need for further and personal clarity on the information provided, please email me at DArcher@gov.vg.

Thank you.

David D. Archer, Jr.
Deputy Governor

P.S. For ease of reference, the relevant sections (23 and 24) of the Virgin Islands Constitution Order, 2007 are included. Circular No. 5 of 2018 Page 3

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(a) in the interest of defence, public safety, public order, public morality or public health;

(b) for the purpose of protecting the reputation, rights and freedoms of other persons, or the private lives of persons concern in legal proceedings or proceedings before statutory tribunals, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telecommunications, posts, broadcasting or public shows; or

(c) that it imposes restrictions on public officers that are reasonably required for the proper performance of their functions.

(4) For the purposes of subsection (3), "law" in subsection 3 includes directions in writing regarding the conduct of public officers generally or any class of public officer issued by the Government of the Virgin Islands.

Section 24 (Protection of Freedom of Assembly and Association) of the Constitution provides relevantly as follows:

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(b) for the purpose of protecting the reputation, rights and freedoms of other persons, or

(c) that it imposes restrictions on public officers that are reasonably required for the proper performance of their functions.

GOVERNMENT OF THE VIRGIN ISLANDS
Office of the Deputy Governor

CIRCULAR

OFFICE OF THE DEPUTY GOVERNOR CIRCULAR NO. 06 OF 2018

FROM: Deputy Governor

TO: Attorney General
Financial Secretary
Cabinet Secretary
Permanent Secretaries
Heads of Department
All Public Officers

DATE: 6th September, 2018

SUBJECT: **One Year Anniversary of Hurricane Irma**
Service of Thanksgiving, Reflection and Restoration

Good day, today marks a very important day in the history of the Virgin Islands. It has been one year since our lives were significantly affected following the passing of Hurricane Irma.

On this background, the Government of the Virgin Islands will host a commemorative service on the occasion of the "First Anniversary of Hurricane Irma" today, Thursday, 6th September at the Central Administration Complex at 4:00 p.m. under the theme 'Service of Thanksgiving, Reflection and Restoration". The event will be commemorated through a series of reflections including songs, dances and remarks.

To allow public officers to attend this momentous event, Government offices, except for essential services will close at 3:45 p.m. Each office is asked to maintain front level staff to provide assistance to clients who may come to the office during the balance of the workday.

I urge and encourage each public officer to attend and participate in this event as we take time to give thanks and reflect on the significance of this day. I use this opportunity today to also thank you for the work you have done in helping the Public Service and the Territory to recover, rebuild and develop.

I look forward to your attendance. Thank you.

David D. Archer, Jr.
Deputy Governor

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GOVERNMENT OF THE
VIRGIN ISLANDS
Deputy Governor's Office

IN THE MATTER OF THE TERRITORY OF THE VIRGIN ISLANDS COMMISSION OF INQUIRY 2021
AND THE COMMISSION OF INQUIRY ACT (CAP 237) ("the Act")

POSITION STATEMENT – GOVERNANCE

Introduction

1. The Government took office on February 25, 2019, committed to change and renewal including of governance in the Virgin Islands. It won an overwhelming mandate for that change, gaining the support of 46.6% of the voting electorate compared to the 28.2% of its nearest rival, the outgoing NDP government.

2. This Position Statement, which is submitted by the seven Cabinet and junior ministers (the elected Government), is intended to indicate, at a general level, some of the structural difficulties and weaknesses the elected Government has faced in the Territory's governance since it came to office and to answer the questions posed by the Commission; it is not intended to be their full statement on these and the other matters under inquiry. While we have not set out our answers in the "examination question" form they have been asked, it is hoped those answers will become apparent from what follows.

3. Further, the identification of problems is not intended to imply that there are not considerable strengths within the system of government in the Virgin Islands when it is working well. Virgin Islanders are rightly proud of their history, their vigorous democracy and strong political tradition and identity, which have no doubt developed because of resilience born of geographical remoteness and of their own spirited activism.

4. Democratic elections are firmly rooted and there is a vigorous and proud political tradition of representative government, which is especially cherished because within

living memory it has had to be fought for. Civil society, much of it perhaps based on widespread participation in the Methodist Church, and its representative forms of governance, was active in this cause. For example, the Civic League was founded in 1938 to campaign for the restoration of the legislature, and the later campaign in 1949 by Theodolph Faulkner, a fisherman from Anegada, for the restoration of representative government to the Islands because he had been unable to find medical treatment for his pregnant wife on Anegada and had no representative with whom to raise his concerns, is widely remembered and celebrated. His actions, which gained strong support, and were accompanied by protests, led to the return of the legislative council in July 1950.

5. Similarly, the Positive Action Movement of the late 1960s, in which Mrs Patsy Lake was prominent, is remembered for its fight to reverse the UK Colonial Administrator's decision to sell a long lease to a British developer of Wickham's Cay and most of Anegada just before ministerial government was restored in 1967, causing the UK Government to buy back the lease from the developer.

6. The continuity of tradition runs all the way back to the time of slavery, in 1776, when the Quaker, Samuel Nottingham freed his slaves and gave them his estates in Tortola. The freed slaves then followed a practice of buying their fellow slaves' freedom from neighbouring plantations. The names many families now bear are the names of the former owners of the plantations where their ancestors had been enslaved. However, uniquely in the West Indies, in 1808, when the slave trade was abolished, most of the planters returned to Britain, abandoning their estates, and the slaves began to purchase the land from them, which became the pattern throughout the rest of the nineteenth century. The land these former slaves now owned and cultivated was the outward symbol of freedom, independence, and dignity. This tradition is important to understanding the proud sense of self-reliance, identity and belonging of the people of the Virgin Islands.

7. Furthermore, the Government, led by the Ministry of Health, with a clear statutory basis for its authority to assume this role, has dealt firmly and effectively with the Covid-19 crisis, and has ensured that the disease has been controlled while keeping people fed and free from destitution. During that time, democratic government has continued, the economy has been kept on a steady course, law and order has been maintained, and the

independent judiciary has continued to discharge its functions. The Virgin Islands' small society has proven resilient in the face of the devastation caused by Hurricanes Irma and Maria and by the pandemic, which have all occurred in the space of just three years.

8. We believe good governance to consist in capable, efficient, transparent, and democratically accountable institutions of government, able to plan effectively and formulate and successfully implement sound policies that are underpinned by the rule of law and the principles of good administration, such as fairness and proportionality. Ministers plainly have an important role to play in that endeavour as do *all* the constituent elements of government.

9. However, in the Virgin Islands, ministers are faced with significant structural difficulties that do not exist in the UK in that they are not fully responsible for "their own house" and all the matters on which the success of their government depends. Virgin Islanders are in a transitional stage of development towards a yet-to-be-chosen form of self-determination. Their democratic participation in their own government is limited. The Virgin Islands do not have a unified executive under a single authority accountable to their democratic assembly. Large areas of executive government are not under the control of ministers, and thus are neither transparent nor democratically accountable to those who are governed, and those areas that *are* devolved to the democratically elected local government are subject to control by the UK, as the administering state, both by constitutional and extra-constitutional means.

10. The nature of government is that it is not always possible, in delivering good governance and sound policy, easily to separate one area of government from another because they tend to overlap. It is also not difficult if so inclined, for one of the two authorities, advertently or otherwise, to impede or frustrate the initiatives of the other. The political implications for the elected Government mean that the only way that a government divided in this way can function effectively is if there is a genuine relationship of trust and a *sharing* of responsibility in which the locally elected institutions can have confidence their role is respected, even where there are disagreements, and that, in accordance with international law, there is a sincere commitment to *build up their capacities* for self-government where weaknesses exist.

A breakdown in trust at the heart of government

Political disagreements - the relationship with the UK Government

11. When it came to office, the new Government was committed to asserting and achieving greater autonomy and self-government for the Virgin Islands. It argued that the United Kingdom had "strayed" from the concept of a modern partnership set out in the 1999 and 2012 White Papers, "*Partnership for Progress and Prosperity"* and "*Security, Success and Sustainability",* which committed the UK to building the capacity of the Virgin Islands to govern themselves and making sure the constitutional arrangements worked effectively. It asserted the UK had repeatedly failed to respect the Constitutional settlement of 2007, which devolved responsibility for the management of economic and financial affairs to the elected BVI Government, *inter alia* by obliging it to sign the highly restrictive fiscal rules contained in the Protocols on Effective Financial Management in 2012 and by legislating to impose a public register of beneficial ownership in the Sanctions and Anti-Money Laundering Act 2018.

12. On 2 May 2019, the Premier was the first BVI Head of Government to address the Caribbean Regional Seminar on the Eradication of Colonialism [Annex 1]. Citing the preamble to the Virgin Islands Constitution Order Constitution 2007, which declared,

> "Affirming that the people of the Virgin Islands have generally expressed their desire to become a self-governing people and to exercise the highest degree of control over the affairs of their country at this stage of its development; and Noting that the United Kingdom, the administering power for the time being, has articulated a desire to enter into a modern partnership with the Virgin Islands based on the principles of mutual respect and self-determination…."

and the UK's duty in international law to complete decolonisation and facilitate the right to self-determination by "the progressive development" of BVI institutions [Article 73 UN Charter; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, ICJ GL No 169, 25 February 2019 at paras 146-7], he called for greater constitutional protections for self-government and invited the scrutiny of the United Nations Special Committee on Decolonisation in that process.

13. On 12 November 2020, in the Budget Speech, the Premier articulated the aspiration of the elected Government on behalf of the people of the Virgin Islands, drawing an analogy with developing nations,

> In its April 2020 report, the Commission on State Fragility, Growth and Development, chaired by former British Prime Minister, David Cameron, emphasises that the solution for states moving from a condition of weakness and fragility to one of being strong, are largely domestic and home-grown.
>
> International players and donors as well as domestic actors need to change the way development is approached, since international perspectives are often disconnected from what obtains and what is needed on the ground.
>
> There must be an emphasis on greater national respect and responsibility, but this will only work, according to the Cameron Committee, if citizens in developing countries are allowed to set out their national priorities – about where they are going as a country and who they want to be.
>
> The Committee says: ―Owning those priorities, learning from mistakes, combatting corruption, and demonstrating accountability are all crucial.
>
> This is why your Government has been so passionate about the development of our people and ensuring that once they meet the required qualifications for jobs – especially those that are at the leadership level in our institutions, where they can influence how the culture of the Virgin Islands becomes preserved and not watered down – Virgin Islanders must be enabled and encouraged to develop and manage their country.
>
> Whether we move to independence or some different relationship with the United Kingdom in the future, that journey and the work to get to that point must be continuous.

14. On 8 March 2019, given its analysis of the damage to the economic interests of the Virgin Islands, the elected Government brought judicial review proceedings against the Foreign, Commonwealth and Development Office (FCDO) in respect of the decision to direct the BVI Government to adopt a public register of corporate beneficial ownership.

15. In addition, with the support of the elected Government, a claim for constitutional relief, to vindicate their fundamental rights to privacy under Chapter 2 of the Virgin Islands Constitution, was commenced by two Virgin Islanders with business interests in the BVI, against the FCDO in respect of the decision. That litigation is presently before the BVI High Court. The BVI Government remains the only government of a British Overseas Territory that will not implement the FCDO's direction, while such registers are not the global standard, although the BVI Government has stated that it would adopt the measures if and when they do become the global industry standard.

16. Before the new Government took office, the outgoing government had introduced the Recovery and Development Agency Act (RDAA) into the House of Assembly, which received Royal Assent on 12 April 2018. The Agency (RDA) was set up to execute the Recovery and Development Plan (RDP) devised to promote the recovery and development of the Virgin Islands after the destruction caused by Hurricanes Irma and Maria in September 2017, in which 60%-80% of the building stock was damaged or destroyed. The enactment of the RDAA and the creation of the RDA was a *condition* of a £300,000,000 loan guarantee offered by the United Kingdom to support borrowing for development projects to be identified and carried through to completion under RDA management.

17. However, the RDAA granted wide-ranging and exclusive powers to the RDA to receive *all* Government appropriations and borrowing earmarked for the RDP (s.15 (c) RDAA) and to conduct the development of major capital projects according to the RDP. This would have meant that the BVI Government would have been unable to borrow or to finance and initiate development projects, including in the health and social services, tourism, environmental and energy sectors, whether it used the loan guarantee or not, unless those projects were carried out by the RDA. The UK Government emphasised it would tolerate no dilution of these conditions [Annex 2 at p 4].

18. The RDA was to be an independent statutory agency, with its own board and governance, the membership and voting arrangements of which were to be subject to the agreement of the UK Government. The RDA was not to be directly accountable to the elected Government and thus to the House of Assembly. The extent and lack of direct political accountability of its powers attracted strong public, cross-party criticism and the FCDO's broad interpretation of the RDA's remit was resisted by the outgoing government, which by the time of the election had not signed the loan guarantee agreement.

19. A "High-Level Framework" was drafted by the UK Government setting out the terms of the "partnership" it proposed [Letter enclosing High Level Framework, 24 November 2017, Annex 3]. It required the Government, among other things, to divest itself of public assets, presumably (since it has no others) those such as the Territory's utilities

and its National Health Insurance scheme. In September 2019, the Premier travelled with a delegation to the United Kingdom to discuss these terms with a view to securing the loan guarantee, and met in London with Lord Ahmad and other officials of the FCO [Annex 3.1]. However, notwithstanding these meetings, the Premier was subsequently told that the conditions were "non-negotiable" [Annex 4].

20. Furthermore, the BVI Government would be in breach of the PEFM if it borrowed under the loan guarantee. The effect of such a breach is, among others, to require the BVI Government to submit its annual budgets and any proposed government borrowing for the consent and approval of the UK Government. The FCDO also intimated that "discussions would need to take place" and "conditions would be required" were the elected Government to decline the loan guarantee, and attempt to borrow without it, breaching the borrowing ratios. Again, these terms were not negotiable [*ibid,* Annex 4].

21. While it understands that these measures of control may have been seen by the UK Government as necessary to protect the UK taxpayer against contingent liability, the new Government saw them as cumulatively incompatible with its declared policy objective of developing greater autonomy and democratic self-government and with its views of the proper scope of its rights and powers under the constitutional settlement of 2007. It vigorously opposed the use of the RDA structure to interfere in its conduct of central matters of economic policy [Annex 5].

22. Furthermore, given its objectives and the well-publicised failures of the past, the newly elected Government was anxious to build up the capacity of the ministries and of public officers to manage and monitor significant projects in the future. In a report entitled *"Advancing the Recovery: Recommendations for a Timely, Efficient and Effective BVI-led Recovery*", dated 01 May 2019, [Annex 6 at p.17], the Disaster Recovery Coordinating Committee situated in the Premier's Office, set up in 2017, strongly recommended that the Government and the RDA should *share* direct responsibility for executing the RDP and that the Government should develop clear and measurable criteria for deciding which projects should be allocated to the RDA. It said,

> To do otherwise will invariably result in fatal loss of opportunity for the BVI Government to engage and utilise its competent resources, as well as to build capacity,

and moreover to be excluded from development projects and initiatives that fall squarely within the Government's constitutionally devolved ministerial portfolios.

23. It recommended amendments to the RDAA to clarify the responsibilities for recovery and development and that the Government should take the opportunity of making important organisational and institutional changes to allow it to undertake those tasks.

24. From the very first day of its mandate, the newly elected Government came under heavy pressure from former Governor Jaspert to agree and sign up to the terms of the loan guarantee agreement, while it resisted doing so on the grounds that it was unwilling to put itself in the position of sacrificing political and democratic control of so central a priority of its economic policy. An extraordinary briefing war broke out between the elected Government and the Governor and the FCDO, in which the latter sought to refute the Government's suggestions that the loan guarantee and the RDA would have such an effect.

25. From the outset, therefore, the relationship between the newly elected Government and the FCDO suffered from an atmosphere of mutual misunderstanding and distrust. The elected Government strongly believes that the UK Government has not fully respected and honoured the promises made in the White Papers, in the preamble to the Constitution, in the Constitution itself and in international law and has sought in breach of those promises and obligations to exert undue pressure and control over the democratically elected institutions of the Virgin Islands.

The relationship with the former Governor

26. It is critical to the success of the form of government adopted by the 2007 Constitutional Order and to good governance in the Virgin Islands that the relationships among those who hold, pursuant to Chapter 4 of the Constitution, the *shared* responsibility of government should function with at least a basic level of trust and respect. Recently, that has not always appeared to be the case in the Virgin Islands.

27. The role of the Governor in the overseas territories has been described as requiring him to achieve what is no doubt a difficult balance,

> "It is often said that Governors "wear two hats", because they head the governments of the territories but are appointed on the advice of, and report to, the Secretary of State. Governors are charged by Ministers in London with endeavouring to ensure good government in their territories, as well as representing to local politicians the policies of the United Kingdom Government. But a Governor must at the same time represent and explain the views of the territory governments to London. [*British Overseas Territories Law*, Ian Hendry and Susan Dickinson, Hart, 2011 p. 37].

28. In a constitutional order in which the Governor maintains special responsibility for a range of matters (ss. 47, 60, 92 of the Virgin Islands Constitution Order 2007) that often closely overlap with the interests of the elected government, including the management and effectiveness of the Public Service, and a power to override the Public Service Commission in respect of appointments within the Public Service (such as permanent secretaries in each ministry) it is essential that the elected Government should feel that the Governor is willing to understand its point of view, however dissonant from that of the FCDO, and to discharge his vital counterbalancing function.

29. It is also essential to good governance that respect for the 2007 Constitutional order and a scrupulous adherence to the respective roles and responsibilities assigned by it to each of its component institutions are observed from the top down.

30. Yet, the elected Government believes there to have been many instances of a failure by the previous Governor to respect the standing and scope of authority of the elected institutions conferred by the Constitution, even to the extent of openly undermining them, and these have been a further source of controversy and distrust.

31. For example, the Constitution provides,

> Proceedings in the Cabinet
> 49.—(1) The Governor shall, so far as practicable, attend and preside at meetings of the Cabinet.
> (2) In the absence of the Governor there shall preside at any meeting of the Cabinet the Premier, or in his or her absence, the Deputy Premier.

However, since the election of the Government on 25 February 2019, on each occasion on which the former Governor was absent, and despite that clear and unqualified constitutional intention, he refused to allow the Premier to preside over a Cabinet

meeting and purported to delegate that responsibility to the Deputy Governor instead, pursuant (it is said) to his general power to delegate his functions by instrument under seal conferred by s. 39 of the Constitution. The elected Government believes there to be no respectable argument for that position as a matter of law.

32. The continuing refusal to recognise the express and specific rule set out in the Constitution has been a source of concern to the elected Government, not least because it appears at odds with the UK Government's professed policy of fostering local democratic institutions and promoting self-government and must have been expected to inflame relations with an elected Government committed to that goal.

33. On 30 September 2020, the Premier wrote to the Parliamentary Under Secretary of State, Baroness Sugg, requesting her intervention to resolve the dispute, without success [Annex 7]. If the UK Government, and the former Governor whom it has appointed, are unwilling, when it concerns the Overseas Territories, to adhere to the rule of law, it is reasonable to ask, what example does that set?

34. Other contentious issues arose after 25 February 2019, which can be characterised as a turf war between the Governor and the elected Government over who had the right to initiate and lead on policy in specific areas. The elected Government wished to assume greater autonomous responsibility for the affairs of the Virgin Islands where the Constitution permitted it, even if that meant a change in the status quo. The Governor invariably resisted.

35. For example, the elected Government took the view that Disaster Management should properly be a matter that lay predominantly within the area of responsibility of the democratically elected institutions since the development and organisation of the response to a disaster would require a cross-government approach, with each ministry and department involved in planning and preparation. It sought appropriate legal advice from which it concluded there was no constitutional objection to a change. It wished to introduce legislation to amend the Disaster Management Act 2003 to situate the overall responsibility for disaster management with a Minister. The former Governor disagreed, arguing that although ministers must be and were involved, the Governor should remain

in overall charge. He invoked section 60 of the Constitution, arguing that the legislation affected internal security and threatened to withhold assent.

36. Sometimes, regrettably, the disputes became heated. On 8 January 2020, at a Cabinet meeting, the former Governor made remarks that to those present appeared to make imputations about the integrity of the elected Government. The Premier wrote to the former Governor to protest. He said [Annex 8],

> Your statements during that historical Cabinet Meeting on Jost Van Dyke are consistent with a pattern of behaviour that I have observed from you towards my Government since the initial weeks of my Government's tenure when I requested time to analyse and consider the conditions proposed by the UK Government with respect to its offer of Loan Guarantees for Hurricane Recovery, more so since my Government proposed a smaller revised Recovery and Development Plan based on practical considerations.

37. He continued,

> If you have evidence of corruption in Government, especially post-25 February, 2019, then I invite you to bring it forward so that it can be investigated and firmly prosecuted by the appropriate authorities - the Director of Public Prosecutions (DPP) and the Commissioner of Police…
>
> Prior to 25 February, 2019, there were allegations of misconduct in Government affairs with respect to the activities of the previous administration. These included the $7.2 million BVI/BV Airways deal; the $1.6 million Elmore Stoutt High School perimeter wall project, which saw individuals inflating their costs by an average of 65 percent, as much as more than 150 percent of the true value of the work done; and the more than $50 million in cost overruns at the Tortola Pier Park project.
>
> These were drawn to your attention and to the attention of your predecessors. There was no action by your office to meaningfully deal with these matters.

38. Where such a division exists, it also creates an inevitable and undesirable uncertainty in the minds of public officers about to whom they are accountable and whom they serve, which leads to understandable reluctance to take the risk of being seen to give advice that might conflict with the perceived interest of one or other "side".

39. On 6 May 2020, the Premier wrote to the Parliamentary Under Secretary of State for the Overseas Territories, Baroness Sugg, on behalf of the elected Government, that

> There is a continual concern of overreach into the Public Service of the Virgin Islands by the FCO through the Governor, and the Governor through his office, even though Ministers have been legally assigned the responsibility for administration of their ministries and departments, as in keeping with the Constitution. I am quite mindful that since 1967, a ministerial system of government was instituted in the Territory of the Virgin Islands.
>
> In fact, Public Officers have also privately expressed concerns, in confidence, that the Governor and the Governor's Office are making direct contact into ministries and departments and have requested that a proper protocol be established so that there is a clear understanding of how the Governor and his Office should be interacting with ministries and departments.
>
> For those Public Officers who have been in the Public Service for a significant period of time and have institutional knowledge and understand how the mutual relationship across ministries and departments worked in the past, they have expressed a high level of discomfort to me privately, I have asked them to express the same with the Deputy Governor about the Governor and his Office's actions, while some may have been hesitant because the Deputy Governor report [sic] to the Governor, I am sure that some may have mustered the courage to express their concerns without fear [Annex 9].

A Public Service suffering from chronic neglect

40. Critical to the success of any government is an efficient, modern, and well-functioning public service. Although ministers were aware, not least from public servants themselves, that the management of the Public Service and the machinery of government in the Virgin Islands required wholesale modernisation and reform, it was not immediately clear to the new Government, most of whom were new to elected office, how serious the problem had become. The chronic neglect of the public service became apparent, notwithstanding the significant efforts and hard work of public servants.

41. On 6 June 2019, the Premier made a Statement on the First 100 Days in Office [Annex 10]. He said,

> "But the lessons of the First 100 days have told us about the crucial needs of improving the efficiency of the public services: setting up a broad policy unit and making our processes more accountable.
>
> We will continue to build on that foundation being set, going forward.
>
> Our First 100 days have confirmed to us what we knew coming in: that there is a challenge in governance that **MUST** be fixed to be able to deliver for our **PEOPLE**.

> The problems are both structural and historic; understanding that our system that was set up a long time ago and is now not compliant with modern challenges and realities."

42. A report dated June 2019, by Public Administration International (PAI) described how the performance of the ministries and departments was beset by an absence of planning and policy development, a lack of central policy formulation, coordination, monitoring and evaluation, and a chronic lack of institutional capacity to implement the new Government's objectives. The report described the effect of these shortcomings on the ability of the Government to achieve its legislative programme [Annex 11],

> However, it is clear from the challenges set out above that many of the issues being experienced because of the lack of policy coordination and development mechanism(s) are significant and will impede the Government in progressing its manifesto commitments, in an environment where the electorate voted overwhelmingly for a change.
>
> The weakness in policy capability also impacts the Government's ability to successfully progress legislation to Royal Assent. Having reviewed a number of 'instructions to counsel for the drafting of Bills there was a clear pattern. The senior policy advisors tend to review relevant precedents from across the Caribbean, Commonwealth and other Overseas Territories and then compile a comparison chart and then a draft Bill. This work then goes to the Attorney General's Chambers (A.G.'s Chambers) to 'finalise the bill' and then it is presented to Cabinet who may seek amendments or additions. The process is wholly unsatisfactory with ministries getting frustrated at what they perceive are unnecessary delays by the A.G.'s Chambers and so conclude the Chambers does not have the relevant 'expertise' to support their drafting needs. Conversely, the A.G.'s Chambers is likewise frustrated because they are resource-constrained and this is made all the more challenging when they receive poor drafting instructions that do not give any policy intent and they are expected to 'work it out' when this is not the role of Legal Drafters/Parliamentary Counsel. The end result is that there is much delay, a lack of clarity as to the purpose and intent of Bills. This impacts the success of passage through the House and it is not uncommon for Bills to be rejected despite a significant amount of time and energy being spent on them.

43. Another example of this lack of planning and policy capacity is that responses to predictable problems were being left by ministries, departments, and the Deputy Governor's Office, to the point at which those problems had become immediate and pressing priorities, leading to a common practice throughout the Government of requesting *ad hoc* Cabinet waivers of procurement processes pursuant to s. 170(2) of the Public Finance Management Regulations 2005 (as amended).

44. This is a long-standing and widespread problem, albeit it may have increased since the Hurricanes. The previous government approved at least 44 waivers between August 2015 and February 2019. Between 2019 and 2021, out of 10 contract awards made by the Governor's Group, 6 were by waiver of tender.

45. Between 2011 and 2018, no financial audits of the Government's finances had been carried out. The Territory had been without an Auditor General between 2015 and January 2018. As of January 2020, 4 senior auditor posts remained vacant in the Auditor General's Office. In addition, the Government's Financial Statements, a vital tool of financial management, had remained uncompleted by the acting Accountant General since 2016.

46. The Government inherited a Public Service Transformation Programme (PSTP) and a Public Service Management Bill (PSMB) that were still in design although a review of the Public Service had been commenced on the enactment of the Virgin Islands Constitution Order 2007 (See [Annex 12] at para 1.2.1).

47. The Cabinet believes this to show that, at the time of the 2007 Constitution Order and for many years afterwards, no serious work had been done to equip the Virgin Islands with a modern public service capable of effectively supporting the expanded democratic architecture and self-government for which the Constitution made provision. Indeed, much of the necessary apparatus of support in a modern democratic government for a minister, let alone a premier, in formulating and implementing policy is lacking.

48. Under the 1976 Constitution, the responsibility for policy formulation lay formally with the Governor subject to consultation with the Executive Council, the advice of which he was indeed obliged to follow unless he thought it affected a matter reserved to him. Under the 2007 Order, the responsibility for policy formulation, in all but reserved matters, was conferred on the newly created Cabinet. Yet, as the PAI Report shows, no corresponding human resource, systems and infrastructure were put in place to make that task an effective reality despite the growing complexity and volume of the Government's responsibilities.

49. The consequence is a void in policy development, planning and coordination, which there is no doubt a strong temptation on the part of the Governor's Office and the FCDO to fill by means that can appear to be coercive. That, in turn, leads to further tension and distrust and the debilitating effects on the public service of which mention has been made.

50. The Director of Human Resources identifies the need for a complete reform of the terms and conditions of service of public officers and points out that many of the most important rules and procedures in the still current 1982 General Orders are outdated, fail to focus effectively on "employment equity" and emphasise process at the expense of achieving outcomes. [*ibid* para 1.2.2.]. There is a need to

> establish appropriate mechanisms and structures to create broad policies on the employment, deployment and development of human resources, and the development of a management system, in which the responsibility and capacity to make decisions are placed with the most appropriate functionary and levels of management. It also addresses a systematic approach to accountability in which indicators are developed for measuring, monitoring and evaluating the quality of performance of ministries/departments, public officers and employees.

51. The absence of such modern management systems and structures in 2021 is remarkable, leaving inevitable room for uncertainty and misunderstanding as to the reasons for deployment and for promotion decisions taken within the service.

52. The PSMB would establish in law the concept of *ministries*, which are not mentioned by the Constitution, and define the roles, duties, and accountability of Public Officers in relation to them and to Ministers. It would also set out the powers, duties, and functions of the Minister within the ministry and recognise the need for Ministers to be able to appoint "ministerial staff" (special advisers), who are an essential component of a modern ministerial government, and who need to be accommodated within the system by special rules. Their presence will also afford greater protection for public servants in preserving political impartiality.

53. The PSTP (Option 2) proposes a Strategic Policy and Planning Unit (SPPU) situated within the Premier's Office and a Monitoring and Evaluation Unit (MEU) within the Cabinet Office. The elected Government strongly agrees that these reforms are essential

and long overdue and has supported the PSTP. It is committed to the enactment of the PSMB.

54. However, as we have observed, there is a continuing tension between the dual accountability of public servants to ministers and to the Deputy Governor and the Governor. Therefore, the elected Government believes that the PMSB should expressly set out the nature of the matters on which instructions may be given to public servants other than by ministers.

55. In addition, in parallel with the Integrity in Public Life Commission that is now being considered by the House of Assembly, we propose that the Cabinet Office should contain a Propriety and Ethics Unit that would guide incoming Cabinet ministers on the declaration of their interests and advise them on actions they should take to avoid conflicts of interest and on best practice. Each minister should be required by the Ministerial Code to disclose his interests to the Unit, which should be updated regularly. The Cabinet Secretary should consult the record of the minister's interests prior to each Cabinet meeting with a view to raising possible conflicts for the minister's consideration. This function should not overlap with that of the proposed Commission, which would be unsuitable to advise ministers on such matters. The Unit would also be able, from time to time, to propose other codes of conduct for ministerial use, such as for making public appointments.

The progress of the Government's "good governance" legislation

56. When the elected Government took office, it seems that no preparatory work had been done within the Public Service to analyse its manifesto commitments and to develop policy options for their execution. The Premier was sworn in on 26 February 2019 and the Cabinet on 1 March 2019. A Cabinet orientation and briefing day was held on 20 March 2019.

57. The 2019 annual Budget was due by 2 April. Although the new Government had been in office only 5 weeks, it was obliged to present a transitional budget to the House of Assembly, which was approved on 26 April 2019. The Premier and Minister of Finance

announced he would hold consultations and bring forward the 2020 Budget by December 2019.

58. Nevertheless, between February and November 2019, considerable work was undertaken by officials to draft and hold consultations on the Public Procurement Bill and the Public Service Management Bill.

59. On 2 May 2019 the Cabinet was informed that the new Government through the Premier's Office would be "*leading the charge*" in the implementation of an Integrity Commission. The Premier requested that all inut from the Deputy Governor's Office be submitted to the Premier's Office as a matter of urgency so that the Commission could make it a reality "*forthwith*" [Annex 13].

60. On 7 November 2019, the Cabinet approved a proposal from the Premier for an "Integrity in Public Life Policy" [Annex 14] presented to it in "*partnership*" with the Deputy Governor's Office. That partnership properly reflected the cross-cutting nature of the proposals, which affected the constitutional responsibilities of the Cabinet, the Legislature and the Governor. A decision was then taken to ask the Deputy Governor's office to be responsible for instructing the Attorney General's Chambers to draft a new Integrity in Public Life Bill.

61. On 14 November 2019, in the speech from the Throne, the elected Government set out its legislative programme for the ensuing year. It included the introduction of an Integrity in Public Life Bill, a Public Service Management Bill to replace the General Orders 1982 and Whistleblower legislation [Annex 15].

62. On 19 November 2019, the Premier presented the Budget for 2020 [Annex 17].

63. On 28 November 2019, in accordance with the Cabinet's decision of 7 November 2019, the Deputy Governor's Office instructed the Attorney General's Chambers to draft the Integrity in Public Life legislation to implement the Cabinet's policy [Annex 18].

64. In December 2019, the Cabinet decided that amendments were needed to the Public Procurement Bill (see Chronology prepared by Ministry of Finance [Annex 16]. The

Attorney General's Chambers were also in the process of developing a draft Whistleblower Bill.

65. On 12 February 2020, the Cabinet discussed and noted that, among others, the Integrity in Public Life Bill, the Ministerial Code (referred to as the Code of Ethics), the Whistleblower Bill, the Contractor General Bill, the Procurement Bill, and the Public Service Management Bill were expected to come to it for decision in 2020 [Annex 19]. On 25 February 2020, the Premier made a statement to the House of Assembly in which he said,

> "The Speech from the Throne that was read in the House of Assembly on 14 November, 2019, includes the policies, legislation and the agenda of your Government. Therefore, the commitment in the Speech from the Throne that legislation such as the Public Service Management Bill, Integrity in Public Life legislation and Whistleblower legislation are on the 2020 Legislative Agenda, is the commitment and initiative of your Government.
>
> The commitment publicly expressed in the 2020 Budget Address, which I delivered in the House of Assembly on 19 November 2020 (sic), that public procurement will be strengthened by the introduction of the Contractor General legislation, is the initiative of your Government. These were policies that your present Government campaigned on in the run-up to the 2019 General Elections. They featured prominently in our campaign advertisements. They are therefore embedded in our social contract with the BVI population." [Annex 20].

66. In March 2020 on the invitation of the Ministry of Finance, the Caribbean Development Bank engaged the Charles Kendall Group to review the draft Public Procurement Bill and make recommendations for its finalisation [Annex 16].

67. On 16 March 2020, a paper was prepared for the Cabinet which proposed a review of the draft Ministerial Code by a working group who would make recommendations to the Cabinet about its provisions [Annex 21]. The working group was to have 3 months to report.

68. On 22 March 2020, the Virgin Islands Government closed the Territory's borders having been alerted to the implications of the Coronavirus pandemic [Annex 22]. On 25 March 2020, the first cases of coronavirus were reported. On 27 March 2020, a full lockdown and curfew was imposed throughout the Virgin Islands. On 1 April 2020, the Government announced that,

> If left unchecked, it was estimated that in 12 to 15 days, 10.5 percent to 12 percent of the population would be affected with COVID-19. This equates to 3,750 persons. If left unchecked, calculations showed that in 90 days, 89.8 percent of the population would be infected [Annex 23].

69. Therefore, the lockdown and curfew were extended until 27 April 2020.

70. Thereafter, the Government's central and absorbing focus was on its action plan for combating the pandemic and for urgently increasing the capacity of the Territory's health service to trace, test and treat the virus. In order to consider and execute this plan, during 2020 the Cabinet met on 94 occasions, 51 meetings being special meetings convened to deal with the COVID-19 pandemic [Annex 24, page 2].

71. Notwithstanding those pressures, on 9 April 2020, the Cabinet approved the names of those on the working group to consider the Ministerial Code [Annex 25]. On 16 April 2020, the Premier made a statement to the House of Assembly explaining the need for Public Service reform and announcing the Cabinet's decision to review the Ministerial Code [Annex 25.1].

72. Work also continued on other elements of the legislative programme. On 8 April 2020, the Attorney General's Chambers provided feedback on the draft Proceeds of Criminal Conduct (Amendment) Bill drafted by the Financial Services Commission [Annex 26]. On 15 April 2020 a draft of the Public Procurement Bill was sent from the Attorney General's Chambers to the Ministry of Finance [Annex 27].

73. In April 2020 the Charles Kendall Group completed a further draft of the Public Procurement Bill [Annex 16]. On 12 May 2020, Parliamentary Counsel considered the draft Bill [Annex 28].

74. On 12 June 2020 the Premier's Office asked the Attorney General's Chambers to complete the draft Contractor General Bill for submission to Cabinet [Annex 29].

75. On 15 June 2020, the Attorney General's Chambers sent the draft Integrity in Public Life Bill to the Deputy Governor's Office [Annex 30]. The Attorney General advised that it was not possible, having regard to section 112 of the Constitution, for the proposed Integrity Commission to be responsible for the Register of Interests, without Constitutional reform.

76. On 7 July 2020, the Premier's Office sent the draft Contractor General Bill to the Attorney General's Chambers and, by a Memorandum of the same date, the Premier asked that the review and amendments on the Virgin Islands Contractor General Act 2020 be completed for submission to Cabinet by the following Wednesday 15 July *"to allow for timely and urgent transmission to the House of Assembly for passage before or by the end of July"*[Annex 31].

77. On 8 July 2020, Parliamentary Counsel forwarded a copy of the draft Proceeds of Criminal Conduct (Amendment) Bill to the former Governor (HE Augustus Jaspert) [Annex 32].

78. On 13 July 2020 a copy of the draft Whistleblower Bill was sent from the Attorney General's Chambers to the former Governor [Annex 33].

79. On 11 August 2020, Parliamentary Counsel wrote to the Permanent Secretary at the Premier's Office forwarding copies of the draft Contractor General Act 2020 and a Memorandum in which she observed that the Attorney General's Chambers had "*not received the requisite drafting or government policy instructions which would allow for a comprehensive review and drafting of the Bill"*. Parliamentary Counsel continued:

> "as previously indicated with recent Bills that when a Bill is forwarded to Chambers for review, that the draft Bill be accompanied with….1. A comprehensive policy informing the Act or a concept paper that outlines the objective of the Ministry/Department; 2. The Ministry's comments on substantive provisions of the legislation that could be identified on the face of the draft as being relevant/irrelevant to the Virgin Islands" [Annex 34].

80. In September 2020, the Charles Kendall Group completed a draft of the Public Procurement Regulations [Annex 35].

81. On 2 September 2020, the Premier wrote to the Attorney General asking him to move forward efforts to produce a Whistleblower Bill for the Virgin Islands [Annex 38].

82. On 18 September 2020, after discussions between officials from the Attorney General's Chambers and the Deputy Governor's Office, a decision was taken that the Register of Interests Act should be amended and strengthened in respect of *"enforcement and accountability sanctions"* and extended in reach to other officers in the public service [Annex 39]. The draft Integrity in Public Life Bill was to be amended to incorporate a monitoring component through the establishment of the Integrity Commission. These discussions were recorded in a memorandum which was sent to the Attorney General's Chambers.

83. On 22 September 2020, the working group requested an extension of time until 30 November 2020 to further consider the Ministerial Code [Annex 40]. On 27 September 2020, the Cabinet's approval was sought for the 3 month extension of the time which the working group had requested [Annex 41]. The extension was granted.

84. During October 2020, Parliamentary Counsel and the Attorney General's Chambers continued to work on the draft Contractor General Bill [Annex 36].

85. On 16 October 2020, the Premier wrote to the former Governor stating the Government's continued "*commitment to the transformation of the Public Service into a modern efficient, effective and accountable organisation*" [Annex 37].

86. On 4 November 2020, Parliamentary Counsel sent a memorandum to the acting Permanent Secretary to the Deputy Governor's Office, referring to her memorandum of 18 September about the Integrity in Public Life Bill and the Register of Interests Act amendment, asking what *"enforcement and accountability sanctions"* were proposed in respect of the Register of Interests Act [Annex 42]. The Attorney General's Chambers provided drafting on both Bills.

87. On 5 November 2020, the Speech from the Throne reiterated that *"strengthening Governance remains important for having a stable economy*", that the Integrity in Public Life Bill remained a priority on the legislative agenda and that this legislation

would promote and enhance standards of conduct by consolidating laws relating to the prevention of corruption and the award, monitoring, and investigating of government contracts and prescribed licences [Annex 43].

88. On 6 November 2020, the draft Integrity in Public Life Bill and proposed amendments to the Register of Interests Act 2006 in a draft Register of Interests (Amendment) Bill were circulated for comments [Annex 18, page 10].

89. Between 6 November and 3 December 2020, there were a series of discussions between the Attorney General's Chambers, the DPP, the Registrar of Interests and other officials to finalise the Integrity in Public Life and Register of Interests (Amendment) Bills [Annex 44]. On 3 December 2020 instructions were received by the Attorney General's Chambers to prepare drafting for the repeal and replacement of the Register of Interests Act 2006, as opposed to amending it [Annex 44.]. Work thereafter proceeded on a draft Register of Interests Bill, which became known as the Register of Interests Bill 2021.

90. On 2 December 2020, at the working group's request, the Cabinet again extended the time to complete their review of the draft Ministerial Code, to 5 January 2021 [Annex 45].

91. On 3 December 2020, the former Governor briefed the press that, *"The Deputy Governor and I will shortly be bringing forward the Integrity in Public Life Act which will bolster the ability of our institutions to ensure accountability*."[Annex 46]

92. Despite the important place that the elected Government had expressly assigned to the Integrity in Public Life legislation in its programme and the Cabinet decision, on 7 November 2019, to approve an Integrity in Public Life Policy and to press ahead with the Integrity in Public Life Bill [Annex 14], the Governor's statement taken in context, which made no reference to those facts and of which he had not informed the Cabinet, appeared to the elected Government to imply that it was neither interested in nor concerned with the introduction of the Bill and that he and the Deputy Governor were, in effect, imposing it because of his concerns about good governance in the Virgin Islands.

93. On 16 December 2020, the Premier presented a new draft of the Integrity in Public Life Bill to Cabinet [Annex 47]. The Cabinet decided to rescind its decision of 7 November 2019, which conferred on the Deputy Governor the responsibility for developing the Integrity in Public Life Bill and resolved that the Premier's Office should henceforth take charge of the Bill, in collaboration with the Deputy Governor. Cabinet resolved that the draft should be sent to the Attorney General's Chambers for consideration and finalisation [Annex 48].

94. On 18 December 2020, the former Governor wrote to the Attorney General and the Deputy Governor asserting that the draft presented by the Premier and, by implication, the Cabinet's decision was unconstitutional, and demanding that they should continue to work exclusively on the original draft Integrity in Public Life Bill [Annex 49].

95. On 22 December 2020, the Premier published a statement in which he reiterated the elected Government's long-standing election commitment to Integrity in Public Life legislation and emphasised that it was at the elected Government's initiative that a Bill would be brought forward [Annex 50].

96. By a paper dated 25 January 2021, Cabinet was invited to review the Whistleblower Bill [Annex 51].

97. On 3 February 2021 Cabinet reviewed and noted the Whistleblower Bill and the Proceeds of Criminal Conduct (Amendment) Bill deciding that the latter should be introduced for its First Reading in the House of Assembly at the next convenient Sitting [Annex 52].

98. On 3 February 2021, Cabinet decided that the Premier's Office should instruct the Attorney General's Chambers to review and finalise the Whistleblower Bill [Annex 53]).

99. During February 2021, Cabinet also reviewed the draft Contractor General Bill and further exchanges took place between the Attorney General's Chambers drafting team and the Premier's Office about the draft [Annex 54].

100. On 1 March 2021 Cabinet considered the Commission of Inquiry's requests for disclosure in respect of interests covered by the provisions of the Register of Interests Act 2006. The Attorney General proposed that the Act be immediately amended to enable to necessary disclosure to be made and that a Register of Interests (Amendment) Act 2021 should be introduced at the next convenient Sitting of the House of Assembly [Annex 55]. In accordance with that advice, on 3 March 2021 Cabinet considered a Register of Interests (Amendment) Bill and decided that it should be introduced for its first reading at the next convenient sitting of the House of Assembly [Annex 56]. Work on replacement of the Register of Interests Legislation continued, with the draft Register of Interests Bill 2021 [Annex 57].

101. Also on 3 March 2021, Cabinet considered the draft Contractor General Bill and decided that it should be introduced for its First Reading in the House of Assembly at the next convenient Sitting [Annex 58]. In addition, following comments received from the Deputy Governor and the Governor's Group, the Whistleblower Bill returned to the Cabinet for review; it was decided that it should be submitted to the House of Assembly for approval at the next convenient Sitting[Annex 64].

102. On 4 March 2021 the Whistleblower Bill received its First Reading in the House of Assembly, as did the Contractor General Bill and the Proceeds of Criminal Conduct (Amendment) Bill [Annex 59]. On the same day the Register of Interests (Amendment) Act 2021 was passed by the House of Assembly [Annex 61]

103. On 8 March 2021 the Attorney General referred Parliamentary Counsel to the existence of two drafts of the Integrity in Public Life Bill [Annex 60]. She asked her to proceed considering the drafts prepared by both the Premier and the Deputy Governor's Office.

104. On 15 March 2021 the Attorney General's Chambers received a copy of the draft Public Service Management Code from the Department of Human Resources [Annex 62]

105. On 16 March 2021, after a period of correspondence and consultation with statutory agencies, the draft Integrity in Public Life Bill came once again before the Cabinet [Annex 63]. The Deputy Governor pointed out improvements that should be made to the new draft Bill and the principles to be considered in doing so.

106. On 25 March 2021, the Governor (HE John Rankin), provided his comments on the draft Integrity in Public Life Bill to the Attorney General expressing "*full support*" for the Integrity in Public Life legislation and suggested amendments to the draft most recently presented by the Premier [Annex 65]. Cabinet was also asked to approve the recommendations of the working group on the Ministerial Code [Annex 66]

107. Between 13 and 28 April 2021 the Attorney General's Chambers were engaged with the process of finalising the drafting of the Public Service Management Bill and Code [Annex 67].

108. On 14 April 2021, the Cabinet approved the draft Integrity in Public Life Bill, which had now been amended to the satisfaction of the Deputy Governor and the Premier's Office and decided that it should be introduced in the House of Assembly at its next Convenient Sitting [Annex 68].

109. On 15 April 2021, having now been approved by Cabinet ,the Draft Ministerial Code was laid before the House of Assembly [Annex 69].

110. On 22 April 2021 the Integrity in Public Life Bill received its First Reading in the House of Assembly.

111. On 27 April 2021 the Attorney General felt obliged to write to the Permanent Secretary at the Premier's Office [Annex 70] on the subject of drafting instructions received by the Attorney General's Chambers on 12 June 2020 in respect of the Contractor General Bill, pointing out that recently received instructions did not include :

> "i.The Policy which informed the draft legislation
> ii. any reports on the consultation process;
> iii. drafter's credentials to include:
>
> i.resume
> ii. a list of legislation drafted in the last 5 years including title, jurisdiction and a short description of the legislation (noteworthy legislation outside of this period may also be included);
> iii. notarised copy of the data page of the drafter's passport; and;
> iv.2 professional references
> v. any other information that you think would be useful in helping us to understand the Ministry's objectives."

A letter in similar terms was also sent in respect of instructions received on the Whistle-blower Bill [Annex 71].

112. On 3 May 2021, the Attorney General's Chambers produced a final draft of the Whistle-blower Bill [Annex 72].

113. On 11 May 2021 the Proceeds of Crime (Amendment) Act 2021 was passed.

114. Between 19 and 26 May 2021 the Integrity in Public Life Act 2021 went out for public consultation [Annex 73].

115. Also, in May 2021 the Ministry of Finance, Caribbean Development Bank and the Charles Kendall Group reviewed the Public Procurement Bill and Public Procurement Regulations and a final draft was produced [Annex 16]. It is expected to go before the House of Assembly this year.

116. On 10 June 2021 the Whistleblower Act 2021 is expected to receive its Second and Third Readings before the House of Assembly and to be passed, as is the Contractor General Bill.

117. Therefore, despite the need for inexperienced Ministers to familiarise themselves with their ministerial responsibilities, to develop and present two budgets in 8 months, and the intense preoccupation of the Government with combating the pandemic and its social and economic effects, the Cabinet has moved forward, as diligently as possible, with the implementation of its commitments to legislate for new standards of governance in the Territory.

118. Much of the time taken in doing so has been caused by a chronic lack of capacity and resource within the Government. For example, instructions to draft the Integrity in Public Life Bill were sent to the Attorney General's' Chambers on 28 November 2019. The first draft of the Bill was sent to the Deputy Governor on 15 June 2020. Thereafter, the Bill was the subject of discussions to resolve necessary policy questions between officials for the rest of that year. That is precisely the problem that PAI noted in its report of June 2019 and of which the Attorney General's Chambers complained on 11 August 2020 and again on 27 April 2021.

119. However, it is important not to confuse the enactment of this or any "good governance legislation" with the fundamental change of approach that is needed to the enablement of democratic self-government in the Virgin Islands. As the PAI report says, a Legislative programme is not a substitute for the development of detailed and thoughtful policy and the institutional capacity to produce and implement it successfully [Annex 11, page 7]. Indeed, the enactment of legislation without that essential preliminary work will only result in a "box-ticking exercise" that produces hasty and superficial legislation not tailored to the needs of the Virgin Islands. That is why we believe that the recent FCDO insistence on legislation will not alone solve any lack of effectiveness, transparency, and accountability in our institutions.

Good Governance in the Virgin Islands

120. The capacity of a government to plan effectively and formulate and implement sound policies is at the heart of good governance. The PAI report [at p.2, Annex 11] explains how the public service is vital in translating the commitments in a party manifesto into a policy programme and that

> …..policy and planning are critical for the Executive to govern well and achieve what they promised the electorate. Moreover, it is a central pillar in establishing and maintaining Good Governance because without a Government setting clear policy objectives linked to a National Plan there is no transparency and citizens cannot hold Government accountable. Good Governance also requires collective action, i.e. by all stakeholders, not just the state, and without a clear policy agenda, supported by a robust policy development process, stakeholders cannot participate in tackling the social and economic issues that they face.

121. Furthermore, in a ministerial system of government, it is essential that ministers should be able to function within well-defined and understood policy frameworks, which guide and frame their policy options and the decisions they must make, underpinned by the rule of law and the principles of good administrative practice.

122. Ministers in the Virgin Islands Government do not operate in such an environment. As the Director of Human Resources has observed, public servants have predominantly been focussed on processes not on the development of policy. Therefore, while the Permanent Secretaries can and do offer apolitical advice, it is infrequently

backed up by established and detailed policies, previously approved by the Minister or by the Cabinet, which provide a basis for the advice he is given and the decisions he must take. Such policies protect both the public servant and the minister.

123. For example, there is no cross-government policy or procedure for the appointment of members of statutory boards, such as the UK Cabinet Office's *"Governance Code on Public Appointments"*, which could guide ministers either in identifying the required qualities of suitable persons and in an appropriate means of selection. Ministers are often left to do their best by seeking out suitable persons who comply with the statutory criteria, which often only refer to "fit and proper" persons.

124. The elected Government believes there to be a need for a significant strengthening of the Premier's Office, the Cabinet Office, as has been suggested above, and of the resources of the Attorney General's Chambers with consideration given to the attachment of some of its members to be based in each ministry to work closely with the permanent secretaries and other officials in ensuring that the policy issues necessary for legislative drafting are resolved in advance of the request to draft the Bill.

125. But we also believe that if there is a deficiency in transparency and accountability in the governance of the Virgin Islands, the issue cannot be confined to the elected Government alone. A culture of greater accountability, public participation, and transparency must be encouraged in all parts of the Government. A large part of the governance of the Virgin Islands operates with no democratic accountability or transparency at all. For example, apart from the National Security Council, which necessarily operates in secret, there is no democratic or public participation in setting the strategic goals and priorities of the Royal Virgin Islands Police. Yet, there is real public concern about the operation and management of the police, particularly given the history of arrests of police officers for serious crime.

126. We believe that a police authority, consisting of some elected and some appointed persons from civic society, with the power to hold formal public sessions in which the Commissioner would make a regular presentation of the performance and objectives of the RVIP and answer questions from the authority would provide a measure of transparency and accountability. The authority would also make recommendations and

contribute to a policing plan, which the Commissioner would have the duty to prepare. No such plan currently exists but would be a tool for accountability. Public engagement in institutions of this kind would help to deepen a sense of civic participation and develop a mature relationship between the public and the police.

127. Similarly, we think it would be desirable for the Deputy Governor and even the Governor to make themselves available once or twice a year before a special committee of the House of Assembly to answer questions in public about the work of their offices and the conduct of their roles and responsibilities. This would help better inform the public about how their government works, set an example of transparency and respect among the institutions, and help to establish a better dialogue between them.

128. Good governance in the Virgin Islands must also be considered in the light of the history and the aspirations of their people. The people of the Virgin Islands aspire to, and have the right to, self-determination. The international law duty of the UK, as the administering state, is to promote and support their institutions in developing towards that goal so that they may build independent capacities to perform the essential functions of self-government and may express a free choice as to their eventual destiny. But the governance of the Virgin Islands by the UK has not reflected that important principle.

129. No doubt driven by the desire to reduce the risk of contingent liability to the Treasury, the means employed by the UK Government to guarantee fiscal discipline, an area of devolved responsibility, go far beyond what is necessary to achieve that purpose.

130. Despite the devolution of responsibility for every aspect of government save reserved matters, the UK has subsequently dictated what are perceived to be extra-constitutional instruments of control, portraying them as "obvious goods", which the elected Governments have felt under pressure to agree, and which have sought to confine and restrict the constitutional scope of action of the local government and its sphere of democratic discretion. For example, it is a matter of legitimate political choice whether, in a devolved context, certain assets, such as the provision of water and electricity, are publicly owned. In a letter to the Governor, dated 29 November 2020, the Premier wrote [Annex 77],

> The smooth operation of the Constitution, with each Constitutional actor operating within their respective parameters, is the core of the partnership based on mutual respect between the UK and the BVI. Prime Minister Boris Johnson, in his address at last week's JMC, underscored his Government's commitment to furthering this partnership, even in areas of Border Security. But, as we seek to intensify partnership, it must be on BVI's terms and the BVI must not be bullied to accept offers from the UK, especially where these conflict with the broader objective of advancing the Territory towards self-determination.

131. Similarly, capable, efficient, transparent, and accountable governance can only be achieved if the public service is equipped and supported to grow the mature capacities necessary to achieve it. In the 2012 White Paper [Annex 78], the then Secretary of State declared under the heading, "Making Government Work Better" (at p. 9), that,

> The UK is committed to working closely with the Territories on these issues. To this end the UK is launching a long-term programme of support for the public services in the Territories.

The White Paper acknowledged the particular importance of policy making (at p.57),

> Public services have a vital role in providing objective and impartial policy advice to Ministers and managing the policy making process including organising public consultation and assessing the potential impact of particular policy options. The UK Government is supporting the development of policy making capacity in some Territories.

132. However, in the Virgin Islands the programme to design and introduce a modern framework for the public service only commenced in October 2017, when in the immediate aftermath of the Hurricanes, the Cabinet was asked to approve the launch of the PSTP proposed by the Deputy Governor and the Director of Human Resources and the FCDO gave financial support for the recruitment of an external consultant to help with its design. It appears that the Deputy Governor has received little additional FCDO assistance in the implementation of reform. Yet, these are matters (the effectiveness, capacity and management of the public service) for which the constitutional responsibility and right of initiative lie exclusively with the Governor, and ultimately with the UK Government.

133. While the constitutional responsibility for reform of the public service and its terms and conditions is the Governor's, acting through the Deputy Governor, given the dual nature

of the executive in the Virgin Islands and their impact on organisation within the ministries, it is important that the elected Government should be encouraged and enlisted to share "ownership" of the reforms and to play a prominent and motivating role in them. But that has not been the case. On the contrary, as the former Governor's statement on 18 December 2020 (para. above) shows, the elected institutions were not seen by him as a partner in the reforms. That statement was not untypical. On 16 October 2020, the Premier wrote to the former Governor, to emphasise the elected Government's support for the PSTP but he observed [Annex 79],

> While the human resource functions of the Governor's Group do form part of the Public Service transformation agenda, the vast majority of this exercise pertains to the reform of the practices, processes and procedures for enhancing the administrative functions within the various Ministries to improve the effectiveness of the delivery of services by the Ministries to their clients - the public - in accordance with the national vision. Ministers report to the Premier. The national vision is the remit of the elected Government, which is determined and executed by the Premier and his Ministers. This structure emanates from the Virgin Islands Constitution Order 2007 and hence, any programme for the execution of the Government's agenda and the related administration thereof lies clearly with the Premier as the Head of the elected Government.

134. When there is a unified line of authority and a clear and unambiguous statutory basis, the Government can act decisively and effectively. This was the case with its disease control measures. The Public Health Ordinance (Cap 194) and Quarantine Act 2014 provided specific measures and clearly defined roles in the event of a global pandemic [Annex 80]. The Cabinet decided to establish a unified command structure and an expanded Health Emergency Operations Centre ("HEOC") to help to guide decision-making and implementation across all sectors. The HEOC became the primary advisory body in the Territory's defence against Covid-19. The elected Government was glad to receive the acknowledgement of the UK Secretary of State for this achievement, who wrote that it was a "testament" to the BVI's health professionals and *"the protocols that your Government have put in place, that the BVI has had so few cases*" [Annex 81].

135. Therefore, the elected Government believes that what is urgently needed to improve good governance in the Virgin Islands is the true partnership of which the 2012 White Paper appeared to speak. We are not alone in believing in the need for a change of approach. The evidence submitted to the House of Commons Foreign Affairs Committee for its Report, *Global Britain and the British Overseas Territories: Resetting*

the Relationship, [Annex 82 at page 8] , showed that there was a feeling in other Territories with self-governing institutions that,

> "We are often left with the impression there is a view the British Overseas Territories are to be administered, rather than treated with respect as self-governing representative democracies in their own right".

136. In that partnership, the UK Government would genuinely promote and facilitate the modernisation and equipping of our institutions for democratic self-government and would not make the "longstanding assumption", as the Select Committee put it, *"that the UK can take a hands-off approach and bear little cost or liability",* save when there is catastrophe or crisis.

1 June 2021

Hon. Andrew A Fahie
Premier and Minister of Finance

Dr. the Hon. Natalio D. Wheatley
Deputy Premier and Minister for Education, Agriculture, Fisheries, Youth Affairs and Sports

Hon. Carvin Malone
Minister for Health and Social Development

Hon. Vincent O. Wheatley
Minister for Natural Resources, Labour & Immigration

Hon. Kye Rymer
Minister for Transportation, Works & Utilities

Hon Sharie B. deCastro
Junior Minister for Tourism

Hon. Shereen Flax-Charles
Junior Minister for Trade

OFFICE OF THE DEPUTY GOVERNOR

Report from the Ad Hoc Elections Legislation Committee

October 2020

BACKGROUND

Cabinet, in its meeting of 5th February, 2020, agreed that an Ad Hoc Elections Legislation Committee be appointed by the Governor. The Committee was tasked with recommending changes to legislation that the Committee considers would enhance the conduct of elections and indicating cost implications where relevant. Additionally, the Committee was also tasked with reviewing the recommendations from the Supervisor of Elections' 2019 General Elections Report and while reviewing those recommendations, reviewed the recommendations made by the Observer Mission.

It was decided by Cabinet that the membership of the Committee should consist of:

1. Office of the Deputy Governor (official to be nominated by the Deputy Governor)
2. Premier's Office (official to be nominated by the Permanent Secretary)
3. Two Members of the House of Assembly (one to be nominated by the Leader of the Opposition
4. Attorney General's Chambers (official to be nominated by the Attorney General)
5. Office of the Supervisor of Elections (official to be nominated by the Supervisor of Elections)
6. Department of Information and Public Relations (official to be nominated by the Director of Communications)
7. Civil Registry and Passport Office (official to be nominated by the Registrar-General
8. The Private Sector (representative to be nominated by the Attorney General in consultation with the Premier and Leader of the Opposition)

The Deputy Governor served as chairperson of the Committee, while the following persons were nominated:

- Mrs. Carolyn O'Neal-Morton (Premier's Office)
- Dr. the Honourable Natalio Wheatley (Representative from HOA)
- Honourable Marlon Penn (Representative from HOA)
- Mrs. Jo-Ann Williams-Roberts, Solicitor-General (Attorney General's Chambers)
- Ms. Juliette Penn, Supervisor of Elections (Office of the Supervisor of Elections)
- Mrs. Arliene Penn, Director of Communications (Director of Communications)
- Mrs. Stephanie Benn, Registrar-General (Civil Registry & Passport Office)
- Mr. Jamal Smith (Private Sector)

The following persons, although they were not nominated, were also included on the Committee:

- Mrs. Sharleen DaBreo – Lettsome (Office of the Deputy Governor)
- Mrs. Helen-Seymour (Office of the Deputy Governor)
- Ms. Aisha Hill (Office of the Deputy Governor/ Recording Secretary)

The work of the Committee was scheduled to begin in early March with a deadline of three months to submit the report. However, with the Territory being placed on 24 hours lockdown, as a result of the COVID-19 Pandemic, the meetings did not take place at that time.

The meetings commenced on 8th September, 2020 and continued on 15th and 25th September, 2020.

The following table outlines the recommendations from the Supervisor of Elections' 2019 General Elections Report as well as the recommendations from the Observer Mission and the conclusions coming out of the Ad Hoc meetings as well as comments and concerns raised by members of the Committee.

RESOURCE MATERIAL USED

The Committee utilised the following resources to support the discussions:

- General Elections Report 2019
- Recommendations from the Supervisor of Elections' Report 2019
- Recommendations from the Observer Mission's Final Report
- Elections Act 1994
- Elections (Amendment) Act No. 20 of 1994
- Elections (Amendment) Act No. 8 of 1998
- Elections (Correction of Nomination Papers) Order, 2003
- Elections (Amendment) Act No. 7 of 2003
- Elections (Amendment) Act No. 1 of 2007
- Elections (Amendment) Act No. 18 0f 2017
- Statutory Instrument No. 54 of 2007 - Elections (Tropical Storm "Dean" Emergency) Order 2007
- Elections (Remuneration of Election Officers) Regulations 2007
- Elections (Amendment) Act, 2011
- House of Assembly (Election Petitions) Rules, 2014
- Elections (Amendment) Act, 2019
- Code of Conduct for Political Parties and Candidates
- Virgin Islands Constitution Order, 2007

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
1	Nomination Day Hours – It is recommended that Nomination Day hours be changed from 10:00 a.m. to 4:00 p.m. to 10:00 a.m. to 1:00 p.m. as historically there has not been a steady flow of candidates throughout the day, during the current five-hour period		X	The Committee disagreed with this recommendation. They agreed that the time remains as is to ensure persons' rights are not infringed upon and to accommodate persons from the Sister Islands. The following comments were made: o Will persons' rights be curtailed by changing the time period? o What if there are candidates coming from the Sister Islands? Will they be disenfranchised? o Is there a cost factor involved with Election Officers staying until 4pm? There are no cost implications, but historically, Nomination Day ends at Noon.
2	Fixed Time For Elections – Setting fixed term General Elections would help the voting public in making educated decisions regarding travel etc. as well as provide the Office of the Supervisor of Elections with adequate preparation time	Unable to agree or disagree on this recommendation.		The Committee was unable to agree or disagree with this recommendation. However, it was recommended that this subject is discussed with all elected members. The following comments were made: o Officials in the past wished to have the option to call an election based on the "temperature" of the public and to accommodate persons who may be returning home from school, etc. o The Deputy Premier and Leader of the Opposition had no objection, but they suggested that it be discussed with all elected members before a decision is made. o Section 86 of the Constitution Order provides clarity on when the elections should be called. Considering that we are going through constitutional review, this should be allowed for discussion at that time. o Section 84 (3) Dissolution of the HOA is defined within a broad framework. o The benefits of a fixed-term election were highlighted which would allow for adequate preparation. o Reference was made to the US Fixed Term Electoral system and the benefits of such –

				○ a call for a broader consultation process with the public was suggested. ○ The public should be able to set the terms as part of the democratic process. The right of voters is important for the Committee to consider. ○ Research on what takes place in similar jurisdictions and should take place for these purposes in the BVI.
Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
3	Absentee Voting – Fixed term General Elections would allow for the introduction of Absentee Voting, particularly for voters who are out of the territory for educational purposes, on work or sporting assignments, seeking medical assistance, representing the territory overseas, etc.	Unable to agree or disagree on this recommendation		The Committee was unable to agree or disagree with this recommendation. The following comments were made: ○ This will be contingent on the decision for Fixed General Elections (as outlined in recommendation #2 because they are all intertwined. ○ The entire electoral structure will have to change to accommodate this. ○ Regarding Absentee Voting – a decision for this is not based on having Fixed Term General Elections. ○ How will issues of fraud be handled so that such a system will not be abused? There is a process of verifying signatures to address this issue. ○ There are strong arguments for Absentee Voting but there are concerns about fraud.
4	Advanced Training of all Election Workers – One of the benefits of introducing fixed term General Elections is that greater emphasis can be placed on the preparation period for Election Workers thus increasing their understanding and comfort level with the process	X		The Committee strongly recommends continuous training and public education. The following comments were made: ○ Continuous training is necessary. ○ There was support for on-going training to ensure there is a reserve of persons who can support elections or bi-election processes going forward. ○ Opportunities for observing overseas elections is important to see what is taking place and new election trends that are emerging. ○ These persons can also support public education needs.

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
5	Increased Public Relations – Having fixed term General Elections also provides more time for educational campaigns on the election process to the public with increased emphasis on younger voters who became eligible to vote since the previous election	X		The Committee strongly recommends continuous training and public education. The following comments were made: o Continuous training is necessary. o There was support for on-going training to ensure there is a reserve of persons who can support elections or bi-election processes going forward. o Opportunities for observing overseas elections is important to see what is taking place and new election trends that are emerging. These persons can also support public education needs.
6	Registration of Political Parties and Symbols: It is recommended that the Elections Act be amended to require political parties to register, with the Office of the Supervisor of Elections, the names of their political parties, their symbols as well as the executives of the party. Independent candidates to register their associated symbols	X		The Committee agrees with this recommendation as it provides for a greater level of structure, organisation and accountability. The following comments were made: o In a democracy such as what exists in the BVI, Parties should be called to have a greater level of organisation. o Executives of the Parties are the ones who will need to register on behalf of the Party. The members' names and details may not need to be provided at that time. o How will the Supervisor of Elections verify that the persons registering are acting on behalf of the party members? o Can this be dovetailed with the NPO Act to support the registration process? o How can political coalitions (forming before elections) work with such a registration system? o Some specification should be presented to guide the selection of the symbols to not only support the work of the graphic artists but to be consistent with the products produced.

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
7	Adjustments to Elections Act - Any amendments to legislation should be approved and implemented at least one year before the next General Elections	X		The Committee Recommends that any changes to the Elections Act should take place at least one year in advance. The following comments were made: o Agreement by all. Especially to support those who are charged with implementing the decisions o This will allow for proper public education and awareness o This will also support time to address any legal issues that may arise.
8	Electoral Campaign Financing – Rules to be drafted to regulate campaign financing	X		The Committee agrees with this recommendation as it creates a fair and transparent process and eliminates acts of corruption. However, research will have to be undertaken to determine how this will work in the Territory. The following comments were made: o Options for financing should be included in the rules to support those who do not have as much money to finance their campaign but still have an opportunity to fully participate. o Some controls may be necessary.
9	Updated Elections Act – It is recommended that a comprehensive review and consolidation of the Elections Act be conducted.	X		The Committee agrees with this recommendation. The following comments were made: The Principle Act is from 1994 – several amendments have been made. o There is a need to fully consolidate the various amendments into one version of the Act. This process began a few years ago and was sent to the AG Chambers (this should be given priority)

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
10	Establish Department of Elections – Transforming the Office of the Supervisor of Elections to the Department of Elections would provide greater self-sufficiency, allow for more staff, thus enabling the execution of year round activities within the communities and the timely implementation of recommendations.	X		The Committee agrees with this recommendation as it provides for autonomy and ensures there is no influence or interference. The following comments were made: o Currently the office is a Unit under the Office of the Deputy Governor. o It is expected that there will be activities taking place all year round. o Staff of 3 at the moment except leading up to an election when new staff is brought on board. o A Department or Commission is supported. o Resourcing for the Department or Commission should be reviewed.
11	Introduction of Electoral Commission – It is recommended that an Electoral Commission be established to ensure accountability of the Department of Elections, and provide a more transparent process and a clearly defined appeals process.	X		The Committee agrees with this recommendation as it provides for autonomy and ensures there is no influence or interference. The following comments were made: o To support greater accountability o Experiences/Lessons Learned in Guyana and the United States can guide the establishment of the Commission
12	Nomination fee – It is recommended that the $1,000 nomination fee be made non-refundable.	X		The Committee recommended that the fee of $500 be refunded to candidates who did not receive 1/8th of the votes. The following comments were made: o Consider if this will keep elections free and fair o The funding can be used to support the work that is needed during the elections process o Process to return funding was in place for some time and it is time that this process be examined o The amount to be returned to be considered o Keep the fee at $1,000 but give back $500 o Return the fee to $500 if entertaining discussion of a refund

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
13	Residence Requirement for Voters – It is recommended that persons who are eligible to vote be resident in the territory for a period of no less than six (6) months		X	The Committee did not agree or disagree with this recommendation. Wider consultation is needed. The following comments were made: o Challenges have arisen especially with persons living in the USVI coming into the Territory on Elections Day to Vote. The USVI has since made it illegal for persons registered to vote in the USVI to be registered to vote in the BVI as well. o Persons with a Belonger Card are eligible to vote in the BVI. o Persons who may have just returned home and who are belongers/residents with a right to vote may not be able to vote if the residency requirement of six months is required. o Many persons remain connected even though living abroad and this decision may provide restrictions on them. o Australia Model includes right to vote as mandatory (BVI may not be ready for such a decision). o There are legal hoops that need to be considered if the decision is to proceed with this recommendation.
14	Campaigning Cessation – The law currently provides that all campaigning must end prior to Polling Day. It is recommended that the Elections Act be amended to implement the cessation of campaigning prior to Advanced Polling Day. **The recommendation was adjusted to read: no campaigning on Advanced Polling Day should take place at Polling Stations**	X		The Committee agreed with the revised recommendation. The following comments were made: o Advanced Polling day is 3 days before Polling Day. o Campaign ceases at 12 Midnight the night before an election. o Persons should have begun voting on Advanced Polling Day so it is not good for campaigning to continue. o Campaign silence should only be to particular areas where persons are voting. o Further restrictions and greater campaign silencing should not be imposed.

Supervisor of Elections' Recommendations from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
15	Adjust Advance Voter Allowance – It is recommended that the Elections Act be amended to allow the friend who assists a voter on Advanced Polling Day to vote at the same time. This would save the friend time and also reduce the number of voters queuing on Polling Day	X		The Committee recommended that the act is amended to allow the friend to vote on the same day but not at the same time. The following comments were made: o Clarity needed for this – Is Advanced Polling Day the only option for friends to vote? o Is the friend allowed to help the voter and then return to vote? o The Act has to be amended to allow the friend to vote on Advanced Polling Day as the law is specific as to who can vote on that day.
Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
1	To mitigate future issues in implementing elections laws in a timely fashion, this report and its accompanying recommendations should be reviewed, consulted upon and, where necessary, legislated for to ensure reforms are taken forward and implemented at least one year prior to the next election.	X		The Committee Recommends that any changes to the Elections Act should take place at least one year in advance. The following comments were made: o Agreement by all. Especially to support those who are charged with implementing the decisions o This will allow for proper public education and awareness This will also support time to address any legal issues that may arise.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**		**Disagree**
2	Although the previous Assembly rejected this proposal, the Government should again consider introduction on fixed-term Parliaments, which would fix the timing of elections (i.e. every four or five years). This would ensure that election officials have sufficient time to adequately prepare. More importantly this would give election administrators adequate time to inform and educate the electorate on possible changes to voting procedures.	Unable to agree or disagree		The Committee was unable to agree or disagree with this recommendation. However, it is recommended that this subject is discussed with all elected members. The following comments were made: o This will be contingent on the decision for Fixed General Elections (as outlined in Supervisor of Elections' Recommendation #2 because they are all intertwined. o The entire electoral structure will have to change to accommodate this. o Regarding Absentee Voting – a decision for this is not based on having Fixed Term General Elections. o How will issues of fraud be handled so that such a system will not be abused? There is a process of verifying signatures to address this issue. o There are strong arguments for Absentee Voting but there are concerns about fraud.
3	The Virgin Islands Elections Act should be comprehensively reviewed and updated. Furthermore, a consolidated text of the Elections Act with all amendments since 1994 should be developed and published to make it accessible to all participants in the process.	X		The Committee agrees with this recommendation. The Solicitor-General (SG) was asked to conduct research to provide an update on the consolidation of the Elections Act. The SG reported that the Elections Act was consolidated as of 2013. The later amendments need to be consolidated.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
4	To improve democratic accountability and oversight of the elections Office and ensure that adequate checks and balances are in place in the running of the election, as well as ensure that decisions are made in a transparent way with a clear complaints and appeals process, the Virgin Islands should consider the creation of an Election Commission.	X		The Committee agrees with this recommendation as it provides for autonomy and ensures there is no influence or interference. The following comments were made: o To support greater accountability o Experiences/Lessons Learned in Guyana and the United States can guide the establishment of the Commission
5	To ensure increased understanding of the electoral process by the population, an ongoing awareness and public education campaign is recommended, especially directed at students and senior citizens who are often least aware of the process.	X		The Committee strongly recommends continuous training and public education. It was further recommended that the focus should be on youth, students and senior citizens.
6	Whilst the Virgin Islands continue to contravene the ICCPR, greater clarity on who has the right to stand and vote in elections, and how long it takes to achieve these rights, is urgently needed. The qualification for suffrage must be reviewed to ensure the principles of equity, fairness and representation are upheld. Requirements should be amended to not unduly limit the rights of citizens to participate in elections and to seek public office. Limitations based on the length of residence as		X	The Committee was unable to agree or disagree with this recommendation. The following comments were made: o Which part of the ICCPR is the Territory in contravention of? o The Belonger system and not Citizen System is the area of concerns. o The Belonger System is a hallmark of the VI system (The Belonger System can be improved upon but be reminded that it defines who we are as a people). o It is said that the Belonger system discriminates in accordance with the International Covenant on Civil and Political Rights (ICCPR). o The Belonger system should not just be adjusted because of voting requirements alone.

	well as the blanket restriction of those who have ever been convicted of an electoral offence are contrary to international obligations and standards. The blanket withdrawal of suffrage rights of citizens who are legally declared insane or of unsound mind and of those who are serving a prison sentence, irrespective of the gravity of the crime, are disproportionate limitations and should be lifted.			○ Offences are outlined on page 159 of the Act. ○ A benchmark exercise is needed to understand what other countries have done for persons incarcerated or not mentally sound.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
7	Consideration could be given to conduct information campaigns on voter registration regularly throughout the year, also specifically addressed to those who turn 18 years of age.	X		The Committee agrees with this recommendation. ○ The Supervisor of Elections confirmed that this already takes place.
8	As the last census was conducted nine years ago, and as the authorities in the Virgin Islands are limited in their capacity to effectively monitor population trends and residency, it is recommended that another census be undertaken, followed by a boundary review to ensure greater equity between district voters.	X		The Committee would like to put on record that a census exercise takes place in the Territory every ten years. The Committee recommended that a boundaries exercise should take place during the constitutional review process, particularly since a recommendation for a 6th Minister is being considered. The following comments were made: ○ Census data is captured every 10 years and with the constitutional review process it is important that this review is undertaken. ○ Boundary reviews are also needed
9	To increase trust in the system and a consistent application of the law, it is recommended that the regulations offer clear criteria for the support documents required of voters to change their voting district.	X		The Committee recommended more public education on this subject. The following comments were made: ○ The Supervisor of Elections explained that a process is already in place. ○ Greater clarity on this topic is necessary especially for persons who no longer reside in the districts they grew up in or lived in for a long time. ○ Legal support to carry this out is already in place.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
10	To increase trust in the system, comply with the UNCAC, and remove the risk of corrupt practices, the Virgin Islands authorities must legislate and institute policies for candidate and party financing and the registration of political parties for financial reporting purposes.	X		The Committee agrees with this recommendation as it creates a fair and transparent process and eliminates acts of corruption. However, research will have to be undertaken to determine how this will work in the Territory. The following comments were made: ○ Options for financing should be included in the rules to support those who do not have as much money to finance their campaign but still have an opportunity to fully participate. ○ Some controls may be necessary.
11	Consideration could be given to explore how the Code of Conduct can be made more robust in fulfilling its intended mandate, for example whether it should be policed and whether penalties for transgressions should be introduced.	X		The Committee recommended the inclusion of penalties be incorporated and administered – some penalties can be immediate others will be required through an evidence based process. The following comment was made: ○ The Code was developed, shared and implemented.
12	It is recommended that price lists for campaign ads be published prior to the start of the campaign so that all candidates enjoy equal opportunities, and that compliance with campaign finance rules (to be developed) can be adequately overseen.		X	The Committee did not agree with the recommendation. They agreed that a policy on campaign pricing can be proposed where prices are made public, but the Office of the Supervisor of Elections has no authority to regulate.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
13	The election law and related procedures should be reformed to reduce the number of people accompanying assisted voters into the booths to increase the secrecy of the vote. Furthermore, where oaths are required, a quicker and simplified system should be introduced to speed up the process and make it clearer for the assisted voter to understand the process.		X	The Committee did not agree with this recommendation. The following comments were made: o The Elections Act is clear in this regard. o Complaints of this nature have not been formally logged.
14	Consideration should be given to no longer print advance poll results at the closing of the advance poll and instead rely on the memory drive. Alternatively candidates and agents should be positioned where there is lower risk of seeing the results.		X	The Committee decided that both the memory stick and the printing of results should be utilised. The following comments were made: o The Supervisor of Elections explained that it is the intention of the Office to no longer print results from Advance Polling Day. o It is important that the hard copy of the record is maintained; it is a good form of checks and balances and another method of accountability. o The last [General] Elections were carried out professionally and smoothly.
15	While ballot scanning technology was introduced with commendable effectiveness and efficiency, systems could be improved to make the voting process clearer and smoother for the voter to navigate, and presiding officers should be better trained to implement policies consistently across all polling stations, including good practice in layout, seating and signage.	X		The Committee agreed with this recommendation. The following comments were made: o The last [General] Elections were carried out professionally and smoothly. o Improvements are expected every time.

Observer Mission's Recommendations from the from the 2019 General Elections				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
16	Candidates and agents should be allowed to observe the entire process, but rules should be introduced to prevent candidates or agents from interfering in the process by distracting polling officials or intimidating voters.	X		The Committee agrees with this recommendation. The following comment was made: o Spacing could be a concern at smaller polling stations. o Polling stations, regardless of size, should be set-up in a way to ensure there are no interference from candidates or agents. The new electronic system will address this.
17	Greater clarity is needed in the overall complaints and appeals process for elections. A more transparent system is required in determining who is responsible for complaints and appeals, and how decisions can be systematically recorded. The introduction of an Election Commission might help to simplify such a system and provide clarity on precedent as well as guidance in cases such as the Vanterpool case.	X		The Committee agrees with this recommendation as it provides for autonomy and ensures there is no influence or interference. The following comments were made: o To support greater accountability o Experiences/Lessons Learned in Guyana and the United States can guide the establishment of the Commission
Recommendations made by Committee Members				
No.	**Recommendation**	**Agree**	**Disagree**	**Comments**
1	Greater clarity on Government Officers involvement in the election process considering the number of persons who work within the Government – they should be able to express their views in keeping with Virgin Islands Constitution, 2007.	X		A review of the Guidance Notes to Public Officers during an election will be undertaken.
2	Polling Day should be used to vote on other matters, for example constitutional review.	X		The Committee agreed with this recommendation.

Mr. Jamal Smith shared his views on proportional voting, mixed and at large system and other concerns that must take place within the Constitutional review. A copy is affixed as Appendix A of this document.

David D. Archer, Jr.
Chairman

APPENDIX A

VOTER TURNOUT

It should be noted that during the 1960s up until the 1983 General Election voter turnout was consistently above 73%. The BVI has never seen those records of voter turnout since then. There may be varying reasons for the consistent decline in voter turnout, with the exception of the 2003 General Election that saw the NDP come to power for the first time with high voter turnout. It would suggest, however, that people are disillusioned with the system that they have and generally feel that their vote does not matter, thereby refusing to exercise their franchise. The electoral system must seek to remedy the situation by some means.

NO COMPULSORY VOTING

A poll with very low turnout may not be an accurate reflection of the "will of the people". Therefore, to guarantee that elections are a reflection of the will of the people, some countries have rules that render an election invalid if too few people vote. If the object of the electoral system, as part of enhancing democracy, then it is critical for the registered voters to exercise their franchise and it be reflected in the vote. If voter turnout falls below 60% then that would not be a positive reflection on the authenticity of the vote. This is similar to the establishment of a quorum for voting in meetings, so that in order for a valid vote to take place there must be a quorum present. Likewise, in general elections, in order for a valid vote to take place the voter's list must be a reflection of a majority of the eligible voters based on census numbers and there must be a minimum number of those registered voters casting ballots. It is an essential part of the electoral process that people vote. Some countries use a mandatory system to get voters to the polls so that they establish compulsory voting. The Pitcairn Islands, a fellow BOT, has compulsory voting which is subject to a fine unless a person has a valid excuse, and similarly Australia has compulsory voting. However, the majority of countries do not have compulsory voting, and some that did repealed it (especially in Latin America), on the basis that it was a violation of the free exercise of the right to free speech, which includes a right not to speak. Therefore, it is my opinion that a means of ensuring voter turnout should not be by compulsory voting but other mechanism for encouraging voting (offering the carrot rather than the stick) should be used so that persons who exercise their franchise may obtain certain public benefits, such as entitlement to scholarships, etc.

Additionally, the ordinary Virgin Islander is a "Conservative Libertarian" if it were possible to create a pseudo-political label. They do not like to be told what to do unless absolutely necessary for the good of all, but even then, the restrictions should reflect an Orthodox Christian bent to be palatable to the majority. Therefore, to interfere with a Virgin Islander's freedom to choose whether to go to the polls or not may be met with fierce resistance and, like most laws, would ultimately have to be observed more in the breach for that very reason. This adds support to the view that a less draconian measure than compulsory voting should be used.

PROPORTIONAL VOTING

The current voting system used in the BVI is "first-past-the-post" which does not produce true representation in a single-constituency system, but it is totally unacceptable for a mixed-

representative system as we have. Where the aim of a representative democracy is about ensuring that all segments of society are represented, the prevailing view is that the current system does not afford proper representative democracy. This also attributes to the massive decline in voter turnout over the years, since many people feel unrepresented by the current system. To correct this problem various means of proportional voting mechanisms have been developed in the hope of creating a better system of representative democracy.

Aruba and St. Martin, as well as the Dominican Republic, use proportional voting within the Caribbean, and to some extent in Guyana. However, the more advanced economies in Africa, such as South Africa and Burundi among others use proportional voting, as well as across Europe and Latin America.

It is necessary for a closer look at the particular type of voting structure that we need to realize our need to have a true representative democracy that represents all aspects of society. Additionally, this ties into concerns about our unique mixed-representative system and if we intend to keep this system then we need a proper look at proportional voting to address this type of system. This would allow for the district representative to continue to be elected by the simple first-past-the-post system, while engaging in proportional voting for the territorial seats. When the territorial seats were introduced proper thought was never given to the voting system, as when dealing with a mixed-representative system it is necessary to consider a proportional voting mechanism to reflect the true results of the majority of people voting.

RECALL ELECTIONS

As indicated during our meetings, elected members of the House of Assembly are hired by the electorate for a particular period of time, in which I unqualifiedly support Fixed-Term elections, and by extension I support recall elections for the same reason. While the House of Assembly has the power to discipline elected members, the power to remove a duly elected member from the House of Assembly should belong to the people who elected them and not the House of Assembly. It is an anachronism in our Constitution that the House needs to pass a resolution to avoid a person entering into a contract with the government, as opposed to voting on a measure where a conflict arises. The power to remove should rest in the hands of the public and there should be triggering mechanisms such as ethics violations, criminal conduct, etc., or a significant percentage of the registered voters, that would result in a recall election.

Statistics show that recall elections normally fail except in the most serious of circumstances. However, it operates as a means of ensuring that the power is appropriately placed in the hands of the electorate to decide whether to remove a duly elected legislator and also as a safeguard from abuse of power by elected officials.

STATISTICS RELIED ON IN SUPPORT

2019 General Election Results

There was a 64.64% voter turnout. That means some 35.36% of the registered voters did not vote in the last election or 7 out of every 20 voters. Of that significant low voter turnout only 46.54% voted for the elected government, which is less than half the people who voted. They won a landslide number of seats but cannot claim any significant mandate from the public, and cannot say that there is any overwhelming public confidence in their vision for the country.

2015 General Election Results

There was 64.64% voter turnout, the same as 2019. However, the NDP got 60.2% of the votes (the largest mandate of any government in modern BVI history) and a total of 11 seats (the largest number of seats of any government in modern BVI history). Therefore, there was a clear mandate to govern from those who voted.

2011 General Election Results

There was a 68.8% voter turnout. With 52.5% of the voters supporting the NDP who won 9 of the 13 seats with the remaining seats going to the VIP. The People's Patriotic Alliance (PPA) and Independent Candidates together got 8.5% of the total votes but no seats.

2007 General Election Results

There was a 62.3% voter turnout, reflecting the lowest voter turnout in BVI electoral history. The VIP won 10 seats by receiving only 45.2% of the votes, with the NDP receiving 39.6% of the votes with 2 seats and Independent candidates receiving 15.2% of the votes and only 1 seat, which was the last time that an Independent candidate has ever been elected to the House of Assembly.

2003 General Election Results

There was a 72.21% voter turnout, reflecting the highest voter turnout in BVI electoral history since the 1983 General Election which lead to the coalition government under Cyril B. Romney and saw a downward decline in voter turnout. The NDP won 8 seats by picking up 3 seats with 52.4% of the votes to defeat the VIP who only won 5 seats with 42.2% of the votes for a historic election victory that began the current 2 party system with no independent candidate winning a seat.

1999 General Election Results

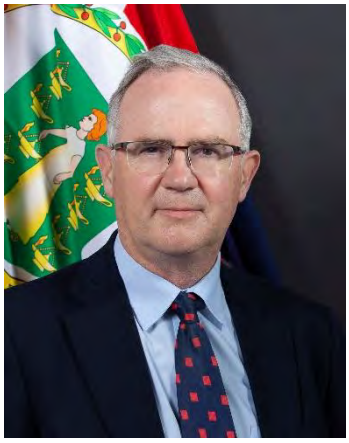
There was only a 65% voter turnout with the VIP getting 7 seats (with only 42.2% of the vote) and the NDP making its debut into politics winning 5 seats (with 37.3% of the vote) and 1 CCM candidate (Ethlyn Smith) who later crossed the floor to join the VIP. It was, however, the first election after the death of Lavity Stoutt and by a VIP lead by Ralph T. O'Neal.

1995 General Election Results

Voter turnout was 68.8%, with the VIP winning 6 seats with only 32.1% of the votes, with 3 UP seats, 2 CCM seats and 2 Independents making up a total of 66.4% of the votes with the 2 independent candidates alone amounting to 35.7% of the votes (more than the VIP). It was a historic election, where 2 women were elected for the first time. It was also notable as the first time that Andrew Fahie ran for elected office against Lavity Stoutt in what was the first significant challenge to that party leader's seat, and he would later lead the party founded by Lavity Stoutt and ultimately become Premier.

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY (“COI”)

GOVERNOR JOHN JAMES RANKIN CMG: POSITION STATEMENT



1. The following Position Statement is provided in response to the letter of 19 May from Andrew King, Senior Solicitor to the COI.

2. In addressing matters raised in the letter, I am keenly aware that I took up my position as Governor only four months ago. In responding to points concerning standards of governance, law enforcement and justice I have therefore drawn as appropriate on my experience not only to date in BVI but also in other jurisdictions, including the United Kingdom, the United States and most recently from my four years' service as Governor of Bermuda, a fellow Overseas Territory.

Governance

(1) What do you understand by the term "good governance"?

3. There are a wide range of elements that make up good governance. They include:

4. An effective separation of powers, in particular between the executive and the judiciary plus other independent institutions under the Constitution such as the Director of Public Prosecutions, the Auditor General and the Complaints Commissioner

5. Appointments to public offices and statutory bodies based strictly on merit following open competition

6. Procurement of services and awarding of contracts based on clear criteria, open tendering and objective assessments

7. Transparent government decision making, with decisions made and reasons for them properly documented

8. Ethical conduct, with the public good placed before individual political or other interest

9. Accountable Government, subject to scrutiny in the Legislature, the Courts, by the Auditor General, the Complaints Commissioner, a free and independent media and by civil society

10. A professional and independent public service, operating under a clear code of conduct, providing objective advice to Ministers and free to speak truth to power

11. A diverse public service which reflects the population it serves

12. Detailed planning, with formal reviews against delivery and clear accountability

13. Sound financial management, with budgeting, costings and scrutiny of spend to ensure proper use of public funds and value for money

14. Fully audited annual accounts scrutinised transparently by a Public Accounts Committee

15. Effective delivery of Government decisions and public services, leading to concrete results

16. Compliance with international standards

17. Clear regulatory environment

18. Respect for human rights and non-discrimination

19. Respect for the rule of law.

(2) What do you understand by the term "poor governance"?

20. Self-evidently, poor governance will occur when standards of good governance stated above do not apply. Elements include:

21. Erosion of separation of powers, with attempts to reduce or limit the powers of independent institutions and third parties who can hold the executive to account

22. Appointments made other than on merit e.g. on political grounds or in order to award friends or business associates

23. Conflicts of interest either public or private,

24. Corruption, with decisions made in return for financial gain or other benefit

25. Non-transparent procurement, with unjustified tender waivers or other inappropriate departures from prescribed procurement procedures

26. Non-transparent decision making, with reasons not given or not properly recorded

27. Lack of accountability, with ineffective scrutiny by the legislature and independent institutions, and/or refusal by the executive to cooperate with those institutions; lack of a free press or attempts to restrict a free press, and lack of civil society holding the executive to account through public dialogue and questioning

28. A public service which is politicised or whose members are fearful of providing professional independent advice or reporting wrongdoing when they see it

29. An insufficiently skilled public service who are not equipped to deliver their roles

30. Centralisation of power that slows down or prevents effective decision making, disempowers departments and agencies, and creates excessive bureaucracy

31. Poor financial management, with lack of effective budgetary controls leading to overspends and non-value for money, and failure to measure Government revenue and income

32. Out of date/poor accounting records without which it is not possible to have the knowledge to make sound decisions on expenditure and investment

33. Unethical conduct, with political or individual interest place above the public good

34. Failure to respect the rule of law.

(3) To what extent do you consider good governance to be important in sustaining public confidence in all elements of governance?

35. Good governance is essential to sustaining such public confidence. Without it, public confidence in the fairness and competence of government, and equitable and effective delivery of public services, is eroded. The public in this context includes all those residing in BVI, businesses located in BVI, those visiting or investing in BVI and outside bodies scrutinising BVI, including for example in the context of the forthcoming Caribbean Financial Action Task Force assessment.

36. Good Governance drives transparency, which gives the public confidence, being able to see and hold people accountable for decisions taken. It drives a positive dialogue between elected and electorate, helping to ensure that policies are set to deliver the best outcome for the territory in its widest sense.

37. Good governance models positive behaviours across society, builds civic pride and accountability, enabling all citizens to feel accountable for the territory

38. Good Governance means prioritising those areas that are basic needs; water, roads, education, building a sustainable foundation for people and the basis on which other work can develop and thrive

39. Conversely, a lack of transparency or failure to deliver public services erodes trust and seeds division, as the public question why taxes are not spent on improving essential services or important community infrastructure projects.

(4) As Governor, what role, if any, do you have in ensuring there is good governance and how have you carried out that role?

40. As Governor, I am empowered to exercise executive authority in the Territory on behalf of Her Majesty as per Section 46(2) of the Constitution. The functions of the Governor are however defined and therefore constrained by the Constitution.

41. Section 60 (1) of the Constitution nevertheless provides areas for which the Governor has special responsibilities:
    - External affairs, subject to subsection (4)
    - Defence, including the armed forces
    - Internal security, including the Police Force, without prejudice to section 57
    - The terms and conditions of service of persons holding or acting in public offices, without prejudice to section 92 and
    - The administration of the courts.

42. Under Section 92 of the Constitution power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices vests in the Governor, generally acting in accordance with the advice of the Public Service Commission.

43. In accordance with the Commission of Inquiry Act, I have the power to appoint Commissions of Inquiry into any matter which, in my opinion, would be for the public welfare.

44. In accordance with Section 49 of the Constitution, I chair Cabinet but do not have a vote in its decision making.

45. There is no provision in the Constitution equivalent to the Cayman Islands Constitution providing that in the exercise of his or her functions “the Governor shall endeavour to promote good governance and to act in the best interest of the Cayman Islands so far as such interests are consistent with the interest of the United Kingdom”. Nevertheless, one of my major concerns as Governor is the good governance of the Territory. In seeking to ensure such governance I have focused in particular on the following areas during my first four months in office:

- Support for the independent institutions under the Constitution, including the Royal Virgin Islands Police Force
- Tackling organised crime, including supporting future legislation on unexplained wealth orders
- Support for the public service, working closely with the Deputy Governor
- Close scrutiny of legislation in effort to ensure no diminution or restriction in the role of independent offices e.g. the Auditor General, the DPP and the Complaints Commissioner
- Close scrutiny in Cabinet of papers on procurement, in particular any proposed tender waivers
- Close scrutiny in Cabinet of proposed appointments to Boards or Statutory Bodies, in particularly to ensure that such appointments are merit based and avoid potential conflicts of interest.

46. In carrying out the above functions, I have sought to work cooperatively with the elected Government, while also setting out frankly areas where I may disagree with decisions and recording my positions as necessary in Cabinet minutes.

47. Furthermore, my office administers a territorial programme (£2.3 million for FY21/22), through which we fund a range of security, justice, environmental and governance activity to support the territory. Governance is not only central to all of these programmes in themselves, in terms of rigorous procurement practices, full transparency, and other controls. We also fund a number of programmes to directly support improvement in governance in BVI, such as training public servants in international norms and standards, technical advice including on maritime security and legislation to support adherence to international regulations, and support to transform the public service such as digitisation of paper based functions to enable a switch to e-governance and improve audit trails. Upcoming support includes training for public service in e.g. the Attorney General's office, audit department, and the election supervisor.

(5) What mechanisms, statutory or otherwise, make up the current system in place in the BVI to ensure good governance?

48. Current mechanisms include:

49. The Governor, exercising his or her powers under the Constitution and in accordance with such instructions as Her Majesty may from time to time see fit to give him or her

50. The power of the Royal Virgin Islands Police Force, the Director of Prosecutions and the Courts to investigate those responsible for wrongdoing and bring them to account

51. The power of the Auditor General to audit the accounts of the House of Assembly and all Government departments and offices

52. The power of the Complaints Commissioner to investigate actions taken by Government departments or a public authority in the exercise of their administrative functions

53. The maintenance of a Register of Interests and the duty of all members of the House of Assembly (including Ministers) and holders of other officers to declare their interests, income and liabilities, or of any other person connected with them, as prescribed by law in accordance with Section 112 of the Constitution

54. The respective roles of the Public Service Commission, the Teaching Service Commission, the Judicial and Legal Services Commission and the Police Service Commission in advising the Governor on appointments to offices

55. Procurement procedures as specified in the Public Finance Management Act and regulations

56. The role of the Governor together with the Deputy Governor, in upholding an independent public service

57. The existence of a free press in scrutinising Government, the public service and the work of statutory bodies.

(6) What do you consider to be the strengths and weaknesses of that system?

58. Some of the current mechanisms can in principle help to ensure good governance in BVI. But they may not be sufficient in themselves, and in any event their efficacy is dependent on full respect for their powers and functions.

59. Subject to the powers of the Governor under the Constitution, the Cabinet is the executive and policy making body for the majority of domestic issues in BVI. The Governor chairs Cabinet but does not have a vote in its decisions. My experience to date of Cabinet in terms of proper decision taking is mixed. Under the terms of the Cabinet Handbook, papers should be presented at least two days in advance in order to give members of Cabinet adequate time to consider proposals on which they are asked to make decisions. But in almost all Cabinet meetings I have chaired to date, a number of papers including on important issues e.g. Covid-19 response, have been submitted late and it is clear that some Ministers have not been able to fully read them in advance of Cabinet, meaning that decisions are taken other than on a fully informed basis.

60. There are also some papers that come to Cabinet with insufficient consultation. A notable example is the Disaster Management Act 2020 on which I understand the previous Governor was not consulted and to which to date I have not assented given its impingement on the responsibilities of the Governor and the proposed transfer of control over disaster preparedness and management from the Governor to Ministers.

61. There have been a number of occasions on which Cabinet has agreed to waive tenders in awarding contracts which in my view have not involved “exceptional circumstances” justifying departure from the general procedures under the Public Finance Management Act.

62. On other occasions it is not clear that contracts have been awarded under any proper procedure or with any cost benefit analysis e.g. the EZ shipping radar contract which to the best of my knowledge was not agreed by either the Joint Task Force or by the National Security Council prior to signature.

63. There have been a number of appointments agreed by Cabinet where in my view it is doubtful whether the selected candidate has the requisite qualifications for the job and/or where the political connections of the individual lead to a concern that the individual may have been selected for inappropriate reasons. There are also a number of individuals who sit on several different public boards, with a risk of potential conflict. All candidates for selection to boards and statutory bodies should be required to declare any potential conflict of interest as should those responsible for appointing them eg. if candidates are family members or business associates.

64. The Public Service contains many dedicated and well qualified officials. But their confidence appears to have been eroded by perceived attempts to exert undue political influence on their work or to create uncertainty over lines of authority. Under section 56 of the Constitution Ministers have direction and control of their department, including directing the implementation of government policy as it relates to that department. But unless otherwise agreed between the Governor and the Premier, the department is under the supervision of a Permanent Secretary who is a public officer. Moreover the power specified in section 56 is without prejudice to the Governor's responsibility under section 60 of the Constitution for the terms and conditions of the public service, the role of the Public Service Commission in the making of public appointments and the ultimate responsibility of the Governor for the disciplinary control of public officers and /or their removal from office. Such powers vest, and should continue to vest, in the Governor, not Ministers.

65. Confidence of the Public Service also risks being eroded by attempts to limit interaction by the Governor's Office with Ministries e.g. by insisting that all such contact be carried out through the Premier's Office. Such attempts run contrary to section 56 (7) of the Constitution whereby the Governor acting in his or her

discretion may at any time request from a Minister any official papers or seek any official information, subject to informing the Premier of any such request. They also cut across section 60 (8) of the Constitution which allows the Governor to direct others (not just Ministers) in the exercise of their functions where they involve or affect any matter for which the Governor has special responsibility under section 60 (1) of the Constitution.

66. The powers assigned to the Auditor General and the Complaints Commissioner provide strength to the BVI system of good governance and accountability. Further strengthening would be provided by the passing of Integrity in Public Life legislation and Whistleblower legislation. Legislation on these two points has been introduced in the House of Assembly and is in principle to be welcomed. I would note however my strong concern that as initially drafted, both these pieces of legislation would undermine or cut across the powers of the Auditor General, the Complaints Commissioner and indeed the Director of Public Prosecutions. If left unamended such legislation risks weakening rather than strengthening good governance. Moreover the effectiveness of such legislation will ultimately depend on the extent to which it is properly implemented and enforced.

67. The Register of Interests would be strengthened by making it public and with greater sanctions for non-compliance. The current Registrar of Interests Act 2006 simply places compliance by members of the House of Assembly in the hands of a Standing Select Committee of the House of Assembly. A clear limit should also be placed on the value of gifts that Ministers and members of the House of Assembly are allowed to keep. Under their current code, members of the Public Service are not allowed to receive and keep gifts of any value arising from their positions.

68. The independence of the DPP and of the Commissioner of Police in their decision making are strengths in the system of good governance. But the effective functioning of their offices is dependent on adequate financial resources being provided for their work, which decision lies with the Minister of Finance and Cabinet, subject to the extraordinary power of the Governor under section 103 of the Constitution to order payments out of the Consolidated Fund.

69. It is clear that there are challenges in delivery of public services. In citing perhaps the most pertinent example, I do not underestimate the huge destruction caused by hurricanes Irma and Maria in 2017, nor the resulting strains on public finances followed by the severe impact of the COVID-19 on tourism revenues. But the remaining destroyed cars and boats, together with other post-hurricane debris and unrepaired shelters, continued challenges in sewerage and water supply systems, and the lack of a sustainable waste management system speak to difficulties in meeting the basic needs of BVI as we again approach hurricane season.

(7) What steps do you consider should be taken to promote the strengths and remedy the weaknesses you have identified so as (if you have answered (3) above in the positive) to sustain public confidence in all elements of government.

70. Steps that should be taken include:

71. A public Register of Interests and a strict limit on the value of gifts or benefits in kind that can be received

72. Strengthened procurement procedures with tender waivers only in specific exceptional circumstances

73. All appointments made strictly on the basis of merit following open advertising and transparent processes

74. Cabinet papers prepared and submitted in good time

75. Publication of full Cabinet minutes

76. Adoption of a Ministerial Code of Conduct with clear provisions on the duty to respect the political impartiality of the Public Service

77. Passing of Integrity in Public Life and Whistleblower legislation, which does not limit or cut across existing independent institutions and accountability mechanisms

78. A Freedom of Information Act, to ensure the public have the right to access Government information

79. The Contractor General draft legislation, currently before the House of Assembly, designed to monitor the award and implementation of government contracts, is of questionable necessity. But at a minimum it should be redrafted (a) to similarly avoid cutting across existing independent institutions and accountability mechanisms and (b) stipulate an appointment and removal system for the Contractor General which provides clear independence

80. Adequate financing for independent institutions, including for the Director of Public Prosecutions and the Royal Virgin Islands Police Force

81. Fully audited accounts and quarterly public account reporting to ensure processing of payments is up to date and that the finances are in good order to meet any future commitments

82. More accountability and transparency in all public services

(8) What are the standards by which good governance is currently measured in the BVI?

83. There is no single such set of standards. But the Constitution, individual laws and certain non-legally binding codes e.g. for the Public Service provide legal requirements or standards by which actions can be judged. Individual institutions and bodies e.g. the Courts, the Director of Public Prosecutions, the Royal Virgin Islands Police Force, Auditor General, Complaints Commissioner, Labour Commissioner and the Financial Investigations Agency can all play a role

in ensuring respect for those standards, as can the Governor in respect of his areas of responsibility under the Constitution.

84. There are also external standards by which good governance in particular areas can be assessed e.g. the work of the Caribbean Financial Action Task Force (CFATF) in assessing measures to tackle money laundering; the work of the IMO and ICAO in assessing compliance respectively with maritime and aviation standards; and the work of international human rights monitoring bodies in assessing compliance with international human rights obligations.

(9) In what way, if any, do you consider those standards to be insufficient

85. Many of the relevant standards may be sufficient if actively applied to BVI. It is compliance with them that is needed for good governance.

86. There are nonetheless some gaps. One particular one is the need to update chapter 2 of the Constitution on Fundamental Rights and Freedom of Individuals and address the continued lack of a Human Rights Commission.

(10) What steps do you, as Governor, consider should be taken to ensure that the standards of governance in place will sustain public confidence in all elements of governance?

87. Please see my answers to each of the above questions. I would propose the following steps as priorities in sustaining public confidence in Government:

88. Effective and transparent financial management, budgetary control and spend of public funds

89. Transparent and strictly enforced procurement measures, based on clear criteria. Tender waivers only in exceptional circumstances and justified under strict tests

90. Fully audited and up to date accounts, publicly available
91. Appointments to boards, statutory and other public bodies made solely on the basis of merit
92. A public Register of Interests and all potential conflicts of interest declared and up to date
93. A willingness and determination across all parts of Government to tackle corruption wherever it may occur
94. Full respect for the Territories' independent institutions, including for example the Auditor General, and full compliance and cooperation with their requirements
95. Respect for an independent and professional public service
96. Transparency in decision making processes and funding of Government activity
97. And better delivery to meet people's basic needs.

Matters to be addressed – the operation of the agencies of law enforcement and justice

(1) How are the agencies of law enforcement and justice organised in the BVI?

98. Under section 60 of the Constitution, the Governor has responsibility inter alia for: defence, including the armed forces; internal security, including the Police Force, without prejudice to section 57; and the administration of the courts. Section 27 of the Constitution provides that a period of public emergency may be declared by the Governor when the well-being or security of the Virgin Islands is threatened by war, invasion, general insurrection, public disorder, natural disaster or other public emergency and the declaration is considered necessary by the Governor to maintain or restore peace and security.

99. Section 57 of the Constitution establishes the National Security Council, which advises the Governor on matters relating to internal security. Section 57 (4) provides inter alia that the Commissioner of Police has responsibility for the day-to-day operation of the Police Force, reporting regularly on such operations to the Governor.

100. Power to make appointments to offices in the Police Force and to exercise disciplinary control over persons holding or acting in such offices vests in the Governor under section 97 of the Constitution acting generally in accordance with the advice of the Police Service Commission.

101. The Virgin Islands are within the jurisdiction of the Eastern Caribbean Supreme Court. The Chief Justice of this Court is appointed by Her Majesty and the other judges are appointed by the Judicial and Legal Services Commission for the Court. Under section 95 of the Constitution, the Governor appoints Magistrates, generally on the advice of the Judicial and Legal Services Commission established under section 94 of the Constitution.

102. Funding for both the Police Force and the Courts, including filling of vacant positions, falls to the determination of the Minister for Finance subject to the extraordinary power of the Governor under section 103 of the Constitution to order payments out of the Consolidated Fund.

103. The positions of Attorney General and Director of Public Prosecutions are established respectively under sections 58 and 59 of the Constitution and appointments to these positions are made by the Governor acting generally in accordance with the advice of the Judicial and Legal Services Commission.

(2) What particular responsibilities do you have, as Governor, within the overall system of law enforcement and justice in BVI?

104. As per above, as Governor I have overall responsibility for internal security including the Police Force and for appointments to the Police Force. The Commissioner of Police has responsibility for operational policing decisions and reports to me on such operations. The Commissioner also informs the Premier of any significant security developments in the Virgin islands, including the occurrence of any significant criminal activity, as per section 57 (4) (c) of the Constitution. As Governor I summon a meeting of the National Security Council whenever I consider it desirable to do so and also whenever the Premier so requests as per section 57 (6) of the Constitution.

105. The members of the Judiciary and Magistracy operate independently and are not subject to my instruction in their judgments or rulings. Similarly the Director of Public Prosecutions acts independently in her decisions on undertaking of criminal proceedings and she is not subject to direction or control of any other person or authority, as per section 59 (6) of the Constitution.

(3) What processes and systems are in place to monitor the effectiveness of the overall system of law enforcement and justice?

106. I meet with the Commissioner of Police regularly in accordance with section 57 (4)(b) of the Constitution to discuss policing issues and I formally assess his performance on an annual basis.

107. The Commissioner also provides quarterly and annual reports to the National Security Council based on the RVIPF Strategic Plan, setting out major accomplishments, challenges and opportunities, reporting on the work of each Police Division and providing key information on crime statistics and trends.

108. As Governor I also chair the Criminal Justice Advisory Group (CJAG). This brings together a wide range of agencies involved in Justice matters, including the Director of Public Prosecutions, the Commissioner of Police, the Senior Magistrate, the Registrar of High Court, the Deputy Governor's Office and the senior official responsible for Health and Social Development. CJAG's purpose is "to enhance and promote the safety and wellbeing of the British Virgin Islands through the effective and efficient coordination of criminal justice services" and is designed to take a holistic approach. The most recent CJAG meeting focused on ways to addressed domestic violence and the current court case backlog.

109. I meet regularly with the Director of Public Prosecutions and carry out a formal performance assessment on an annual basis. As previously noted, in accordance with section 59(6) of the Constitution the Director is not subject to the direction or control of any other person or authority in the exercise of her powers.

110. I similarly meet regularly with the Attorney General as the principal legal adviser to the Government and am responsible for her performance assessments.

(4) What do you, as Governor, consider to be the strengths and weaknesses of the overall system of law enforcement and justice in BVI?

111. The independence of the Courts, DPP and RVIPF from political interference is a fundamental strength which must always be preserved to maintain the checks and balances central to a democratic society.

112. The application of English common law principles and central tenets of UK law, together with the possibility of final appeal to the UK Privy Council, are key underpinnings of the BVI justice system giving confidence that the rule of law will prevail.

113. RVIPF statistics for 2020 report an increase in detection rates and a decrease in recorded crimes, and record seizures of illicit drugs. I welcome the steps taken by both the outgoing and incoming Commissioner in tackling organised crime groups engaged in the transhipment of illicit drugs and associated violence and murders. The early arrest by the police and charges laid by the DPP, following a recent murder on island, have helped in restoring public confidence and I welcome the recent initiative by the Commissioner of Police to further strengthen community policing.

114. They are however a number of current challenges. BVI remains a major route for illegal drugs transhipment, which is highly reputationally damaging for the Territory. A number of the seizures successfully made in the past year by the Royal Virgin Islands Police Force regrettably point towards involvement by some police officers in the illicit drugs trade and corrupt practices. The volume of such drugs seized also suggests that similar challenges may exist within Immigration, Customs and the Airport and Port Authorities over which I as Governor have no day to day authority. It is vital that further action is taken to strengthen BVI's border security, both maritime and air, and that all those responsible for corrupt practices in this as in any other area are brought to account.

115. A further major challenge affecting both the RVIPF and the office of the DPP is that of resources, both for recruitment to fill vacant slots and for training. The outgoing Commissioner of Police in his 2020 report noted that the RVIPF regular allocated budget falls far below the reasonable cost required to maintain the competencies and highly skilled requirements and demands in investigating crime and bringing offenders to justice. The RVIPF currently has 67 roles unfilled, approximately one fifth of the total workforce. Funding for vital repairs and maintenance of police vessels is also needed. Current rates of pay for lawyers in the DPP's office and the Attorney General's office also appear to fall short of what is required to attract sufficiently qualified candidates to fill current vacancies.

116. The current backlog in court cases, though primarily caused by the 2017 hurricanes and Covid-19, needs to be addressed.

117. There also needs to be further examination of whether some criminal trials should be held without a jury given challenges ensuing from the small pool from which jurors are chosen and the risk of jury intimidation. The appropriateness of jury trials e.g. for complex fraud cases should also be considered.

(5) What steps do you as Governor consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?

118. The constitutional underpinning for the independence of the courts, DPP and RVIPF must always be preserved to maintain the checks and balances central to a democratic society.

119. Further steps must be taken to tackle organised crime groups and their role in particular in the transhipment of illicit drugs.

120. Corrupt practices within all agencies responsible for border security need to be ended, with those responsible for such practices brought to account through the courts.

121. Recent events have demonstrated the need to review and improve the security arrangements at Her Majesty's Prison.

122. Police engagement with the community should continue to be strengthened, given in particular the information that members of the community may be able to provide in helping to bring those responsible for criminal activities to justice. Churches and other voluntary organisations, together with social services and HM Prison Service, also have a vital role in dissuading young people in particular away from criminal activities and rehabilitating those who may have fallen into crime.

123. Adequate financial support is needed to fill vacancies and meet training requirements in the RVIPF and the office of the DPP.

124. The Police Act currently under consideration should also be amended in a number of areas, including to better tackle performance and attendance issues and modernise other HR processes.

125. The construction of a new and secure Magistrate's court is required, with plans to that effect currently under consideration.

126. The work of the Registrar of the High Court and the Magistracy to deal with the current backlog of cases should also be supported, including through improved monitoring and management of cases, delivery of summonses by the police and a reduction in unnecessary delays caused eg. by unprepared defence counsel.

General

Ministerial Political Adviser

- Signed
- 18 June 2021
- MOF
- File: PO/T3/065/C-III
- Mr. Document Transfers
- Memo No. 281/2021
- Extract No. REx/281/2021

Background Information

1)The first steps to Ministerial Government in the Virgin Islands took place in 1956 when Constitutional changes allowed for two (2) Members of the legislature who were elected by other elected members to the Executive Council, to be given oversight for "trade and production" and 'works and communication".

2)Ministerial Government was further expanded following the Proudfoot Report of 1965, which concluded that constitutional advancement to ensure elected members more initiative in the direction of the colony's affairs was justified. This led to, in 1970, the introduction of a ministerial system that provided for three (3) Ministers including a Chief Minister. The Ministers became administratively responsible for the various subjects of the Government, save for defence, and internal security, external affairs, the public service, the courts and for a time, finance, which were retained under the purview of the Governor.

3)In the more than five (5) decades since, the economy of the Virgin Islands has grown substantially, increasing the demands on the local Government to provide services to the public. Major advancements in technology have also contributed to this increased growth and increased demands and pressures on the Government.

4)This has been reflected in the various Constitutional Reviews over that period. For instance, the current Virgin Islands Constitution Order 2007 provides for a team of Ministers consisting of the Premier and four (4) other Ministers – one being appointed the Deputy Premier, who sit in the Cabinet. Through the Virgin Islands Constitution (Amendment) Order, 2015, provision was made for the appointment of two (2) Junior Ministers from among the elected members of the House of Assembly, to assist in the performance of Ministerial functions relating to economic development.

5)The Government of the Virgin Islands has set the national vision of transforming the Virgin Islands into a leading regional economy by 2025 through innovation,

entrepreneurship and local and foreign investment. This is deemed key to bolstering the economic and human security and resilience of the Territory.

6)To achieve this ambitious target in the aggressive deadline, it is necessary to boost the human resource capacity and capabilities in the various Ministries and to provide appropriate support to the Ministers so that they can optimally drive the Government's work and agenda, and generate and sustain momentum.

7)The Premier has previously cited the need for strengthening the policy capabilities of the Government. At a thanksgiving service at the Cyril B. Romney Tortola Pier Park on 6th March, 2019, shortly after taking office, he stated: "Proper development will not be guaranteed by ad hoc policies and arrangements nor attempting quick-fix legislation. It is important that we get a functioning policy unit in place with some urgency. It is an important mechanism to ensure that the renewal that the people voted for and expect shall take place." Establishment of a policy unit in the Premier's Office is a consideration in the ongoing Public Service Transformation exercise.

8)Introduction of the role of Ministerial Political Adviser will lend to strengthening the policy capabilities of the Ministries, while the establishment of a policy unit is considered in the reformed Public Service.

UK Policy for Special Advisers to Ministers

9)The Government of the Virgin Islands has considered the model currently in use in the United Kingdom Government system, whereby Ministers are provided with Special Advisers (also referred to as Ministerial Aides and Ministerial Advisers).

10)A summary of the UK policy for special advisers is attached in **Appendix A.** The post and policy emanate from the provisions of Section 15 of the Constitutional Reform and Governance Act 2010.

11)It is important to note that under the UK policy, the appointment of special advisers is a political one, and the role is designed to bridge the political and administrative dichotomy of Ministerial function.

12)Special advisers are temporary civil servants appointed to add a political dimension to the advice and assistance available to Ministers. In doing so, they reinforce the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support. They are paid from public funds and have a legitimate role in support of the Government's interest, which they can discharge with a degree of party political commitment and association which would not be permissible for a permanent civil servant.

13)Under the UK system, special advisers may work very closely with the political parties associated with the Government Administration, although with some restrictions for maintaining standards of Good Governance.

14)Ministers may have more than one adviser appointed to them provided the appointment is approved by the Prime Minister. The tenure of the special adviser is tied to the appointment of the Minister, and therefore terminates when the Minister's appointment terminates or following a General Election, or if the Prime Minister or Minister deems it necessary to revoke the special adviser's appointment.

15)Functions of special advisers in the UK Government include, but are not limited to:

i. review papers going to the Minister, drawing attention to any aspect which they think has party political implications, and ensuring that sensitive political points are handled properly. They may give assistance on any aspect of departmental business, and give advice to their Minister when the latter is taking part in party political activities;

ii. checking facts and research findings from a party political viewpoint;

iii. preparing speculative policy papers which can generate long-term policy thinking within the Department, including policies which reflect the political viewpoint of the Minister's Party;

iv. contributing to policy planning within the Department, including ideas which extend the existing range of options available to the Minister with a political viewpoint in mind;

v. liaising with the Party, to ensure that the Department's own policy reviews and analysis take full advantage of ideas from the Party, and encouraging presentational activities by the Party which contribute to the Government's and Department's objectives;

vi. helping to brief Party MPs and officials on issues of Government policy;

vii. liaising with outside interest groups including groups with a political allegiance to assist the Minister's access to their contribution;

viii. speechwriting and related research, including adding party political content to material prepared by permanent civil servants;

ix. representing the views of their Minister to the media including a Party viewpoint, where they have been authorised by the Minister to do so;

x. providing expert advice as a specialist in a particular field; and

xi. attending Party functions (although they may not speak publicly at the Party Conference) and maintaining contact with Party members.

Proposed Role for Ministerial Political Adviser in the Virgin Islands system

16)The role envisioned for the Ministerial Political Adviser in the Virgin Islands Government setting is modelled after the UK job design and function; however in the local

setting, the Ministerial Political Adviser would not conduct political party work or assist the Minister with political party functions, as is done in the UK system, and would be an independent contractor.

17)The Ministerial Political Adviser would provide support to the Minister in research, strategic and political analysis and advice on major policy, programme, and operational issues affecting departments within the Minister's portfolio, and speech-writing, communications and messaging support to the Minister.

18)The proposed job description for the Ministerial Political Adviser is outlined in **Appendix B**.

19)To ensure that Ministerial Political Advisors do not abuse their access to confidential information, Ministers and senior Government officials, an Integrity Committee for Ministerial Political Advisers will be set up comprising the Permanent Secretary, Premier's Office as Chair; Permanent Secretary, Deputy Governor's Office; and one of the four other Permanent Secretaries in rotation each year.

20)Ministerial Political Advisers will also be required to subscribe to a Code of Conduct for Ministerial Political Advisers **(See Appendix C)**, which will be included in their engagement contract.

21)Ministerial Political Advisers would be required to declare any private interests that they may hold in any matter that may be deemed relevant to their work, upon assumption of duties and periodically as circumstances may require. This disclosure shall be made by letter to the appointing Minister and copied to the Permanent Secretary in the Premier's Office as Chair of the Integrity Committee for Ministerial Political Advisers; and to the Premier.

22)Ministerial Political Advisers may be called before the Integrity Committee for Ministerial Political Advisers to be questioned on their adherence to the Code of Conduct for Ministerial Political Advisers or matters of conflicts of interests, and the Committee may submit a report to the Premier for his or her consideration.

23)The Premier will be entitled to no more than three (3) Ministerial Political Advisers while the other Ministers may be entitled to no more than (1) Ministerial Political Adviser, whose engagement would be on the request of the Minister but on the approval of the Premier.

24)Due to the nature of the post, selection of Ministerial Political Advisers would be at the discretion or recommendation of the Minister or the Premier, and therefore it would not be required for the post to be advertised or subject to tender.

25)As in the UK, the engagement of the Ministerial Political Adviser would be on contract, however the Ministerial Political Adviser would be an independent contractor. Appointments would end at the end of the term of the Administration which appointed

them – that is, on the day following a General Election, or when the appointing Minister leaves the Government or moves to another appointment. The Ministerial Political Adviser can also be terminated on the request of the Minister or the Premier with 30 days notice or payment in lieu unless it is for gross misconduct.

26)The remuneration payable to Ministerial Political Advisers will be from the Ministry's Consultancy vote and in the case of Ministerial Political Adviser for Junior Ministers, the remuneration costs will be borne from the Consultancy vote of the Premier's Office.

27)Remuneration will be based on the following pay bands according to the Minister to whom the individual is attached:

Ministerial Political Adviser to:	Position Classification	Annual Salary (US$)
Premier	MPA-1	$79,440 – $120,000
Deputy Premier	MPA-2	$60,408 – $84,408
Cabinet Minister or Junior Minister	MPA-3	$47,172 – $79,440

28)Ministerial Political Advisers will not be entitled to gratuity on completion or termination of their contract, nor annual or sick leave.

29)The Ministries have sufficient funding to facilitate the initiative.

30)Ministerial Political Advisers will otherwise be subjected to the terms and conditions of employment, Public Service Laws, Regulations and Policies, and the Code of Conduct of Public Officers - in addition to the Code of Conduct for Ministerial Political Advisers and the oversight of the Integrity Committee for Ministerial Political Advisers - during their tenure, save and except that in the performance of their duties they may incorporate political considerations into their analysis, advice, speech writing and so forth in a manner that would not be permissible for a permanent public officer.

Purpose

31)To seek Cabinet's approval to create the post of Ministerial Adviser.

Cross-Ministry Consultation

32)Ministry of Finance, Attorney General's Chambers and Deputy Governor's Office have been consulted. In addition, input was received from the Governor's Office. This communication is recorded in **Appendix D**, with the Premier's response in **Appendix E**.

Permanent Secretary, Deputy Governor's Office stated:

33)The purpose of this Cabinet Paper (the 'Paper') states, "to seek Cabinet's approval to create the post –Ministerial Adviser" which attempts to mirror, in title, the United Kingdom's Policy on Ministerial Advisers/Aides.

34)The Paper makes reference to the Special Adviser as a "temporary civil servant" who will be responsible for performing functions to add a political dimension to the advice and assistance available to Ministers. However, the duties presented do not mirror those of the UK position. This therefore creates an extremely grey area as public officers are to be impartial as it relates to political affiliation.

35)We therefore cannot support the appointment of the Ministerial Adviser in the form in which it has been presented. We understand the use of the United Kingdom's Model and the need for the Ministers to be supported. However, it must be noted that the UK Special Adviser adds a political dimension to the Government structure. Therefore, they must be seen as Political Advisers and not Ministerial Advisors, which as presented in the Paper is the role of the Permanent Secretary.

36)We have no objection to creating the role of a Ministerial Political Adviser to support the Ministers in carrying out their political roles and responsibilities. However, we must carefully consider how this role will interact with the Public Service and in particular, the Permanent Secretaries whose functions are outlined in the Constitution.

37)The job description as presented defines the role of the Ministerial Adviser as someone who will direct Government departments; develop and support policy implementation and facilitate various work flows. These responsibilities are clearly defined in the existing job profiles established for Permanent Secretaries. The job description outlined in **appendix B** makes reference to the role of the Adviser directing departments, providing advice on major policy programmes, coordinating and facilitating work flows, managing information and establishing and maintaining communication links between the Minister and the Departments. These are also areas directly related to the work of the Permanent Secretary, and in some cases the Director of Communications. The job description does not include qualifications for the most suitable applicant or appointees. In considering the role of the Political Adviser, we foresee such an individual undertaking the following:

- serving as a conduit between Ministers' political agenda and his/her public service agenda. In doing so, he/she will work with the Permanent Secretary to ensure that there is a clear distinction between the two roles;
- ensuring Ministers' political direction is developed and communicated to his/her constituents;
- liaising between constituents and the Minsters' political office;
- keeping a close check and monitoring political interest within the community;
- ensuring his/her political agenda is being fulfilled;

- representing the views of the Ministers to the media and providing political content to communication that is being issued by Ministers in a political space;
- determining how to access support for re-election;
- attending political functions and ensuring close collaboration with party members;
- taking part in political reviews that may be organised by the party;
- reviewing papers going to the Minister, drawing attention to any aspect which they think has party political implications, and ensuring that sensitive political points are handled properly;
- "devilling" for the Minister, and checking facts and research findings from a party political viewpoint;
- preparing speculative policy papers which can support long-term policy thinking to the Government's Policy Unit, including policies which reflect the political viewpoint of the Minister's Party;
- liaising with the Party, to ensure that the Department's own policy reviews and analysis take full advantage of ideas from the Party, and encouraging presentational activities by the Party which contribute to the Government's and Department's objectives;
- liaising with outside interest groups including groups with a political allegiance to assist the Minister's access to their contribution;
- representing the political views of their Minister to the media including a Party viewpoint, where they have been authorised by the Minister to do so;
- providing expert advice as a specialist in a particular field; and
- holding meetings with Permanent Secretaries to discuss the advice being put to Ministers.

38)Research was conducted to provide comments on this subject and in a paper written in 2011 by the Organisation for Economic Co-operation and Development (OECD) on Ministerial Advisors following the application of a survey across 27 countries was utilised. The following provides clear examples of why there is a need for distinction between the Political Adviser and the Policy Adviser (Permanent Secretaries):

- Modern government operates in a complex market of ideas, policies and Actors which requires decisions to be taken and acted upon each day. With the increase in technology comes and increase in sources of information which has also led to increased public expectations about government response times. Strategic decision making requires high-quality advice to assist government leaders in making informed decisions, especially considering the times we are in and the need to work toward restoring long-term economic growth. It also requires co-

ordination to keep in tune with the various stakeholders within and outside government as well as to ensure the coherence of government actions. Alongside senior managers such as Permanent Secretaries with the public service, ministerial advisors can help government leaders to increase the responsiveness of government and help address strategic challenges faced by government leaders. At the same time, their sheer number and the capacity surrounding their status have prompted widespread concern.

- Ministerial advisors are usually appointed at the sole discretion of the minister. They are primarily appointed on the basis of personal trust and their term of office is generally tied to that of the government leader who appointed them. Ministerial Advisors normally are hired to provide strategic advice in the design of policies or reforms as their prime duty. Many are very influential in the areas of crisis management, diplomacy and the design of new laws and policies. Also, their co-ordination with such stakeholders as Cabinet and the HOA, private sector and the minister's political party helps decision makers keep in touch with stakeholders and public opinion in an increasingly complex and fast-paced environment, thereby ensuring that their key policy decisions are timely and in tune with expectations. The other functions which are common for Ministerial Advisors are in the area of media assistance.

- However, frequent challenge for these positions is the duplication that is seen in their job descriptions and those provided for permanent secretaries. A majority of countries have moved to restrict ministerial advisors' ability to manage public officers. Although the boundaries they have introduced should, of course, be clearly understood and respected this is normally not the case. In some instances, the role of ministerial advisors have appeared as "gatekeepers" to the minister's office instead of facilitating communication between public officers and the minister concerned.

- This development has, in turn, led to public concern in some countries over the lack of transparency in advisor appointment procedures and levels of pay. Also, because ministerial advisors are often answerable only to their minister, the lack of clear accountability frameworks was also pointed out. Because they interact so closely with the private sector and exert influence on policy making, ministerial advisors are particularly vulnerable to undue influence, which may put their integrity at risk.

- Despite the risks to integrity inherent in the function of ministerial advisor, few countries have developed tailored standards of conduct. Most simply apply their public service codes of conduct which fail to offer advisors sufficient guidance on what is expected of them considering the political nature of their work.

39)To date, few countries have drawn up integrity standards specifically for ministerial advisors along the lines of the codes of conduct. More than one-third still do not require ministerial advisors to disclose their private interests. Their close, one-to-one relationship with their minister raises the question of who is accountable – and how – in the event of

misconduct. Holding ministers answerable for their advisors' misconduct is one way to address this. A solution could also be to make advisors accountable to an independent administrative body in addition to the minister. Other recommendations include:

- clearly stating advisors' job descriptions, delineating their power and functions as distinct from those of senior managers and setting the boundaries they may not overstep;
- setting clear standards of integrity and ensuring that they disclose their private interests

40)pro-actively to identify and prevent conflict of interest;

- increasing transparency not only in respect to the number of advisors but of their overall cost, profiles and competencies;
- clarifying the accountability structure governing ministerial advisors.

41)We reiterate that it should be made clear that the post of Ministerial Adviser, as defined in the job description, overlaps with the role of Permanent Secretaries. The revised job description which attempts to create a clear delineation between a Ministerial Political Adviser and a Permanent Secretary, as presented in our comments should be what Cabinet considers to ensure that there is no overlap in the duties of the Ministerial Political Advisers and Public Officers such as Permanent Secretaries.

Financial Implications

42)The Ministry of Finance supports that any goods and/or services to be acquired which exceed the petty contract threshold of $100,000 are to be tendered prior to engagement. Sufficient evidence should be provided to support a decision to not use the tender process. Hiring a ministerial special adviser is a unique circumstance that could be considered sufficient support for departing from the usual tender process. As each Minister would need to consider both formal qualifications and interpersonal factors, it may prove impossible to quantitatively evaluate and compare candidates for ministerial special adviser positions as is done in the tender process. Nevertheless, in keeping with Section 170 (2) of the Public Finance Management Regulations, 2005, Cabinet has the discretion to direct otherwise on the matter.

43)The policy decision to adopt a ministerial special adviser, similar to the model used in the United Kingdom, and the proposed remuneration bands have been noted. Decision sought 4 seeks approval for payments for the ministerial special advisers to be made under each respective ministry's Consultancy Vote and for payments for the advisers assigned to Junior Ministers to be borne from the Consultancy Vote of the Premier's Office. However, the paper does not indicate if the affected ministries have sufficient funding or fiscal space to effect payment or to seek reallocation and/or supplementary funding through prioritization of projects/programmmes to meet this expenditure. In addition, it would be beneficial for a budget to be presented, inclusive of remuneration

and office accommodation and operational cost, to allow members to make a more informed decision.

Legal Implications

44)The Cabinet paper has been carefully considered and, based on the information presented, it is my view that no legal impediments are foreseen, albeit that the position being considered is new to the Territory and unknown circumstances may arise in practice. Same may have to be addressed once the position becomes one in practice. At present, however, no legal impediments prevent members from favourably considering the Decision Sought in principle.

45)And I So Advise.

Budget

46)As it pertains to Premier's Office and Junior Ministers, the monies will be charged to Premier's Office Other Consultancy Head /Subhead 22204090-528299. For the other ministries, their budget will be charged to their respective consultancy subheads.

Communication Strategy

47)As per the normal Cabinet process.

Conclusion

48)The Premier's Office thanks the Deputy Governor's Office, for its input on the subject as well as the Ministry of Finance and Attorney General's Chambers for their input to the Permanent Secretary, Deputy Governor's Office.

49)The Premier's Office notes the agreement of the Deputy Governor's Office as to the political dimension to Ministerial functions and the relevance of having a wider range of support and resources available to Ministers beyond the boundaries of what is permissible for public officers, such as where political considerations are necessary in policy development and achieving implementation.

50)The Premier's Office had initially envisioned a narrower scope of duties for the role of Ministerial Special Adviser, and that the role and function in political support to the Minister would not be as wide as obtains in the UK model. Hence, the role was initially proposed with the title "Ministerial Special Advisor".

51)The Deputy Governor's Office has recommended a more expanded scope of duties and responsibilities that are closer in line with the UK model. Reflecting on this submission, the Premier's Office sees merit in this proposal for better achieving the purpose of the role, and therefore the Premier's Office has yielded to the advice of the Deputy Governor's Office in this regard.

52)The Premier's Office agrees with the advice of the Deputy Governor's Office that the adoption of this expanded role and function would merit that "Ministerial Political Adviser" would be a more appropriate title for the role. The Premier's Office therefore agrees with the recommendation of the Deputy Governor's Office to change the title of the role to "Ministerial Political Adviser".

53)The nature of the engagement would be that used for consultants, as this model is currently used in the Government system and has been proven to facilitate a smooth interaction between persons internal to and external of the public service.

54)The Premier's Office further proposes that the Premier should be limited to no more than three (3) Ministerial Political Advisers and Ministers and Junior Ministers should be limited to no more than one (1).

55)The Premier's Office recommends qualifications for the role should be:

i. a Master's level degree with three (3) years of experience in relevant planning, management and/or analytical positions, or

ii. a Bachelor's degree and five (5) years of progressive experience in relevant planning, management and/or analytical positions;

56)The job description has been revised to reflect the above recommendations from the Deputy Governor's Office and has been resubmitted as **Appendix B.**In consideration of the research provided by the Deputy Governor's Office and in yielding to the advice given, the Premier's Office proposes that Ministerial Political Advisers shall be required to observe the Code of Conduct for Ministerial Political Advisers, which is submitted as new **Appendix C**.

57)The wording of paragraphs 19, 21 and 22 will be maintained as listed under the heading Proposed Role for Ministerial Political Adviser in the Virgin Islands system. Members are asked to note that the Ministries have sufficient funding to facilitate the initiative.

58)Members are asked to consider and concur with the decision sought.

Decision Sought

Cabinet is invited to:

a. consider and approve the consultancy of Ministerial Political Adviser, similar to the model as used in the United Kingdom **(see Appendix A)**, where the Premier would be assigned no more than three (3) Ministerial Political Advisers and each other Cabinet Minister and Junior Minister would be assigned no more than one (1) Ministerial Political Adviser;

b. review and decided on the Terms of Reference for the Ministerial Political Adviser to include research and analysis, assisting in speech writing for the Minister, and other areas as outlined in the job description in **Appendix B;**

c. decide that the tenure of each Ministerial Political Adviser, who will be hired as an independent contractor, to be the same as the tenure of the Minister to whom they are assigned;

d. decide that each Ministerial Political Adviser be subject to all Public Service Laws, Regulations and Policies during their tenure, save and except where research, advice and other support to the Minister may incorporate political considerations into their analysis, advice, speech writing etc. in a manner that would not be permissible for a permanent public officer;

e. decide that Ministerial Political Advisers would be required to adhere to the Code of Conduct for Ministerial Political Advisers in **Appendix C**.

f. consider and decide that an Integrity Committee for Ministerial Political Advisers shall be set up comprising the Permanent Secretary, Premier's Office as Chair; Permanent Secretary, Deputy Governor's Office; and one of the four other Permanent Secretaries in rotation each year;

g. decide that Ministerial Political Advisers would be required to declare any private interests that they may hold in any matter that may be deemed relevant to their work, upon assumption of duties and periodically as circumstances may require, and this disclosure shall be made by letter to the appointing Minister and copied to the Permanent Secretary in the Premier's Office as Chair of the Integrity Committee for Ministerial Political Advisers; and to the Premier;

h. decide that the Integrity Committee for Ministerial Political Advisers would have the authority to call and question Ministerial Political Advisers on their adherence to the Code of Conduct for Ministerial Political Advisers or matters of conflicts of interests, and that the Committee may submit a report to the Premier for his or her consideration;

i. consider and decide that the contract will not exceed one hundred and twenty thousand dollars ($120,000.00) per annum in accordance with the following pay bands as outlined in **Appendix B;**

j. decide that each contract for each Ministerial Political Adviser does not cover gratuity payments, annual leave and sick leave;

k. decide that each Ministry will allocate payment of remuneration for Ministerial Political Adviser under their Consultancy vote, and payments for the Ministerial Political Adviser to Junior Ministers will be borne from the Consultancy vote of the Premier's Office;

l. consider and approve the waiver of the tender process to allow Ministerial Political Adviser to be contracted for any tenure that allows the cumulative compensation to be no more than one hundred and twenty thousand dollars ($120,000.00) per annum; and

m. decide that an expedited extract be issued to allow the decision of Cabinet to be acted upon before the confirmation of the Minutes.

Recipients: Permanent Secretary, ODG; Attorney General, AGC; Financial Secretary, MOF;

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512

Ref:

June 25, 2021

Honorable Andrew A. Fahie
Premier
Office of the Premier
Central Administration Complex
Road Town, Tortola
British Virgin Islands

Honorable Premier

Re: Ministerial Special Advisers

I refer to the draft Cabinet Paper setting out proposals for the creation of Special Advisers for yourself, the Deputy Premier, Cabinet Ministers and Junior Ministers.

The wish for Ministers to have political advisers to assist them in their work is understood. Contrary however to what is stated in the draft paper, the scope of responsibilities proposed for Special Advisers in the BVI is not similar to the model for such advisers in the United Kingdom in a number of important respects.

I am also concerned that the scope of responsibilities envisaged for Special Advisers would run contrary to the Constitution and hence would be unlawful.

In particular, there can be no question of Special Advisers themselves having the power to direct or supervise Departments or to direct the implementation of Government policy as it relates to Departments. Under Section 56 (5) of the Constitution it is for Ministers to exercise such direction and control. Subject to such direction and control, the supervision of Departments is vested in Permanent Secretaries, again in accordance with

Section 56 (5).

Nor, contrary to paragraph 13 of the Cabinet Paper, can Special Advisers be "temporary civil servants" if they are selected other than in accordance with Section 92 of the Constitution.

In accordance with the UK model, it is also essential that there be a Code of Conduct for Special Advisers and that it be made clear in any contract or job description what Special Advisers should not do, including using official resources for party and political activity; doing anything which might reasonably lead to the criticism that people paid from Public Funds are being used for party political purposes; or disclosing without authority official information which has been communicated in confidence in Government – see these and other exclusions set out in paragraph 2 of Appendix A to the draft Cabinet Paper.

In light of the above points I would urge that if the draft Cabinet Paper is to proceed, it and its Appendix A be re-drafted, taking also into account the comments already submitted on the paper by the Deputy Governor's Office. The key need is to delineate the proposed functions of Special Advisers from those of Permanent Secretaries and Senior Managers, avoiding duplication, setting out necessary boundaries and ensuring compliance with the Constitution.

I would also note that the paper as currently drafted would not appear to set a limit on the number of Special Advisers which any Minister may appoint, meaning that the full cost to the public purse of what is proposed cannot be determined. The contracting of Special Advisers and the cost involved might appropriately be considered within the wider context of current financial constraints and restrictions on hiring within the Public Service.

I recognise that the above points will require some significant redrafting of the Cabinet Paper if it is to proceed. I nonetheless hope you will agree that they need to be taken fully into account in the interests of compliance with the Constitution and good governance.

Yours sincerely

[redacted]

John Rankin CMG
Governor of the Virgin Islands

cc: Deputy Governor
Permanent Secretary, Premier's Office

Appendix A

Summary - UK Policy on Ministerial Advisers/Aides

The position of Special Adviser to Ministers of Her Majesty's Government in the United Kingdom, the Scottish Executive and the Welsh Assembly Government, are provided for in the Constitutional Reform and Governance Act 2010[1] (CRGA) of the UK, Section 15[2].

Special advisers are temporary civil servants appointed to add a political dimension to the advice and assistance available to Ministers. In doing so they reinforce the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support.[3]

Special advisers' appointments end at the end of the Administration which appointed them or when the appointing Minister leaves the Government or moves to another appointment. The responsibility for the management and conduct of special advisers, including discipline, rests with the Minister who made the appointment. It is, of course, also open to the Prime Minister to terminate employment by withdrawing his consent to an individual appointment.

In providing a channel of communication in the areas of overlap between the public and political dimensions of the Minister's role, special advisers paid from public funds have a legitimate role in support of the Government's interest, which they can discharge with a degree of party political commitment and association which would not be permissible for a permanent civil servant.

According to CRGA Section 15, the "special adviser" means a person ("P") who holds a position in the civil service serving an administration, under the following requirements:

a) P is appointed to assist a Minister of the Crown after being selected for the appointment by that Minister personally;

b) the appointment is approved by the Prime Minister;

c) the terms and conditions of the appointment (apart from those by virtue of section 8(11)) are approved by the Minister for the Civil Service;

d) those terms and conditions provide for the appointment to end not later than—

   i. when the person who selected P ceases to hold the ministerial office in relation to which P was appointed to assist that person, or

   ii. if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment.

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[1] https://www.legislation.gov.uk/ukpga/2010/25/contents

[2] https://www.legislation.gov.uk/ukpga/2010/25/part/1/chapter/1/crossheading/special-advisers

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944317/Annual_Report_on_Special_Advisers_2020_-_online_publication__1_.pdf

In accordance with CRGA Section 8[4], the special adviser subscribes to a Special Advisers Code[5] (SAC) – a Code of Conduct, which is published by the Minister with responsibility for the Civil Service, and which forms part of the terms and conditions of employment of the special adviser. Special advisers are also subject to the Civil Service Code, were applicable.

Under the SAC of the UK Government:

1. the special adviser is permitted, if requested by the Minister, to:

    i. review papers going to the Minister, drawing attention to any aspect which they think has party political implications, and ensuring that sensitive political points are handled properly. They may give assistance on any aspect of departmental business, and give advice to their Minister when the latter is taking part in party political activities;

    ii. "devilling" for the Minister, and checking facts and research findings from a party political viewpoint;

    iii. preparing speculative policy papers which can generate long-term policy thinking within the Department, including policies which reflect the political viewpoint of the Minister's Party;

    iv. contributing to policy planning within the Department, including ideas which extend the existing range of options available to the Minister with a political viewpoint in mind;

    v. liaising with the Party, to ensure that the Department's own policy reviews and analysis take full advantage of ideas from the Party, and encouraging presentational activities by the Party which contribute to the Government's and Department's objectives;

    vi. helping to brief Party MPs and officials on issues of Government policy;

    vii. liaising with outside interest groups including groups with a political allegiance to assist the Minister's access to their contribution;

    viii. speechwriting and related research, including adding party political content to material prepared by permanent civil servants;

    ix. representing the views of their Minister to the media including a Party viewpoint, where they have been authorised by the Minister to do so;

    x. providing expert advice as a specialist in a particular field;

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[4] https://www.legislation.gov.uk/ukpga/2010/25/section/8

[5] https://webarchive.nationalarchives.gov.uk/20100407182129/http://www.cabinetoffice.gov.uk/propriety_and_ethics/special_advisers/code/code.aspx

xi. attending Party functions (although they may not speak publicly at the Party Conference) and maintaining contact with Party members;

xii. taking part in policy reviews organised by the Party, or officially in conjunction with it, for the purpose of ensuring that those undertaking the review are fully aware of the Government's views and their Minister's thinking and policy.

2. the special adviser should NOT:

i. deceive or knowingly mislead Parliament or the public;

ii. misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others;

iii. receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity;

iv. disclose without authority official information which has been communicated in confidence in Government or received in confidence from others;

v. use official resources for party political activity;

vi. do anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes.

3. special advisers should work closely with the ministerial team and with permanent civil servants, and establish relationships of confidence and trust.

Special advisers may, on behalf of their Ministers:

i. convey to officials Ministers' views and work priorities, including on issues of presentation. In doing so, they must take account of civil servants' workloads and any priorities Ministers have set;

ii. request officials to prepare and provide information and data, including internal analyses and papers;

iii. hold meetings with officials to discuss the advice being put to Ministers.

But special advisers must not:

i. ask civil servants to do anything which is inconsistent with their obligations under the Civil Service Code;

ii. behave towards permanent civil servants in a way which would be inconsistent with the standards set by the employing department for conduct generally;

iii. have responsibility for budgets or involvement in the award of external contracts;

iv. suppress or supplant the advice being prepared for Ministers by permanent civil servants although they may comment on such advice.

4. There are limits and restrictions on special advisers engaging in certain forms of political activity.

Remuneration for special advisers subscribe to the following pay bands:

a) PB1 - £40,500 - £60,500

b) PB2 - £57,000 - £80,0005

c) PB3 - £73,000 - £102,000

d) PB4 - £96,000 - £145,000

Appendix B Job Description Ministerial Political Adviser

DEPARTMENT: **Executive**

Ministerial Political Adviser

REPORTS TO DIRECTLY: The Minister

PURPOSE OF THE POSITION

To provide support to the assigned Minister in the conduct of research, policy analysis and communications strategy, with a focus on the political considerations that may be relevant to these areas of the Minister's work in the Ministry.

SCOPE OF RESPONSIBILITIES AND DELIVERABLES

1. Serving as a conduit between Ministers' political agenda and his/her public service agenda. In doing so, he/she will work with the Permanent Secretary to ensure that there is a clear distinction between the two roles.

2. Meeting with Permanent Secretaries to discuss the advice being put to Ministers.
3. Providing, in the context of the purpose of the position, research, strategic analysis and advice to the Minister in his or her Ministerial role by:

- gathering critical information in order to provide expert advice and consultative services on issues

- reviewing papers, proposals and other subject matter going to the Minister, drawing attention to any political considerations that the Minister should take into account in his/her decision making

- "devilling" for the Minister, and checking facts and research findings from a party political viewpoint

- liaising and consulting with relevant stakeholders, to obtain information, to seek advice and to assist the Minister.

- 4. Ensuring Ministers' political direction is developed and communicated to his/her constituents; keeping a close check and monitoring political interest within the community; and taking part in political reviews that may be organised within the community as necessary.

- 5. Providing political content to communication that is being issued by Ministers in a political space and representing the views of the Ministers to the media on the direction of the Minister.

- 6. Working with other Ministerial staff to complete assignments from the Minister as necessary.

- 7. Managing information requirements for tasks in accordance with the purpose of the role.

1 Providing the support necessary to coordinate briefing and submissions material by reviewing, analysing and coordinating briefing material, notes, background material, speeches, Ministerial correspondence, submissions, and other information submitted to the Minister and provide feedback to the Minister. Any instructions to Public Officers for assistance in this role should be made through the Authorised Officer.

2 Establish and maintain effective communication links between the Minister and stakeholders.

KNOWLEDGE, SKILLS AND ABILITIES

- Must be knowledgeable about the national, territorial and domestic political environments and other Governments' positions and policies and be capable of assessing possible implications for the Government of the Virgin Islands and the areas within the Minister's portfolio.

- Must be able to apply this knowledge in a rapidly changing and challenging environment.

- Must be creative, focused on offering solutions and work well in a team environment.

- Must have an ability to analyze, evaluate and interpret a wide range of information including legislation, policies, territorial and departmental initiatives, Cabinet direction, financial data, legislative proposals and strategic plans and apply it within the unique socio-political environment of the Virgin Islands.

- Must have knowledge of project management and an ability to manage large and small projects from pre-planning to implementation and evaluation.

- Must have superior verbal and written communication skills.

- Must possess an ability to build and maintain a good working relationship with colleagues throughout the Government of the Virgin Islands, and with partners of other Governments and organizations.

- Must possess knowledge of issues related to Virgin Islands.

- Must have the ability to communicate effectively, accurately and professionally.

- Must have knowledge of negotiating and be a strong communicator with diplomatic skills.

- Must have strong strategic-thinking skills and judgment, as well as a demonstrated ability to research, analyze and synthesize multiple concepts and priorities.

- Must have strong computer skills including the ability to work with a wide range of computer applications including word processing, spreadsheet and presentation software.

- Must be able to work to deadlines and respond effectively to frequently changing deadlines.

- Must be able to work in highly stressful situations.

- Must be self-directed, display initiative and be creative. The incumbent is expected to work both as a team member and independently with minimal supervision.

QUALIFICATIONS AND EXPERIENCE

Completion of a Master's level degree with five years of experience, or a Bachelor degree and ten years of progressive experience in relevant planning, management and/or analytical positions.

REMUNERATION

Ministerial Political Adviser to:	Position Classification	Annual Salary (US$)
Premier	MPA-1	$79,440 – $120,000
Deputy Premier, Cabinet Minister or Junior Minister	MPA-2	$60,408 – $84,408

Remuneration will be based on the following pay bands:

The Ministerial Political Adviser will NOT be entitled to gratuity on termination or expiry of the contract.

VACATION AND SICK LEAVE

The Ministerial Political Adviser will NOT be entitled to vacation leave or days sick leave.

CODE OF CONDUCT

The Ministerial Political Adviser shall adhere to the Code of Conduct for Ministerial Political Advisers, and make themselves available to the Integrity Committee for Ministerial Political Adviser when requested by the Committee.

APPOINTMENT AND TERMINATION OF CONTRACT

The Ministerial Political Adviser is appointed to assist a Minister after being selected for the appointment by that Minister personally. The appointment must be approved by the Premier.

The appointment will to end not later than:

a) when the selecting Minister ceases to hold the Ministerial office in relation to which the Ministerial Political Adviser was appointed to assist that Minister, or

b) if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment of the Ministerial Political Adviser.

Ministerial Political Adviser C

Code of Conduct

For Ministerial Political Advisers

DEPARTMENT:	**Executive**
POSITION TITLE:	**Ministerial Political Adviser**
REPORTS TO DIRECTLY:	**The Minister**

In the conduct of his or her duties, the Ministerial Political Adviser should adhere to the following rules of conduct.

1. The Ministerial Political Adviser shall sign and adhere to the Code of Conduct for Ministerial Political Advisers, and make themselves available to the Integrity Committee for Ministerial Political Advisers when requested by the Committee.

2. Ministerial Political Adviser should not act adversely to any Public Service Laws, Regulations and Policies during their tenure.

3. The Ministerial Political Adviser shall declare any private interests that they may hold in any matter that may be deemed relevant to their work, upon assumption of duties and periodically as circumstances may require. This disclosure shall be made by letter to the appointing Minister and copied to the Permanent Secretary in the Premier's Office and the Premier.

4. The Ministerial Political Adviser should NOT:

   i. deceive or knowingly mislead the House of Assembly or the public;

   ii. misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others;

   iii. receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity;

   iv. disclose without authority official information which has been communicated in confidence in Government or received in confidence from others;

   v. use official resources for party political activity;

   vi. do anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes.

5. The Ministerial Political Adviser may, on behalf of their Ministers:

   i. convey to officials, through the Authorised Officer, their Minister's views and work priorities, including on issues of presentation. In doing so, they must take account of public officers' workloads and any priorities Ministers have set;

   ii. request, through the Authorised Officer, officials to prepare and provide information and data, including internal analyses and papers;

iii. hold meetings with the Authorised Officer to discuss the advice being put to Ministers.

6. But Political advisers must not:

i. ask public officers to do anything which is inconsistent with their obligations under the Public Service Code;

ii. behave towards permanent public officers in a way which would be inconsistent with the standards set by the employing department for conduct generally;

iii. have responsibility for budgets or involvement in the award of external contracts;

iv. suppress or supplant the advice being prepared for Ministers by permanent public officers although they may comment on such advice.

----------END----------

Ministerial Political Adviser C

Code of Conduct

For Ministerial Political Advisers

DEPARTMENT: **Executive**

POSITION TITLE: **Ministerial Political Adviser**

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Appendix B Job Description Ministerial Political Adviser

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2. Meeting with Permanent Secretaries to discuss the advice being put to Ministers.
3. Providing, in the context of the purpose of the position, research, strategic analysis and advice to the Minister in his or her Ministerial role by:

- gathering critical information in order to provide expert advice and consultative services on issues

- reviewing papers, proposals and other subject matter going to the Minister, drawing attention to any political considerations that the Minister should take into account in his/her decision making

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- liaising and consulting with relevant stakeholders, to obtain information, to seek advice and to assist the Minister.

- 4. Ensuring Ministers' political direction is developed and communicated to his/her constituents; keeping a close check and monitoring political interest within the community; and taking part in political reviews that may be organised within the community as necessary.

- 5. Providing political content to communication that is being issued by Ministers in a political space and representing the views of the Ministers to the media on the direction of the Minister.

- 6. Working with other Ministerial staff to complete assignments from the Minister as necessary.

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2 Establish and maintain effective communication links between the Minister and stakeholders.

KNOWLEDGE, SKILLS AND ABILITIES

- Must be knowledgeable about the national, territorial and domestic political environments and other Governments' positions and policies and be capable of assessing possible implications for the Government of the Virgin Islands and the areas within the Minister's portfolio.

- Must be able to apply this knowledge in a rapidly changing and challenging environment.

- Must be creative, focused on offering solutions and work well in a team environment.

- Must have an ability to analyze, evaluate and interpret a wide range of information including legislation, policies, territorial and departmental initiatives, Cabinet direction, financial data, legislative proposals and strategic plans and apply it within the unique socio-political environment of the Virgin Islands.

- Must have knowledge of project management and an ability to manage large and small projects from pre-planning to implementation and evaluation.

- Must have superior verbal and written communication skills.

- Must possess an ability to build and maintain a good working relationship with colleagues throughout the Government of the Virgin Islands, and with partners of other Governments and organizations.

- Must possess knowledge of issues related to Virgin Islands.

- Must have the ability to communicate effectively, accurately and professionally.

- Must have knowledge of negotiating and be a strong communicator with diplomatic skills.

- Must have strong strategic-thinking skills and judgment, as well as a demonstrated ability to research, analyze and synthesize multiple concepts and priorities.

- Must have strong computer skills including the ability to work with a wide range of computer applications including word processing, spreadsheet and presentation software.

- Must be able to work to deadlines and respond effectively to frequently changing deadlines.

- Must be able to work in highly stressful situations.

- Must be self-directed, display initiative and be creative. The incumbent is expected to work both as a team member and independently with minimal supervision.

QUALIFICATIONS AND EXPERIENCE

Completion of a Master's level degree with five years of experience, or a Bachelor degree and ten years of progressive experience in relevant planning, management and/or analytical positions.

REMUNERATION

Ministerial Political Adviser to:	Position Classification	Annual Salary (US$)
Premier	MPA-1	$79,440 – $120,000
Deputy Premier, Cabinet Minister or Junior Minister	MPA-2	$60,408 – $84,408

Remuneration will be based on the following pay bands:

The Ministerial Political Adviser will NOT be entitled to gratuity on termination or expiry of the contract.

VACATION AND SICK LEAVE

The Ministerial Political Adviser will NOT be entitled to vacation leave or days sick leave.

CODE OF CONDUCT

The Ministerial Political Adviser shall adhere to the Code of Conduct for Ministerial Political Advisers, and make themselves available to the Integrity Committee for Ministerial Political Adviser when requested by the Committee.

APPOINTMENT AND TERMINATION OF CONTRACT

The Ministerial Political Adviser is appointed to assist a Minister after being selected for the appointment by that Minister personally. The appointment must be approved by the Premier.

The appointment will to end not later than:

a) when the selecting Minister ceases to hold the Ministerial office in relation to which the Ministerial Political Adviser was appointed to assist that Minister, or

b) if earlier, the end of the day after the day of the poll at the first parliamentary general election following the appointment of the Ministerial Political Adviser.

Our Ref: OP/C4/001

28th June, 2021

His Excellency the Governor
Mr. John J. Rankin, CMG
Governor of the Virgin Islands
Office of the Governor
Road Town
Tortola VG1110
Virgin Islands

Dear Governor Rankin:

RE: Ministerial Special Advisers

Good day and God's Blessings to you and your family.

Thank you for your similarly-captioned letter of 25th June, 2021.

The comments and recommendations of the Deputy Governor's Office (DGO), consistent with those cited in your letter, were received via Cabinet's ExCo Track under Cross-Ministry Consultation on 22nd June, 2021.

In drafting the Cabinet Paper and designing the role and functions of the proposed position of Ministerial Special Adviser, the Premier's Office (contained in **Appendix B** of the Cabinet Paper) had sought to take a conservative approach to ensure that the role restricts the Advisers' involvement in political party activities well beyond what is permissible in the UK model. Hence, some functions from the UK model were used in the proposed Virgin Islands model and those functions from the UK model that would lead to public funds being used for party and political activities and or any perception of such – a concern that you share – were not taken on board.

Similarly, those functions in the UK model that spoke to communicating official information were also omitted in the proposed Virgin Islands model.

References in the proposed Virgin Islands model with respect to directing work and interacting with other Ministerial and Ministry staff including the Permanent Secretary were not intended to establish any authority for the Adviser to overstep the Permanent Secretary's authority or functions, or for the Adviser to instruct public officers. The Premier's Office is willing to accept that the terminology used can be interpreted differently by some persons.

Notwithstanding the above, the Premier's Office has found the comments, advice and recommendations submitted by the DGO to be very useful.

We note that the DGO acknowledges the need for the role of an Adviser to assist the Minister in obtaining research and advice that would consider contexts that are outside of what public officers are permitted to do, such as considering the political context of policies in policy development and achieving implementation; a position you concur with.

The DGO has recommended that the job title be changed to "Ministerial Political Adviser" and has also recommended changes to the job description. The Premier's Office has reconsidered our approach to the role and functions of the position based on the advice and recommendations of the DGO, and have yielded to this advice. This was communicated in our response to the DGO's submission, which was uploaded on the ExCo Track on 23rd June, 2021.

As indicated in the response from the Premier's Office:

1. The recommendation from the DGO to change the job title to "Ministerial Political Adviser" is accepted.

2. A revised job description taking on board the DGO's recommendations inclusive of those with regard to job functions was submitted via the ExCo Track as Appendix B. A copy is attached here for your ease of reference.

3. The Premier's Office was also proactive in drafting a Code of Conduct for Ministerial Political Advisers to complement the job design and title that will be adopted on the advice of the DGO. This is contained in new Appendix C on the ExCo Track, and a copy is attached for your convenience.

4. Following the principles that would apply to the revised job title and description, an Integrity Committee for Ministerial Political Advisers will be set up comprising the Permanent Secretary, Premier's Office; Permanent Secretary, Deputy Governor's Office; and one of the four other Permanent Secretaries in rotation each year.

5. Ministerial Political Advisers would be required to declare any private interests that they may hold in any matter that may be deemed relevant to their work, upon assumption of duties and periodically as circumstances may require. This disclosure shall be made by letter to the appointing Minister and copied to the Permanent Secretary in the Premier's Office as Chair of the Integrity Committee for Ministerial Political Advisers; and to the Premier.

6. Ministerial Political Advisers may be called before the Integrity Committee for Ministerial Political Advisers to be questioned on their adherence to the Code of Conduct for Ministerial Political Advisers or matters of conflicts of interests, and the Committee may submit a report to the Premier for his consideration.

7. The Premier's Office has further proposed that the Premier should be limited to no more than three Ministerial Political Advisers and Ministers and Junior Ministers should be limited to no more than one.

8. The nature of the engagement would be that used for consultants, as opposed to "temporary public officer", as this method is currently in use in the Government system and has been proven to facilitate a smooth interaction between persons internal to and external of the public service.

The full response from the Premier's Office to the DGO's comments, advice and recommendations is now available on the ExCo Track along with the revised job description and new Code of Conduct, as these were uploaded on 23rd June, 2021.

These recommendations align with those mentioned in your letter and the advice of the DGO.

Do have a wonderful day.

Yours in BVILOVE,

[redacted]

Andrew A. Fahie
Premier and Minister of Finance

cc: Deputy Governor
Permanent Secretary, Premier's Office
Permanent Secretary, DGO

CABINET PAPER RECORD & EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET OF THE VIRGIN ISLANDS HELD AT CISCO, WEBEX MEETINGS
8th July, 2021

TO: Minister of Finance

CC: Acting Financial Secretary

DATE: 22nd July, 2021

Paper No.	Memo No. 281/2021 (/memorandums/1174)
Date Arrived in the Cabinet Office:	6th July, 2021
Date Approved by the Cabinet Steering Group:	6th July, 2021
Date Sent to Cabinet:	8th July, 2021
Cabinet Confirmation Date:	21st July, 2021
Expedited Extract Issued:	8th July, 2021 (/expedited_extracts/877)
Cabinet Extract:	

Ministerial Political Adviser Memo No. 281/2021

Cabinet:

a. considered and approved the consultancy of Ministerial Political Adviser, similar to the model as used in the United Kingdom **(see Appendix A)**, where the Premier would be assigned no more than three (3) Ministerial

Political Advisers and each other Cabinet Minister and Junior Minister would be assigned no more than one (1) Ministerial Political Adviser;

b. reviewed and decided on the Terms of Reference for the Ministerial Political Adviser to include research and analysis, assisting in speech writing for the Minister, and other areas as outlined in the job description in **Appendix B;**

c. decided that the tenure of each Ministerial Political Adviser, who will be hired as an independent contractor, to be the same as the tenure of the Minister to whom they are assigned;

d. decided that each Ministerial Political Adviser be subject to all Public Service Laws, Regulations and Policies during their tenure, save and except where research, advice and other support to the Minister may incorporate political considerations into their analysis, advice, speech writing etc. in a manner that would not be permissible for a permanent public officer;

e. decided that Ministerial Political Advisers would be required to adhere to the Code of Conduct for Ministerial Political Advisers in **Appendix C;**

f. considered and decided that an Integrity Committee for Ministerial Political Advisers shall be set up comprising the Permanent Secretary, Premier's Office as Chair; Permanent Secretary, Deputy Governor's Office; and one of the four other Permanent Secretaries in rotation each year;

g. decided that Ministerial Political Advisers would be required to declare any private interests that they may hold in any matter that may be deemed relevant to their work, upon assumption of duties and periodically as circumstances may require, and this disclosure shall be made by letter to the appointing Minister and copied to the Permanent

Secretary in the Premier's Office as Chair of the Integrity Committee for Ministerial Political Advisers; and to the Premier;

h. decided that the Integrity Committee for Ministerial Political Advisers would have the authority to call and question Ministerial Political Advisers on their adherence to the Code of Conduct for Ministerial Political Advisers or matters of conflicts of interests, and that the Committee may submit a report to the Premier for his or her consideration;

i. considered and decided that the contract will not exceed one hundred and twenty thousand dollars ($120,000.00) per annum in accordance with the following pay bands as outlined in **Appendix B;**

j. decided that each contract for each Ministerial Political Adviser does not cover gratuity payments, annual leave and sick leave;

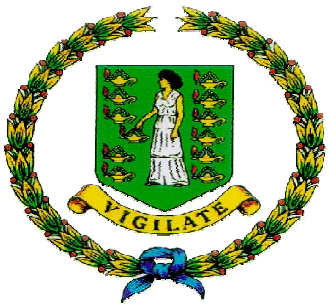
k. decided that each Ministry will allocate payment of remuneration for Ministerial Political Adviser under their Consultancy vote, and payments for the Ministerial Political Adviser to Junior Ministers will be borne from the Consultancy vote of the Premier's Office;

l. considered and approved the waiver of the tender process to allow Ministerial Political Adviser to be contracted for any tenure that allows the cumulative compensation to be no more than one hundred and twenty thousand dollars ($120,000.00) per annum; and

m. decided that an expedited extract be issued to allow the decision of Cabinet to be acted upon before the confirmation of the Minutes.

Mrs. Vicki Samuel-
Lettsome
Acting Cabinet Secretary
22nd July, 2021

Cabinet Office



CABINET HANDBOOK

First Edition

Published November 2009

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First published 2009

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Information provided herein is correct as of 1st October, 2009.

Cabinet Office
Central Administration Complex
Road Town, Tortola VG1110
British Virgin Islands

The Governor and the Premier
The Virgin Islands

Foreword

The Cabinet system is a new form of government to the Virgin Islands and this ***Cabinet Handbook*** details the principles and convention under which it will operate.

This ***Cabinet Handbook*** is intended to assist with sound management of the policy cycle, and in so doing, with the delivery of noticeable consistency in quality policy formulation. Ministers will be better able to deliver fully on their individual and collective responsibilities to Cabinet due to better informed decision-making. This ***Cabinet Handbook*** is intended to facilitate the co-ordination of policy development in a strategic way.

This is the first edition of the ***Cabinet Handbook*** and it builds on the practices developed in the former Executive Council. The contents of this publication draw on the conventions and practices related to Cabinet business in the Commonwealth and in our region. Special attention is paid to the procedures for ensuring our leadership roles in determining the country's strategic direction.

This publication is intended to support the *Step-by-Step Guide* for activities involved in preparing Cabinet papers and other documents for Cabinet. This document lays the foundation for the operations and business of the Cabinet.

It is our request that officials and Ministers be guided by this publication as well as the *Step-by-Step Guide*. We look to the Cabinet Secretary and staff of the Cabinet Office to provide guidance and assist all concerned with ensuring that the business of the Cabinet Office is executed efficiently.

David Pearey
Governor

Ralph T. O'Neal, OBE
Premier

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Definitions

In this Handbook –

"Cabinet attendants" mean Cabinet Office staff that assists the Cabinet Secretary in fulfilling his duties in accordance with the Constitution section 51(4);

"Cabinet documents" mean the documents listed and defined in Chapter 7.2 of this Handbook;

"Cabinet liaison officer" means a public servant who is the contact between the ministry and the Cabinet, through the Cabinet Office;

"Cabinet Recording Secretary" means a public servant who attends Cabinet meetings along with the Cabinet Secretary for the purpose of notetaking;

"Cabinet Room" means the room in which Cabinet meetings are conducted;

"Cabinet Secretariat" means the Cabinet Office which services the operations of the Cabinet and is staffed by public servants who are responsible to the Cabinet Secretary;

"Cabinet Secretary" means the person appointed to head the Cabinet Office in accordance with the Constitution section 51(1);

"Cabinet Steering Group" means the group formed by the Cabinet Secretary, the Governor and the Premier for the purpose of setting the agenda of the Cabinet in accordance with the Constitution section 49(4);

"Cabinet" means the Virgin Islands Cabinet which is the system of government created under the Virgin Islands Constitution Order 2007 section 47(1);

"Governor" means Governor and Acting Governor;

"Public officer" means a person described in the Constitution section 50(1);

"Statutory body" means an agency described in the Constitution section 50(2);

"The Constitution" means the Virgin Islands Constitution Order 2007;

"Thirty-year rule" means the period of time to be elapsed, according to conventional practice in the Commonwealth, after which documents may be released to the public only in exceptional cases or where a freedom of information law provides for their release;

"Three-day rule" means papers are to be submitted at least three days before being placed on the agenda.

1. ORGANIZATION OF THE CABINET

Elements of the Cabinet system

Executive Authority of the Virgin Islands.	1.1	The executive authority of the Virgin Islands is vested in Her Majesty. Subject to the Virgin Islands Constitution Order 2007, Her Majesty's authority may be exercised by His Excellency, the Governor either by himself or through sub-ordinates.
The Cabinet System in the Virgin Islands.	1.2	Unlike most developed countries, the Virgin Islands Cabinet is a creation of its Constitution. The Cabinet of the Virgin Islands is established by section 47(1) of the Virgin Islands Constitution Order 2007.
Membership of the Cabinet.	1.3	The Virgin Islands Constitution Order 2007 determines not only the upper limit, but also the membership of Cabinet as it sets it out in sections 47(1) to include the Premier, four other Ministers and the Attorney General (as an ex-officio Member).
Meetings of the Cabinet.	1.4	The Cabinet meets on a regularly scheduled basis. In addition, the Governor and the Premier in accordance with section 48 of the Virgin Islands Constitution Order 2007 are authorized to call special meetings of the Cabinet.
Proceedings of the Cabinet.	1.5	The Governor shall attend all meetings and chair Cabinet as far as practicable (the Virgin Islands Constitution Order 2007 section 49(1)) and in his absence the Premier or the Deputy Premier when the Premier is absent (section 49(2)).
Cabinet Quorum.	1.6	Cabinet is properly constituted when no less than three Ministers, one of whom must be the Premier, are present (the Virgin Islands Constitution Order 2007 section 49(3)).
The Cabinet Steering Group.	1.7	The Governor, the Premier and the Cabinet Secretary form the Cabinet Steering Group and its main purpose is to set the agenda of the Cabinet. The Governor and the Premier are each entitled to inscribe papers on the Cabinet agenda.
Summoning public officers and other officers to Cabinet.	1.8	In accordance with the Virgin Islands Constitution Order 2007, the Premier may summon public officers (section 50(1)) or an officer of a statutory body (section 50(2)) to Cabinet on his own request or at the request of the Governor.
Functions of Cabinet.	1.9	The Cabinet is the centre of the Executive branch of the Government of the Virgin Islands. Cabinet sets the broad

policy directions, approves the broad strategy and takes the most important operational decisions of government. In addition, Cabinet is responsible for resolving the inherent conflicts that arise in the operations of government. (See section 47(3) of the Virgin Islands Constitution Order 2007).

Cabinet directives.

1.10 The outcomes (decisions, directives, requests, etc.) require actions on the part of the Governor, Ministers, and Permanent Secretaries.

Cabinet committees.

1.11 Typically the preliminary deliberations of Cabinet are undertaken by Cabinet committees, especially in case of the more detailed and involved subjects such as high impact policies, revenue/expenditure and larger capital initiatives.

Cabinet Office

Role of the Cabinet Secretariat.

1.12 The Cabinet Office is the Cabinet Secretariat and it is responsible for servicing the operations of the Cabinet, including advising the Governor and the Premier on the conduct of Cabinet business, the preparation and distribution of Minutes and the safekeeping of Cabinet documents. Documents handled by the Cabinet Office include agendas for meetings, Cabinet papers, draft Minutes, Minutes and submissions. (For a fuller definition of Cabinet documents see section 7.2).

Cabinet Room staff.

1.13 The Cabinet Office staff (Cabinet attendants) assists Cabinet Members during meetings by conveying messages and passing information to the Cabinet Room. In the Cabinet Office staff takes custody of and distribute Cabinet documents arriving during meetings. Cabinet Room staff is not to participate in Cabinet debates save the Cabinet Secretary.

Cabinet Office.

1.14 The Cabinet Office serves as the repository of Cabinet documents and as such is responsible for the management of current and archived Cabinet documents. The Cabinet Office thus has custody and manages access to all Cabinet documents.

Cabinet liaison officers.

1.15 Cabinet liaison officers are the contact between ministries and the Cabinet, through the Cabinet Office. The Cabinet Office advises and assists Ministries with the preparation of Cabinet documents and adhering to Cabinet procedures.

Cabinet Secretary.

1.16 The Cabinet Office is a separate Office in the Government of the Virgin Islands and is staffed by public officers under the

command of the Cabinet Secretary. The Cabinet Secretary must be a Virgin Islander as defined in section 65(2) and a public officer in accordance with section 51(1) of the Virgin Islands Constitution Order 2007.

Cabinet Rules.

1.17 Subject to the Virgin Islands Constitution Order 2007, the Cabinet determines its own rules of procedure for the conduct of its business as set out in this publication.

Role of the Cabinet Secretary

Cabinet Secretary responsibility.

1.18 The Cabinet Secretary is the Head of the Cabinet Office and is appointed in accordance with section 51(1) of the Virgin Islands Constitution Order 2007. The Cabinet Secretary has joint responsibility to the Chairman of the Cabinet and the Premier for Cabinet business.

Duties of the Cabinet Secretary.

1.19 The duties of the Cabinet Secretary are laid out in section 51(3) of the Constitution. The Cabinet Secretary shall –

(a) provide such policy advice and technical support to the Cabinet as the Cabinet may require;

(b) transmit copies of all papers submitted for consideration by the Cabinet to its Members;

(c) inform all its Members of the summoning of any meeting of the Cabinet and of the matters to be discussed at any such meeting;

(d) furnish all its Members, as soon as practicable after each meeting of the Cabinet, with a copy of the confirmed Minutes of the previous meeting showing the matters discussed and the conclusions reached at the meeting;

(e) promote and facilitate adherence to the rules of procedure of the Cabinet;

(f) monitor the implementation of Cabinet decisions and report periodically to the Cabinet in respect thereof; and

(g) perform such other functions as are incidental to the functions of the Cabinet Secretary.

Subordinate staff.

1.20 The Cabinet Secretary is authorized to assign subordinate staff to undertake certain duties on his behalf in accordance with section 51(4) of the Virgin Islands Constitution Order 2007.

2. CABINET CONVENTION AND PRINCIPLES

Collective responsibility

Collective responsibility.	2.1	Collective responsibility is at the core of the Cabinet system of government. Collective responsibility is a convention of Cabinet. The conclusions of Cabinet on any matter presented to Cabinet as recorded in Cabinet Minutes are thus government policy.
Support for Cabinet conclusions.	2.2	Ministers and Members of Cabinet are therefore bound to support Cabinet's conclusions in public discussion or debate.
Actions on Cabinet Minutes.	2.3	Cabinet Minutes are not operative until they are final and confirmed at a subsequent meeting of Cabinet unless Cabinet has otherwise decided.
Cabinet documents and Minutes.	2.4	Ministers and Members of Cabinet must be aware of matters coming to Cabinet. The Cabinet Office thus provides all Members of Cabinet with Cabinet documents including agendas, papers, reports and any other submissions to Cabinet. Members of Cabinet therefore receive copies of Minutes whether or not they were present at a particular meeting.
National security matters.	2.5	In the context of the Virgin Islands, national security matters are handled by the National Security Council (NSC) comprising the Governor, the Premier, a Minister appointed by the Premier, the Attorney General and the Commissioner of Police in accordance with section 57 of our Constitution.
Commenting publicly on policy matters.	2.6	Members of Cabinet should refrain from commenting publicly on policy matters or expenditure initiatives in advance of Cabinet considering such matters. In exceptional cases, the Premier may permit Members to announce or discuss, in advance of their consideration in Cabinet, certain initiatives which in their judgment might not erode the principle of collective responsibility.
Public statements on Cabinet matters.	2.7	Members of Cabinet should not make public statements on matters being brought to Cabinet that might pre-empt Cabinet deliberations. Members should also refrain from identifying or associating particular views of Cabinet deliberations with a particular Minister in order to avoid eroding the principle of collective responsibility. Ministers are responsible for management and public presentation of particular subjects

under their portfolios, other Ministers should therefore not make the policy positions public.

Speaking engagements on policy matters.

2.8 Members of Cabinet should not speak publicly on policy matters that could illuminate or identify disagreement in policy positions. Members should not make public comment on other Ministers or Members portfolios that may be construed as disagreement between Cabinet Members.

Acting in support of Cabinet responsibility.

2.9 Permanent Secretaries, ministry officials, statutory bodies and other public enterprises have a responsibility to conduct business and otherwise act in support of the principle of collective responsibility. In this connection it is their responsibility to advise Members of Cabinet accordingly.

Cabinet confidentiality

Collective responsibility and strict confidentiality.

2.10 The concept of collective responsibility and strict confidentiality goes hand-in-hand. Cabinet business is therefore conducted in strict confidence and is only broken with the permission of Cabinet. Individual Members of Cabinet are afforded the opportunity to come to their individual positions during deliberations that are held in strict confidence. Openness and frankness of discussions in the Cabinet meetings are protected.

Confidentiality maintained in the future.

2.11 Cabinet confidentiality on a particular issue or during a discussion must be maintained in the future. Members of Cabinet are therefore to refrain from publication or discussion of the position of other Members in a Cabinet meeting, notwithstanding how many years have passed. This is essential to avoid a breach of personal confidentiality and loyalty to other Cabinet Members.

Confidentiality extended to Secretariat staff.

2.12 Collective responsibility and Cabinet confidentiality extend to Cabinet liaison officers and ministry officials. In this connection, Members of Cabinet, Cabinet officials and support staff should not reveal the individual position of Members during a particular or any discussion.

2.13 Cabinet confidentiality and collective responsibility are permanent and are never to be broken with or without the permission of individual Members. Ministers, certain Members of Cabinet and the Cabinet Secretary shall before entering upon their duties take an oath or affirmation of allegiance as well as an oath or affirmation of that office in

accordance with section 61 of the Virgin Islands Constitution Order 2007.

Responsibility for proposals to Cabinet

Only Members to bring proposals.	2.14	Proposals are brought to Cabinet by Ministers and Members appointed to take part in Cabinet deliberations. Proposals are usually associated with the portfolios of Ministers and Members. Generally Ministers' proposals are discussed in their presence unless other provisions have been made to the contrary.
Proposals by the Governor.	2.15	Proposals are brought to Cabinet by the Governor as appointed to take part in Cabinet deliberations.
Proposals by Cabinet Secretary.	2.16	The Cabinet Secretary brings proposals in relation to Cabinet business or other matters on which Cabinet has agreed.
Proposals could cut across ministries.	2.17	Proposals to Cabinet might cut across several ministries. In order to avoid the diffusion of responsibility and other practical difficulties that might arise, it is preferable to have the key Minister to be the sponsoring Minister. It is not unusual for ministries and officials to collaborate on the development of proposals coming before Cabinet.
Ministers are fully responsible for proposals.	2.18	Ministers and Members of Cabinet are to take full responsibility for proposals coming before Cabinet even if the detailed preparation is done by the ministry or other officials.

Implementation and follow-up

Members to ensure follow-up action.	2.19	Ministers and Members of Cabinet are responsible to Cabinet to ensure that the appropriate follow up action is effected, even if it extends to public corporations, statutory bodies and other government agencies. The responsibilities of Ministers and Members of Cabinet may be carried out by Permanent Secretaries, heads of departments or heads of other bodies.
Sponsoring ministry to ensure follow-up.	2.20	If a proposal requires decision or action in several portfolios and Cabinet does not make a directive in regards to implementation, it is for the sponsoring Minister or Member to take the follow-up action. In these cases it is advisable for the sponsoring Minister or Member to inform the other Ministers about the follow up-plan.

Ministers to ensure that departments are informed of Cabinet activities.

2.21 Most departments and agencies do not receive Cabinet Minutes. However, in the event that follow-up action or arrangements are to be implemented by those departments or agencies, it is the responsible Minister or Member to ensure that they are informed in a timely manner.

Cabinet Minutes may be sent directly to agencies and enterprises.

2.22 Where a statutory body, a public enterprise or agency is directly involved in the preparation of a matter or will be impacted directly by the outcome of Cabinet deliberation, the relevant Cabinet minute may be sent directly to the Chief Executive Officer/Managing Director. As well, the co-ordinating ministry or the ministry under which this portfolio falls may be issued a copy of the Cabinet minute.

Declaration of interest

Members to declare interest.

2.23 Ministers and Members of Cabinet attending meetings in relation to matters in which they have an interest must declare their interest or members of their family interest. Interests, whether private, pecuniary or non-pecuniary of Ministers, Members of Cabinet or their immediate family must be declared prior to discussions, if their participation is likely to give rise to a conflict.

Declaration of interest to be recorded.

2.24 Declaration of interest should be recorded by the Cabinet Secretary. Following the declaration of interest it is then for Cabinet to excuse the Minister or Member or for that Minister or Member to excuse himself or for Cabinet to allow that Minister or Member to participate in the discussions thereafter. Ministers or Members should excuse themselves from the discussions where a close relative is being appointed to a position in government or a statutory body. Once a declaration is made on a particular matter, it is not necessary for that Minister or Member to declare his interest in subsequent discussion on that particular matter. However, if the colleagues of the Minister or Member are not aware of the interest due to the passage of time, the Minister or Member is advised to reiterate his previously declared interest.

Doubts about one's interest.

2.25 Ministers or Members having doubts or uncertainty about their interest in a Cabinet matter should inform the Premier in advance of the matter coming up for Cabinet discussion.

Custody of Cabinet documents

Confidentiality of Cabinet documents.	2.26	The confidentiality of Cabinet documents is of utmost importance; accordingly special arrangements are to be made for their handling. The arrangements for handling Cabinet documents are provided for under chapter 7.
Cabinet documents are Government property.	2.27	Cabinet documents are the property of the Government of the Virgin Islands and are not the property of any individual Minister. A new series of Cabinet records are created for each government. Cabinet records are held by the Cabinet Secretary on behalf of the Government of the Virgin Islands. Cabinet records are to be issued only by the Cabinet Secretary.
Cabinet records to revert to the Cabinet Secretary.	2.28	Once Cabinet records are no longer needed by a Minister, Member, or ministry (except the Chairman) they revert to the Cabinet Secretary. Hard copies of these documents are to be destroyed under certificate by the Cabinet Secretary. If a Minister or Member vacates his office or indeed there is a change in government, hard copies of those documents must be destroyed by the Cabinet Secretary under his certificate.
Requests for Cabinet documents.	2.29	Any requests for documents by former Ministers or Members must be made in writing to the Cabinet Secretary. The Cabinet Secretary must inform the Chairman and the Premier of his decision and subsequent action, where necessary.
Copies of Cabinet documents to be returned to the Cabinet Secretary.	2.30	Any other ministry, department, statutory or corporate enterprise official holding copies of official Cabinet documents must return the hard copies to the Cabinet Secretary for destruction under his certificate, if there is a change in government or he or she vacates the office or position under which he or she received those Cabinet documents.

3. CABINET WORK PROGRAMME

Schedule of meetings

Authority to call Cabinet meetings.	3.1	The Chairman and the Premier are jointly responsible for determining the business and times of all meetings of Cabinet.
Regular and Special Cabinet meetings.	3.2	Cabinet meets in a regularly-scheduled meeting, except on public holidays and other times that Cabinet may decide. Cabinet also meets whenever the Premier, or the Governor, acting in his or her own discretion, where practicable after consultation, requests, according to section 48 of the Virgin Islands Constitution Order 2007. The Cabinet Secretary is responsible for summoning the Cabinet to any such special meeting. Indeed it is customary for Cabinet to meet with certain public enterprises during each year or otherwise as necessary.
Cabinet Steering Group meetings.	3.3	Cabinet Steering Group (CSG), comprising the Chairman, the Premier and the Cabinet Secretary meets weekly to determine the agenda (business) for the next meeting of Cabinet.
Cabinet forward schedule.	3.4	In order to ensure the smooth implementation of Cabinet business, the Cabinet Office must develop and maintain a forward schedule of Cabinet business, including matters that are to return to Cabinet for further deliberation.

Notification of meetings

Cabinet Secretary to give notice of meetings.	3.5	The Cabinet Office, through the Cabinet Secretary, each week (as outlined in section 3.3) submits a proposed Schedule of Business to the Cabinet Steering Group as the business of the Cabinet for the next meeting. The Cabinet Office proposals include papers, documents, and other memoranda, that it considers appropriately prepared for consideration, to the weekly meeting of the Cabinet Steering Group. Once the Cabinet Steering Group approves the business agenda, the Cabinet Office is then responsible for issuing to the Ministers and Members, so that the documents are received at least two days in advance of the Cabinet meeting: a) the schedule of Cabinet business for the next week;

b) the suite of papers, memoranda or documents to be considered or circulated at the next meeting of Cabinet; and

c) draft Minutes from the previous week's meeting of Cabinet. Documents should be delivered to Ministers and Members of Cabinet by the end of business on Friday evening prior to each meeting of Cabinet.

Cabinet Secretary to give notice of change in meetings and to send documents.

3.6 In the event that the meeting times have been changed or when new or additional meetings are called, revised schedules of Cabinet business are issued by the Cabinet Office to Ministers and Members. Others affected by these changes are to be notified by the Cabinet Secretary. When Cabinet business is added or deleted, the Cabinet Office must issue the relevant papers, documents or memoranda as soon as practicable and Ministers and Members, and Cabinet liaison officers must be immediately notified of deletions or additions.

Notice of changes to be given in hard copy or electronic format.

3.7 The Cabinet Office can inform Cabinet liaison officers about changes to Cabinet business that affect their ministries/departments by written or electronic means, depending on the particular situation, at the discretion of the Cabinet Office, although business agendas are not circulated to them.

3.8 Cabinet liaison officers are responsible for briefing Ministers/Members in the event of deleted or new business.

Attendance of Ministers

Cabinet meetings take priority.

3.9 Ministers and Members attendance at Cabinet meetings take priority over all activities other than meetings of the House of Assembly. Ministers' staff is therefore not to commit their Ministers to events that are in conflict with scheduled Cabinet meetings.

Ministers to inform of their absence from Cabinet meetings.

3.10 Ministers or Members are required to inform the Chairman and the Premier, respectively, of their absence from, or delay in attending meetings of the Cabinet. A Minister or Member must seek agreement from the Premier and the Chairman, respectively, to have another Member or Minister present his papers to Cabinet.

Co-options

Experts or visitors attend only for the items for which they were invited.	3.11	Subject to section 50 of the Virgin Islands Constitution Order 2007, Officials or experts invited or designated to attend Cabinet meetings for any reason must only attend when that item is reached and being discussed on the agenda. Cabinet officials are responsible for informing and calling visitors as they are needed.

Attendance of Cabinet officials

Attendance of Cabinet officials.	3.12	Normally only the Cabinet Secretary and the Cabinet Recording Secretary attend meetings of Cabinet. The Cabinet Secretary, Cabinet Recording Secretary or Cabinet attendants may be asked to leave the Cabinet Room discussions whenever the Chairman or the Premier decides that the Cabinet needs to conduct private discussions.
Cabinet notes not to be verbatim.	3.13	Notes taken by the Cabinet Secretary must not be a verbatim record. Notes taken by the Cabinet Secretary are not part of the Cabinet record but these must be kept in strict confidentiality. There is no access to Cabinet notes.

Attendances of ministry/departmental officials

Chairman and Premier only to invite officials to meetings.	3.14	Subject to section 50 of the Virgin Islands Constitution Order 2007, officials attend Cabinet meetings at the request of the Chairman and the Premier under the invitation of the Cabinet Secretary. Officials or experts attend for specific items on the agenda and are invited in and announced by the Cabinet Secretary or Cabinet attendants.
Officials not part of the discussion.	3.15	Officials do not participate in the deliberation, as their sole purpose is to present factual and technical information. Officials or experts should leave the Cabinet before the full discussion commences.
Officials subject to the strict confidentiality of Cabinet.	3.16	Officials attending Cabinet meetings are subject to the strict confidentiality rules just as Ministers. Officials are therefore forbidden from disclosing their purpose of attending Cabinet and the nature or content of their participation. Notes made by officials during the meeting must be surrendered to the Cabinet Secretary for destruction according to official procedures.

4. CABINET BUSINESS

Forms of Cabinet business

Definition of Cabinet business.

4.1 Cabinet business including business before its committees are in the following forms:

(a) memoranda (Cabinet papers or submissions);

(b) emergency non-memorandum matters (including genuine emergencies agreed to by the Chairman and the Premier and there is no time to have memoranda prepared);

(c) matters for mention by individual Ministers and Members; and

(d) draft Minutes and Minutes for endorsement by Cabinet.

Need for Cabinet consideration

Members to consider the need to bring papers to Cabinet.

4.2 Cabinet business is about collective consideration and collective endorsement by the government. Ministers and Members should, before initiating matters for placement before Cabinet, consider whether the particular matters warrant Cabinet's time and could not have otherwise gained the agreement of colleagues through consultation. This is an important consideration so as not to waste the time Ministers and Members need to discharge their other responsibilities. Ministers and Members must therefore balance the need for collective endorsement of policies to come before Cabinet and to avoid "cluttering" Cabinet's calendar with simple decisions they could make otherwise in ministries and departments.

Members to find ways of saving Cabinet time.

4.3 Cabinet time could be significantly reduced if Ministers and Members could have endorsement and agreement of certain matters via meetings, correspondence, and subsequently informing the Chairman and the Premier. Another way of significantly reducing Cabinet time is to have high volume decisions brought periodically for final endorsement.

Matters sent to Cabinet Steering Group.

4.4 Matters coming to Cabinet via the Cabinet Steering Group from Ministers and Members include:

(a) new policy proposals or proposals to make significant changes to existing or current policies, programmes and projects;

(b) proposals that are likely to have significant impact on the size or composition of the public sector;

(c) proposals or policies that are likely to have significant economic, social, spatial and environmental impacts on the Virgin Islands and its people;

(d) current and capital works as part of the whole current and capital budgets, whether the Budget Estimates or a Schedule of Additional Provision (SAP), for a fiscal year in whole or in part;

(e) proposals that are likely to have a significant impact on our relations with the United Kingdom government, governments and organizations with which we have relations in regional or international organizations and other significant impacts with the rest of the world;

(f) proposed response to recommendations or requests made by the House of Assembly or any of its Committees; and

(g) negotiations or actions to enter into or alter international arrangements made by the Virgin Islands or significantly alter the intent of Treaties entered into on behalf of the Virgin Islands.

Strategic focus for Cabinet discussions

Cabinet discussion to have a strategic focus.

4.5 Cabinet is the centre of Government and as such its activities should have a strategic focus, including government overall policy thrust and legislative agenda. In order to affect this strategic focus, memoranda and papers should be submitted through the Cabinet Office and circulated to Ministers and Members in a timely fashion and in accordance with rules established by Cabinet. Further, the Cabinet Steering Group decides which matters need detailed consideration and discussion, given:

(a) the strategic importance or development significance of the issue/matter; and

(b) the likelihood that there could be or could not be significant disagreement on the issue/matter among Ministers and Members.

Cabinet to have a strategic focus.

4.6 Adding a strategic thrust to Cabinet must not only establish a strategic focus but review the implementing of that focus as well. In this connection it is important that the strategic thrust or direction of the continuing and related matters becomes a central feature on the business agenda of regular meetings of the Cabinet. In addition regularly-scheduled briefings on particular areas should be presented to Cabinet.

Special meetings to have strategic focus.

4.7 Special meetings of the Cabinet should focus on the areas of Government's strategic agenda.

Preparation of Cabinet submissions and memoranda

Cabinet memoranda limited to 5 pages.

4.8 Cabinet submissions (memoranda) are limited to 5 pages including the entire summary sheet, the decision section, the background, the recommendations/conclusions and media release, where necessary. Any arrangements for implementation or co-ordination are included here as well.

4.9 Submissions on expenditure and budgets are exempted from this rule.

Papers to be prepared according to a guide.

4.10 *The Preparers Guide for Cabinet Papers* provides details of the process for draft Cabinet papers. It targets ministry policy research officers, Cabinet liaison officers and other relevant officials.

"**Two-day rule" for submissions and memoranda**

Papers to be submitted 2 days before going on the agenda.

4.11 Ministers and Members of Cabinet need adequate time to consider proposals on which they are asked to make a decision. Cabinet proposals should be presented at least two (2) working days in advance of being placed on the Cabinet business agenda. This is needed to consider issues and implementation arrangements.

Bypassing the two-day rule.

4.12 In cases where Ministers consider it necessary to bypass the "two-day rule" an exemption to do so is required from the Cabinet Steering Group only in response to their requests to the Cabinet Secretary. In this connection, Ministers must have satisfied themselves that a genuine case exists for placing their colleagues in a position of having to decide without adequate time to consider issues. Exemptions to the "two-day rule" should be applied for, only in cases where not to do so will result in disruption or delays in implementation of a ministry's programme.

Presentation of papers must be in good time.

4.13 Members of Cabinet and their officials must ensure that the presentation of proposals to Cabinet are normally within the schedule of the activities they would like to execute. These places are premium on planning in order to avoid imposing on the time other Ministers need to implement their programmes.

Joint submission

Premier to approve joint submissions.

4.14 It is for the Premier to decide whether a particular subject is to be brought to Cabinet by a single Member or jointly by two or more Members. For example there might be matters such as a particular area of financial services that might be brought by the Minister of Education alone or jointly with the Minister of Finance or the Premier.

Members to agree on the text of joint submissions.

4.15 In cases of joint submissions, all involved Ministers or Members must agree on the text of the memoranda. However, there might not be full agreement on the recommendations. In these instances, this must be clearly identified and stated in the submission to Cabinet.

There must be a lead Member in joint submissions.

4.16 Although joint submissions are shared efforts by definition, there must be a lead ministry that takes on the task of leading the consultation, circulating and sending the submissions to Cabinet.

Submissions prepared by one Minister in consultation with others

Lead Member fully responsible for memoranda text.

4.17 When one Minister is required to or prepares a submission to Cabinet in consultation with other ministries, it is the responsibility of the lead Minister to fully inform and provide for the participation of the other Minister/ministries. Although agreement might not be achieved in some instances, it is the responsibility of the lead ministry to allow the other ministries

the full opportunity to have their view taken into consideration in the drafting of the memoranda.

Handling of business without submission

Members to have written permission to deal with Cabinet matters without a paper.

4.18 As the nature of governance is such that the unexpected happens quite frequently, there will be times when Ministers/Members might have to deal with matters in the absence of a formal paper to Cabinet. In such occasions, Ministers are expected to seek the permission of the Cabinet Steering Group to deal with matters in this way. These matters are limited to:

(a) urgent matters pertaining to procedures but never pertaining to policy;

(b) urgent policy matters on which Ministers/Members might have been unable to reach agreement otherwise; and

(c) urgent appointments, typically where replacement will be necessary so as not to hamper business.

4.19 Above all, Ministers/Members must carefully consider whether there is a disadvantage to other Ministers/Members in not pursuing their submission in the normal way, i.e. a regular submission allowing colleagues to fully study the proposal.

4.20 Before handling an informal submission under paragraph 4.22, requests by Ministers for permission to make an informal submission should typically:

(a) provide enough information and background that one would expect in Cabinet deliberations; and

(b) state whether the proposal is an (i) urgent procedural matter, (ii) an urgent policy matter, or (iii) an appointment.

4.21 The Cabinet Secretary is responsible for arranging for the appearance of experts before the Cabinet on these matters.

Cabinet Minutes

Cabinet Minutes are not operative until signed.

4.22 The outcomes of Cabinet deliberations are recorded as Cabinet Minutes by the Cabinet Secretary assisted by the Cabinet Recording Secretary. Cabinet Minutes are not operative until they are confirmed by Cabinet and signed by the Cabinet Secretary and the Chairman of the Cabinet.

Minutes to record decisions taken.

4.23 Cabinet Minutes are recorded by the Cabinet Secretary assisted by the Cabinet Recording Secretary during or after meetings in a form that enables the necessary action to be taken. Cabinet Minutes do not record discussions at the meeting, only decisions.

Minutes are recorded as draft Minutes.

4.24 Minutes recorded on the day of Cabinet meeting are considered draft Minutes until confirmed at the next meeting and signed by the Cabinet Secretary and the Chairman of the Cabinet, at which point they become the Minutes of the meeting. Draft Cabinet Minutes are finalized as part of the agenda of the next meeting. Once draft Minutes are finalized, the Cabinet Secretary takes possession, destroys same or causes same to be destroyed.

Doubts about Minutes to be raised before next meeting.

4.25 If there arises any doubt by a Minister or Member concerning the accuracy of Minutes circulated, it is for that Minister or Member to raise the doubt with the Cabinet Secretary before the next Cabinet meeting, if possible.

Circulation of draft Cabinet Minutes.

4.26 Cabinet Minutes are issued in draft as soon as practicable after the adjournment of every Cabinet meeting. Draft Cabinet Minutes are circulated to Members of the Cabinet only together with the agenda and Cabinet documents approved by the Cabinet Steering Group for the next meeting of Cabinet.

Circulation of Minutes to ministries and departments

Circulation of final Cabinet Minutes.

4.27 Final Cabinet Minutes are circulated to Members of the Cabinet and selected officials on the direction or approval of Cabinet.

4.28 Any heads of department desiring to receive Cabinet Minutes must write directly to the Cabinet Secretary giving reasons, and the request must be approved by the Cabinet Steering Group.

4.29 Minutes are circulated to ministries, departments and other agencies which are specially required to take action or on a need-to-know basis. Heads of units of government receiving Minutes are to satisfy the Cabinet Secretary that there are procedures in place to ensure that these are perused by only persons needing to have access to Cabinet Minutes.

Minutes requiring further action before announcement

4.30 There are instances where Cabinet decisions must await further action from the House of Assembly, a regulatory agency, or the United Kingdom Government. In instances such as these, the announcement on Cabinet decision must have the approval of Cabinet, the Chairman or the Premier.

Announcements

Timing of announcement of Cabinet decisions.

4.31 Cabinet decisions are announced as decisions of government rather than decisions of the Cabinet. This assumption takes into consideration the supporting role of non-Cabinet Members of government. Of course, the timing of government announcements depends on the decisions of Cabinet. Cabinet decisions are not normally announced as government decisions until those decisions are declared final by Cabinet. The cover page of a Cabinet memorandum details the Minister/member, timing and method of the announcement of a government decision. Announcements made before they are declared final requires the permission of Cabinet or the Premier.

Significant policies should be first announced in the House of Assembly.

4.32 It is regarded as good parliamentary practice and high regard for the House of Assembly if significant policy developments are first announced in the House of Assembly. As well, it is also best democratic practice for significant policy papers (white papers, green papers) to be first laid on the table in the House of Assembly. Of course, it is understood that not all recommendations regarding policy can be made in public.

4.33 Ministers and ministries must first consider whether the facts and analysis included in documents should be made public, and at what stage in the process it is best to do so. This type of conclusion is the basis for the information/recommendations contained in the announcement strategy.

5. CONSULTATION

Purposes of consultation

Cabinet makes policy on the basis of facts and knowledge.

5.1 Consultation is one of the fundamental processes in a democracy. Indeed, good policy-making requires effective consultation. Cabinet must make policy on the basis of facts and knowledge. It is consultation that ensures a full consideration of views. Consultation is absolutely necessary to ensure that differences and similarities are known and possibly resolved in advance of Cabinet meetings. Members are responsible for identifying the differences so that there might be the best decision-making possible.

There must be agreement on the facts.

5.2 Members bringing proposals to Cabinet bear the responsibility for ensuring agreement by other Members and their ministry officials. There must be agreement on the facts contained in proposals being brought before Cabinet. Where there appears to be disagreement among Members about facts, it is incumbent upon the Cabinet Secretary to consider this matter until agreement is reached among Members on the facts presented.

Chairman or Premier can bypass co-ordination arrangements.

5.3 The Chairman or the Premier may request that certain proposals are to be advanced to Cabinet before the co-ordination arrangements can be worked out or agreed. Typically, these proposals include position on upcoming and urgent international issues or urgent legislation or legislation that is expiring or emergency domestic matters.

Co-ordination comments – the basic consultation requirements

Multi-ministry interest subject to consultation.

5.4 While the consultation process above-described is essential, all proposals that hold interest by several Ministers and ministries must be subject to consultation at both levels. Interested ministries are to be allowed to provide a co-ordination comment on matters for which they have an interest within two days after the papers are circulated to the Cabinet Secretary.

Interested ministries to participate.

5.5 A key feature in policy development is to provide Members and ministries with a good opportunity to view papers to decide if there exists an interest. Indeed, if ministries do have an interest, they should be provided with an opportunity to participate in the development of the proposal before it is sent to Cabinet. Cabinet, in turn, expects to receive high quality, well-prepared comments without undue delays.

Comments should focus on the risks and consequences.

5.6 Co-ordination comments should focus on the risks and the consequences for their ministries and departments. The purpose of co-ordination comments is to make the other ministries aware of issues with the proposal and to initiate the process of working out arrangements.

Co-ordination comments are to amplify issues for Cabinet discussion.

5.7 Co-ordination comments are brought to Cabinet as the views of the ministry presenting them. Co-ordination comments are provided to amplify matters/issues for the Cabinet deliberation. Ministers are therefore not bound or limited to these positions or views in the deliberations. However, ministries are not expected to contribute to the delay of proposals waiting for co-ordination comments.

Ministries to prepare a record of consultation.

5.8 Although sponsoring ministries are responsible for preparing the record of consultation, other interested ministries must be allowed to suggest changes/amendments to the final record. Sponsoring ministries are responsible for circulation of the draft consultation documents once amendments have been made. In instances where the draft consultation documents have been circulated, the sponsoring ministry must allow interested ministries ample time to review and comment on the revised drafts. In cases where interested ministries decline to comment on draft consultation documents, the record must properly reflect this in the appropriate section of the Cabinet memorandum.

Ministries expressing difference to take it up with the concerned ministry and Cabinet Secretary.

5.9 If after submission of a consultation document, differences still exist, or it is concluded that the consultation has been inadequate, or the consultation is not properly reflected in the submission, it is for the Minister expressing disagreement to take it up with the sponsoring Minister and the Cabinet Secretary.

5.10 If a co-ordination comment raises a new issue that remains unaddressed in the Cabinet memorandum, the sponsoring ministry must consider revising the submission to include the comment or the effects of the comment. It is not necessary then for Ministers/Members to issue for comment; instead the Minister/Member could bring out his points in the Cabinet discussion.

5.11 If a submission is requested by Cabinet on a particular consultation, and in the opinion of the Cabinet Secretary, there

are strong unaddressed criticisms by the sponsoring ministry, the Cabinet Secretary may return the submission for further consultation.

5.12 In cases where an interested ministry realizes that a Cabinet submission has been made without its knowledge, the interested ministry/Minister must draw this to the attention of the sponsoring ministry and the Cabinet Secretary before Cabinet considers the matter.

5.13 The sponsoring ministry is responsible for sending memoranda, on which a disagreement has arisen, to the ministries that have identified such as having an interest.

Legislation Handbook

Legislation to have special consultation process.

5.14 Taking legislation in the Cabinet processes requires special handling due in part to the consultation process. This process is described in the *Legislation Guide* and the *Cabinet Memoranda Preparers Guide*.

Who should be consulted?

5.15 Ministries preparing Cabinet submissions bear the first responsibility in identifying the ministries that might have an interest. Indeed ministries must be fully aware of the distribution of portfolios as this is where this information is likely to be found.

6. BOARDS, COMMITEES, WORKING GROUPS, AND APPOINTMENTS

Premier to approve committees' papers except under law.

6.1 Boards, committees, working groups and task forces play an important role in the workings of Government. Cabinet Members are expected to seek the approval of the Premier before bringing such matters to Cabinet, except where it is provided for, otherwise, under law.

6.2 The establishment of the following units are to be brought to Cabinet, through the Cabinet Steering Group:

(a) boards and commissions being set up to manage key areas of the economy or the public service;

(b) statutory bodies;

(c) working groups and task forces;

(d) committees and other advisory bodies.

6.3 The appointment of the following types of membership must be brought to Cabinet, on the approval of the Premier:

(a) the appointments of members to the units as described in paragraph 6.2; and

(b) appointment to serve on appeal boards, commissions and other offices.

6.4 The accepted practice is that types of establishments and membership previously brought to Cabinet are to continue.

Members should not pre-empt Cabinet decisions.

6.5 Cabinet has a collective responsibility in the establishment of units and the appointment of their membership. Therefore, Cabinet Members should be mindful of approaching potential members so as not to pre-empt the Cabinet decision. It is therefore expected that contact with potential members should be limited to:

(a) ascertain the potential member's willingness to serve with an identified list of potential members;

(b) whether the potential candidate knows of any possible conflicts of interest; and

(c) whether there are any other conditions that might legally prevent the potential member from serving in the position to which he might be appointed to serve.

Consider the cost/benefit analysis of establishing a board.

6.6 In considering the establishment of a board, statutory body, committee or like body, the sponsoring Cabinet Member must consider the cost/benefit analysis of his recommendations on the economy, the private sector and the public service. The assessment should include:

(a) the immediate and longer term impacts this body would have on the public sector;

(b) how would the particular body benefit or impact on the private sector?

(c) what would be the expected impact on the enterprise, statutory body or committee? and

(d) what would be the financial impact on the public purse?

6.7 In considering the appointments of persons to boards, committees, working groups, etc, the sponsoring Cabinet Member should be prepared to provide justification for the appointments or re-appointments.

Procedures for recommending appointments.

6.8 Members are required to adhere to the following procedures for their recommended appointments to be considered by the Cabinet Steering Group:

(a) proposals for placing recommendations for committee membership should reach the Cabinet Steering Group no less than one week before the memorandum is to be considered;

(b) appointment memoranda must indicate the date when the appointment is to become active or when existing membership expires;

(c) all appointments must contain all the specific information requested in the appointments template;

(d) the appointments template must include tenure of appointment, remuneration particulars, members' genders, members' names and full list of other members;

(e) Cabinet Members proposing persons to be appointed are to ensure that those persons being proposed met the requisite qualifications and experience;

(f) Cabinet Members must also pay due regard for Government's present policy of appointing young persons, women and sister islands residents;

(g) Cabinet Members must give due regard to selecting persons for appointment from all districts of the Virgin Islands;

(h) proposals requesting appointments must include supporting information such as resumes, work experience, etc;

(i) nominating Cabinet Members should consult with other Cabinet Members who might have the potential appointee already serving an appointment in their portfolio subjects;

(j) in appointing members to boards of enterprises and commissions, Cabinet Members must be consistent with the provisions of the relevant or guiding law; and

(k) nominating Cabinet Members must not make announcements about appointments that pre-empt Cabinet approval of decisions.

Nature of relationship to appointee to be described.

6.9 Where any appointment of a close relative of a Cabinet Member, a Member of the House of Assembly, staff members of a ministry or staff of a public enterprise or statutory body is considered, the nature of the relationship must be clearly described in the paper.

Appearance of conflict to be avoided.

6.10 It is inevitable that relatives of Cabinet Members will be appointed to boards, committees and statutory bodies. However, it is important that the appearance of conflict is avoided. Persons involved in the nomination process should not be related to the nominee. This of course means that close relatives should not be nominated without the permission of the Premier. Cabinet Members should excuse themselves when relatives' nominations are being considered.

Appointment not to be announced before being cleared by Cabinet.

6.11 Announcement of appointments before Cabinet has cleared them is only permitted with the approval of Cabinet or the Premier when the situation dictates.

6.12 Circulation of appointments should be very limited until the process is complete and the Minister/Member has made his announcement.

6.13 The procedures to be followed for re-appointment are essentially the same as those for appointments, in most cases with the exception being the urgency of the situation.

6.14 Adherence to the procedures for appointment is critical to ensuring that due consideration is given bearing in mind the importance of these appointments to good governance.

7. SECURITY AND HANDLING OF CABINET DOCUMENTS

Cabinet documents defined

7.1 Cabinet documents must be handled in such a way so as to preserve the frankness and openness of the discussions that one expects in the Cabinet Room. In this connection, Cabinet documents are to be kept secured and safely away from other documents of government. Cabinet documents produced by one government are not available for viewing by other governments, and they are expected to be destroyed at the end of the life of that government. This principle is deviated from, only in exceptional cases or where a freedom of information law provides for their release. The conventional practice in the Commonwealth is for the 30-year rule after which those documents may be released to the public.

What are Cabinet documents?

7.2 Cabinet documents in the Virgin Islands are defined as follows:

(a) business agenda of Cabinet;

(b) notices of Cabinet meetings;

(c) Cabinet papers and memoranda (including copies of those documents held with the sponsoring ministry);

(d) reports and attachments to papers and memoranda, attached or not, that have been developed for Cabinet to consider;

(e) schedules circulated for information to Cabinet Ministers and Members, including appointments and matters discussed without submissions;

(f) any papers circulated by Ministers or Members in the Cabinet Room for discussion;

(g) legislation documents that are used in getting a draft bill cleared by Cabinet, including Parliamentary Counsel and Attorney General memoranda; legislation profiles produced for Cabinet, draft bills and other documents used for explanation purposes;

(h) Ministers' correspondence to the Chairman or the Premier regarding appointments, or other matters to be raised with Cabinet;

(i) Cabinet draft Minutes;

(j) copies of all Cabinet Minutes extracts.

7.3 Cabinet documents do not include documents used in connection with the preparation of papers and memoranda submitted. However, ministries must give special care to the handling of memoranda, briefing papers and notes relating to Cabinet deliberation outcomes, as well as other related materials.

Classification of Cabinet documents

7.4 The special care and handling of documents related to Cabinet documents, deliberations and discussions are to be handled according to sections 7.8 to 7.20.

7.5 All Cabinet documents are to be marked "Cabinet-in-Strict Confidence" and this shall be the classification of these documents.

7.6 The basic principle to be applied in the handling of Cabinet documents is the "need to know".

7.7 Officials handling Cabinet documents, whether in ministries or in the Cabinet, as would Cabinet Room attendants, are expected to have positions of trust. As with all public servants, such officials would be expected to have taken the Oath of Confidentiality.

Handling procedures

No electronic circulation of Cabinet documents.

7.8 Cabinet documents are not circulated electronically to Members; instead, all circulation is by hard copy. Cabinet Members must nominate no more than three ministries' officials who are cleared to receive and dispatch Cabinet documents. Nominations are to be sent to the Cabinet Secretary well in advance of any planned changes.

7.9 Officials receiving Cabinet documents in ministries are required to sign and certify that they will be handled in accordance with the Cabinet Handbook, section 7. Officers receiving Cabinet documents are responsible to the Cabinet Secretary for their safe handling and safe custody.

7.10 Cabinet documents addressed to a Member of Cabinet or the Cabinet Secretary and marked "To be opened by the addressee only" may not be opened by a Cabinet liaison officer or a Cabinet Room attendant. Cabinet documents not marked "To be opened by the addressee only" may be opened by other ministry or Cabinet Office officials and brought to the Member or Cabinet Secretary immediately.

7.11 Cabinet Members are to decide which of their officers can see Cabinet documents. However, once the Cabinet Member passes a Cabinet document to his Ministry official that official assumes responsibility for the safe handling and safe custody of those documents.

7.12 When a Ministry official receives a Cabinet document from a Cabinet Member for advice or action, it is for that nominated ministry official to ensure the safe handling and safe custody of that document and record should be kept of its handling. The file record of the handling of this file may be deemed a sufficient record.

7.13 Cabinet business agendas are to be circulated to Members. Cabinet business agendas are not to be circulated publicly or discussed outside of Members.

Cabinet documents are to be kept in separate files.

7.14 Cabinet documents are to be stored in secure containers or file cabinets accessible only to persons with the appropriate security clearances. Cabinet documents are not to be placed on ordinary departmental files. Draft Cabinet submissions are to be kept in separate filing and recording systems from the regular departmental/ministry files.

Recording access to Cabinet documents

7.15 A record of persons having access to Cabinet documents must be kept. This includes ministry/departmental staff having access to documents being developed. A movement sheet must be attached to the document that is sent to Cabinet and signed off by the Member of Cabinet submitting the document.

7.16 Access to Cabinet documents is limited to persons nominated by the Cabinet Member to handle Cabinet documents.

Copying of Cabinet documents

7.17 Cabinet documents are not to be copied except as outlined in paragraphs 7.18 and 7.19. Cabinet documents, particularly Minutes are not to be transcribed or made part of any other documents or part of ministry/department files. Electronic transmission to the Cabinet Secretary is the only accepted exception.

7.18 The Cabinet Secretariat and the ministry originating Cabinet documents are the only government units allowed to make copies of Cabinet documents. Other Units requiring copies of Cabinet documents may request copies from the originating ministry. In case the originating ministry is unable to furnish copies, the Cabinet Secretariat may be asked to provide the needed copies.

7.19 The production and circulation of Cabinet Minutes are for the Cabinet Secretariat only and, if extra copies are required, the Cabinet Secretariat must be requested to do so.

Quoting from Cabinet Minutes

7.20 It is for the sponsoring ministry to convey the issue of a Cabinet minute to departments, agencies and enterprises under its control. Cabinet liaison officers or Permanent Secretaries may summarize a Cabinet minute but it is unacceptable to copy and distribute the minute in its totality, unless the concerned recipient needs to know.

Responsibilities of Members regarding access

7.21 Members of Cabinet have the responsibility for:

(a) identifying the relevant staff to be cleared for handling Cabinet documents; and

(b) identifying the person in his ministry to have custody and to be responsible to the Members for their safe keeping. The Cabinet Members are responsible for advising the Cabinet Secretary of the name and other particulars of that person.

Electronic storage and transmittal of Cabinet material

7.22 The electronic handling of Cabinet documents attracts the same rules and responsibilities as documents handled manually.

7.23 Access to databases and electronic systems used to produce Cabinet documents are to be limited to those officers that "need to know" and such access should be recorded and made available for inspection. The databases in question include document numbers, dates and titles.

7.24 Security of electronic systems used for recording or storing Cabinet documents is the responsibility of Cabinet Members. The Cabinet Secretariat may provide advice, but is not responsible for the handling of Cabinet documents in other ministries.

Access to Cabinet documents by courts and investigative agencies

7.25 Cabinet Members whose ministries or departments receiving requests for Cabinet documents or materials (defined in 7.1 and 7.2) from sources outside the Executive branch of Government must consult the Cabinet Secretary. The consultation must take place well in advance of considering whether to provide the requested information. Consultation with legal adviser is not a substitute for consultation with the Cabinet Secretary.

Destruction of Cabinet Documents

7.26 Highly sensitive national security documents are to be returned to the National Security Council following use of these in a Cabinet Meeting. Cabinet documents are to be held by Cabinet Secretariat if a Minister vacates his office or is deemed to have vacated his office. Documents returned to the Cabinet Office are to be destroyed by the Cabinet Secretary.

Access to Cabinet Documents by previous governments

7.27 By convention Members do not seek access to documents recording the deliberations of a previous Cabinet. In short, Cabinet documents are considered confidential to the government under which they were created.

7.28 Before each general election in the House of Assembly, Permanent Secretaries or nominated officers are required to store all Cabinet documents so they are not accessible to a new

incoming government. However, if the same government is returned, the stored Cabinet documents must be made available immediately. Cabinet documents of the previous government must be destroyed. A ministry requiring copies of destroyed documents must request same from the Cabinet Office.

7.29 In cases where it is necessary for continuity of implementations, to refer to the Cabinet of a previous government, the Cabinet Office may provide copies of Minutes to the Permanent Secretaries or nominated officers. These officers may provide a summary of Minutes, but under no circumstances must a copy of the Minutes be provided to Members of a different government.

7.30 Ministries needing to have access to memoranda submitted by a previous government must request same in writing from the Cabinet Office and not from the ministry that originated the document. All requests for copies of documents are to be forwarded to the Cabinet Office.

Archives

7.31 Cabinet documents are not to be sent to the National Archives or the Records Centre, instead they are to be destroyed in accordance with paragraph 7.26.

7.32 Cabinet documents are not open to the public until after thirty (30) years.

7.33 Access to Cabinet documents is to be allowed on a case-by-case basis. All requests from Archives officials are to be sent to the Cabinet Office explaining the requests and the potential use of the information.

7.34 Former office holders such as Ministers, Permanent Secretaries and other nominated officials may request sight of documents they worked with to refresh their memories to deal with certain matters.

7.35 When special requests are received, the Cabinet Secretary must contact the present political leader of the party that was in power at the time the documents were created and the Chairman of Cabinet.

OFFICE OF THE THIRD DISTRICT REPRESENTATIVE
JULIAN FRASER, RA

May 31st 2021

Re: Your letter of

17 May 2021

to

Richard G Rowe and Daniel Fligelstone Davies

Silk Legal (BVI) Inc

Requesting a "Position Statement from Members of the House of Assembly

Position Statement

I write in response to your letter of Ref.

1. ***Your Question:*** (1) What do you understand by the term "good governance"?

    i. Good Governance is the effective dispatch of duties by Public Officers in accordance with the Laws of the Virgin Islands within the framework of established Cabinet Approved Policies.

2. ***Your Question:*** (2) What do you understand by the term "poor governance"?

    i. Poor Governance is the habitual deviation from my explanation of Good Governance. It is definitely not determined outside that framework by way of fishing expeditions and personal inferences.

3. ***Your Question:*** (3) To what extent do you consider good governance to be important in sustaining public confidence in all elements of government?

    i. To the extent that it could be the difference between success and chaos. It is that important.

    Ordinarily, the absence of success would be failure but not in this case. In this scenario however, the stakes are higher. This behavior of responsibility on the part of a government is the only reason one would have to work and behave within the dictates of the Rule of Law.

4. ***Your Question:*** (4) As a Member of the House of Assembly, what role, if any, do you have in ensuring there is good governance and how have you carried out that role?

    i. I draw your attention to Section 47 (3) of the Virgin Islands Constitution Order 2007

ii. *(3) The Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government, except those matters for which the Governor has special responsibility under section 60, and the Cabinet shall be collectively responsible to the House of Assembly for such policies and their implementation.*

iii. This is what I consider to be a "Got You" provision, because it says everything that needs to be said, unfortunately the most important part of it is devoid of reality.

iv. Yes the Cabinet (Ministers) makes those Policies mentioned, yes the Cabinet (Ministers) directs the implementation of those Policies.

v. But the fallacy is the part about Cabinet (Ministers) shall be collectively responsible to the House of Assembly for such policies and their implementation.

vi. Ask yourself this question. Who makes up the House of Assembly? And the answer which is the Cabinet, namely: The 5 Ministers and the Attorney General, and a cast of supporters namely: The 2 Junior Ministers, the Dep. Speaker and another Back-Bencher plus the Speaker. That is a total of 11 out of 15 Members. So who are you kidding when you are trying to pin an unrealistic responsibility on the "House of Assembly" to hold the Cabinet to account? You know that this is nonsense, and you didn't need me to tell you this, but you asked.

vii. I am aware that the same System obtains in the UK, but let me point out that the dynamics are vastly different, different in the sense that they have diversity in numbers on their side. Theirs is a Parliament of 650 Members, a strong and functional Opposition comprising of no fewer than 10 Parties including a main Opposition Party, along with other Independent MP's, and they are also blessed with a bi-Cameral System. So for them Accountability can and is achieved. Not to mention, they also have the Press.

viii. If I was to elaborate on the many Committees of the House you would be equally impressed with their mandate, and sorely disappointed with their powers, which are nonexistent.

ix. We have a Public Accounts Committee which is according to Standing Orders **73**

(5) The functions of the Committee shall be:

(a) to consider the accounts of the Government in conjunction with the Auditor General's Report;

(b) to consider any Special Report submitted by the Auditor under Section 20 of the Audit Act, 2003;

(c) to report to the House of Assembly in the case of any excess or unauthorized expenditure of funds, the reasons for such expenditure;

(d) to report to the House of Assembly in the case of any shortfall of Revenue, the reasons for such shortfall;

(e) to report to the House of Assembly any case of apparent extravagance or waste of public funds;

(f) to propose any measures it considers necessary to ensure that public funds are properly brought to account and are economically spent.

a) The functions of this Committee doesn't pass the smell test on the surface, and neither is it meant to address modern day occurrences.

b) Case in point, the Public Accounts Committee in the UK unlike ours, holds its hearings in Public which in and of itself is a means of deterrent.

c) Also, our reporting method to the House of Assembly, which I have already concluded as a flawed system, is asking the very Body responsible for the shortcomings discovered, to do something about them. The Committee needs real power if it is supposed to be meaningful.

x. <u>What do I do to promote Good Governance?</u>

xi. I ask questions in the House of Assembly, the answers to which, are at the discretion of the Minister. Standing Orders 18

xii. (6) *A Minister may decline to answer a question, if the publication of the answer would in his opinion be contrary to the public interest.*

xiii. Cross examination is restricted by the Speaker using Standing Orders 18

xiv. (4) *After the answer to a question has been given, supplementary questions may, at the discretion of the Speaker, be put for the purpose of elucidating the answer given orally, but the Speaker may refuse any such question which in his opinion introduces matters not relative to the original question, or which infringes any of the provisions of Standing Order No. 17 (Contents of Questions), and may in that case direct that such question be not reported in the Minutes.*

xv. And (4)(a) *Supplementary questions may be asked by the originator of the question or by another Member with the permission of the originator. No more than two (2) supplementary questions* shall be asked.

xvi. There is more and much more I can say about this topic with regards to your question, but I notice there are many other questions within which I certainly hope I'll be afforded the opportunity to say more.

5. ***Your Question:*** (5) What mechanisms, statutory or otherwise, make up the current system in place in the BVI to ensure good governance?

i. This is beginning to sound like a 5th Grade examination. One which I am not inclined to indulge. We have a Constitution and we have numerous pieces of Legislation that speaks to your question. If those elements fails to produce "Good Governance" then I'm afraid Sir, only the fear of incarceration will.

ii. This is not something I spend time thinking about, because I take it for granted that all Public Officers and those who gives directive have sworn to uphold the Laws of the Virgin Islands.

iii. Officers have been disciplined to take orders, while at the same time knowledgeable that they cannot break the law. Simply put, they know better, that if someone directs them to do anything that is illegal and they do it, it is them who break the Law, and not the one who directed them. So for this reason I take Good Governance as a protected guarantee.

6. ***Your Question:*** (6) What do you consider to be the strengths and weaknesses of that system?

i. The strengths are that guidelines are in place and if followed, there should be no issues whatsoever.

ii. The weaknesses are, that the interpretations for Good Governance varies from person to person, and that brings two issues to bear.

1) Persons like yourself from other societies trying to impose their standards on the Virgin Islands irrespective of Culture, Demographics, Geography, Socioeconomic circumstances, and most importantly, reality.
2) The element of greed in our society, which causes neighbor to turn against neighbor when they don't get things their way.

iii. And last but certainly not least, is blaming a Political System for failing to police itself, when in-fact it was designed to fail.

7. ***Your Question:*** (7) What steps do you as Members of the House of Assembly consider should be taken to promote the strengths and remedy the weaknesses you have identified so as (if you have answered (4) above in the positive) to sustain public confidence in all elements of government?

i. I revert to my answer to your Question (4), and again refer to *Section 47 (3) of the Virgin Island Constitution Order 2007,* **and I'll ask the question, whether they are aware that our current System imposes legal dictatorship powers on our Premier?**

ii. Let me explain. The Premier nominates 4 Members of the House of Assembly which the Governor appoints and together with the Premier makes up the 5 voting Members of the Cabinet, any or all of whom can be fired by the Premier for any reason. I've seen it many times, and as recently as in the last Administration. Simply put, **he dictates** what is or is not Government's Policies.

iii. Again, referring to my answer to your Question (4), and my reference to *Section 47 (3) of the Virgin Island Constitution Order 2007.* That same Premier decides who gets to be Speaker of the House of Assembly, and he gets to decide who his 2 Junior Ministers are, all 3 of whom he can fire at any time. And all 5 Ministers including the Premier, the 2 Junior Ministers, the Speaker, and I forgot the Deputy Speaker who the Premier also sanctions, all forms the Government side in the House of Assembly. Note that this number represents 8 of the 13 voting members of the House of Assembly, and if need be, the Speaker is also eligible to vote also. **The point here is that the Cabinet being accountable to the House of Assembly, means being accountable to itself,** which essentially means the same as being accountable to the Premier.

iv. You can do like most and ignore this reality, but the result will simply be another chase for the same thing you are after right now in a few years from now.

v. The sad reality here, is that you are not going to report this massive flaw in our system, but instead you will continue to fish in a pond that has only dead fishes.

vi. The irony in all this, is that as far back as 1995 a mechanism was devised to put an end to this "dictatorship", but unfortunately it backfired because it wasn't fully thought out and it only served to proliferate the matter. The good news is, is that it can still work, if people in your position cared enough to fix things.

vii. Do something good for the people of the Virgin Islands. Deal with the cause. Dealing with the symptoms alone will only mean that there will be more CoI's.

8. ***Your Question:*** (8) What are the standards by which good governance is currently measured in the BVI?

   i. Like I said in my answer to your question Number (1), when asked my understanding of the term "Good Governance", and I related that the Laws of the Virgin Islands and approved Cabinet Policies if followed should be sufficient to ensure Good Governance, I do maintain that.

   ii. Therefore, those Standards are, **"upholding the Laws and Policies of the Virgin Islands".**

9. ***Your Question:*** (9) In what way, if any, do you consider those standards to be insufficient?

   i. This is a Democratic society that is run by elected officials who are charged with the responsibility to make Laws and Policies for the smooth running of the country, and naturally the mere fact that new laws and policies are constantly being made, or old ones are being revised, speaks directly to insufficiency, which should not negate the fact that the dynamisms of the society has a lot to do with this need.

ii. However, I must say that bad Laws and poor Policies does exist in the BVI, like everywhere else. But this also speaks to that lack of diversity in the Legislature, it speaks to that dictatorship I spoke about, but most importantly, it speaks to this system which I've implored you to speak to in my answer to your ***Question (7).***

10. ***Your Question:*** (10) What steps do you, as Members of the House of Assembly, consider should be taken to ensure that the standards of governance in place will sustain public confidence in all elements of government?

i. If it is the case according to the Constitution that *"The Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government, except those matters for which the Governor has special responsibility under section 60, and the Cabinet shall be collectively responsible to the House of Assembly for such policies and their implementation"*.

ii. And indeed, there are shortcomings, then those shortcomings would lie with the House of Assembly as I have pointed out in my answer to your question (4) specifically as it relates to the composition / formulation of the House. And also as far as the powers of the Committees are concerned.

iii. The entire system needs to be revamped.

iv. My answers to your previous questions addresses all the issue raised here.

v. I have chosen to descent from a joint statement on this matter of concern, because my perspective of the issues facing the territory particularly with regards to the topic of this questionnaire cannot, and is not expected to be that of other Members, main reason being the disparity in experience. "The longer you live with an ailment, the more likely you are to accept that it can't be cured". There comes a time when something different "new" has to be tried.

vi. At this stage of my career, and my long exposure to what obtains, I am not interested in listening to the same old stories, nor watching the same game over and over again. My belief is that the exercise you are engaged in is to be constructive, and as such, I'm all in. If however, I am to learn different, I'm out.

vii. **Constructive is the operative here.** We as a Territory are due for engagement in a Constitutional Review, and emerging from this Commission of Inquiry, I expect forward thinking, and innovative proposals such as I have articulated throughout this questionnaire. Anything less will be a missed opportunity, and a disservice to the people of the Virgin Islands.

11. Thank you for this opportunity to share my views. I hope you will find wisdom in my thoughts even if they are different from yours.

Part IV

The Parliament

Composition

25 There shall be a Parliament of the Virgin Islands which shall consist of Her Majesty, a House of Representatives and a Senate

26 The House of Representatives shall consist of 13 elected members, one of whom shall be the Speaker.

26 a The Senate of the Virgin Islands shall consist of a President and 6 other elected members.

b Each House of Parliament shall be equal in respect of their Legislative role. Any member of either house can introduce a Bill in their respective houses. A bill other than a Money Bill can originate in either House, however, in order to be considered passed by Parliament, it must be passed by both houses, except.

i) That the House of Assembly may pass a Bill which originated in the House of Assembly but failed to gain approval of the Senate after two attempts.

c A failed Bill can be reintroduced by any member in either House for the purposes of entertaining the amendments of another house.

d Joint Sessions of Parliament for the purposes of passing a previously failed Bill shall require a 2/3 majority of the membership present for passage.

e (i) Joint Sessions of Parliament can occur by resolution passed in the House of Assembly.

(ii) Joint Sessions of Parliament can also occur by order of the Governor upon request of the Premier.

27 (2) For the purposes of elections to the House of Representatives the Virgin Islands shall be divided into 9 Electoral Districts…… Which shall return 9 Representatives, one for each District. And in addition

i) For the purposes of elections to the House of Representatives the Virgin Islands shall be further divided into 3 Regions – see Sec 27(3) Which shall return 3 Representatives, one for each Region, and there shall be elected through at-large balloting from among all three regions a 4th Representative who shall be a full Member and the Speaker. And

ii) No Regional Candidates standing for election to the House of Representatives can be associated with, or be a part of any Political Party that is represented by any person contesting or has contested any of the other Seats in either the House of Representatives or the Senate.

(3) For the purpose of elections to the Senate of the Virgin Islands, in the case of 6 of the members the Virgin Islands shall be divided into 3 Regions, namely: Eastern, Central and Western Regions. These regions shall reflect by proportion, the 9 electoral districts and they shall be constituted as follows:

Eastern Region (Districts 7, 8 & 9)

Central Region (Districts 4, 5 & 6)

Western Region (Districts 1, 2 & 3)

iii) After a General election, each region shall return to the Senate, 2 Senators, for a total of 6.

iv) In the case of the Senate President however, who in addition to being president is a full member, he shall be elected from at large balloting from among all three regions.

XX (3) The Governor shall dissolve the House of Assembly at the expiration of 5 years

XX (4) The Governor shall dissolve the Senate of the Virgin Islands at the expiration of 5 years from the date when the Senate first meets after a general election unless it has been sooner dissolved.

(4) i) In the case of the Senate, except where there is a snap election after a request for Dissolution which is premature of the expected 5 years term of a member, only members elected in the election prior to the last election, shall vacate their seats.

THIS WOULD AMEND SECTION XX

A) The Premier must be from among the Membership of the House of Representatives, provided he is recommended by a majority of the members of the house.

B) In order to strengthen the Senate as a reviewing house, it shall have a continuing but rotating membership. "ROTATION OF SENATORS AND HALF SENATE ELECTIONS".

At the end of each 2 1/2 years there shall be elections held in each region for the election of half the number of senators excluding the president in the Senate.

OBJECTS AND REASONS

Commissioner, the views expressed are based on firsthand knowledge of the inner workings of Two of the Three branches of Government, 8 years of which was as a Minister on the Executive, and 14 years as a member of the Opposition. All for a total of 22 years in the Legislative.

Commissioner, the primary objective of the Legislature is to provide oversight for the Executive, to hold the Government accountable, ***if you will***. Under our current system, where more than half the government representatives are members of the Executive, and because of the whip system, the legislature is merely a Rubber Stamp for the Executive. This has been observed by Parliaments throughout the world, and unlike the Virgin Islands, most countries have sought means to overcome the problem.

In the Virgin Islands it is high time that we step up to the plate by doing something. Because this situation persists, the Legislature is the only arm of government which lacks any independence, so is certainly powerless, and fails to serve the people as intended.

Commissioner, I wish to offer for inclusion as part of your recommendations for reform, a **BICAMERAL PARLIAMENT** as a solution to the problem as stated.

If it means anything, Bermuda is an Overseas Territory like us, and they have a Bicameral System.

Commissioner, I am aware that this is a new and somewhat complex concept, so I am prepared to work with you to further clear any lack of understanding.

Virgin Islands

Tortola

IN THE MATTER OF THE COMMISSION OF INQUIRY ACT, CAP. 237

AND

IN THE MATTER OF THE COMMISSION OF INQUIRY ESTABLISHED ON 19 JANUARY, 2021

1. This statement in submitted in response to the Commissioner's letter of 17 May 2021 inviting me, as a participant in my own right, to submit a position statement in relation to governance and the operation of the agencies of law enforcement and justice in the Virgin Islands.

2. I have carefully considered the questions, the time given to respond and the limits on my response. I have also considered my fundamental responsibility as Attorney General to act in the public interest.

3. The responses of the Attorney General will (as they should) be taken most seriously and would be expected to have been thoroughly and completely considered, assessed and researched before they are provided and to have brought all relevant matters on behalf of the Virgin Islands to the attention of the Commissioner. I am not yet satisfied that my answers to the questions posed would meet my own standards for being informed before providing an opinion or position statement.

4. However, I am very mindful of the Commission's timetable and as I am able to speak broadly to the questions posed, I do so in the paragraphs below.

5. The Virgin Islands aspires to excellence. Residents can readily find fault in what others may consider satisfactory and they speak freely - some in public, others privately to colleagues, family members, friends and authority figures. The beauty and curse of our small community is that you can be aware, you can be involved and you can demand accountability.

6. That quest for excellence together with hard work, determination and commitment to purpose, has served the Virgin Islands well overall and in developing its twin economic pillars of tourism beginning in the late 1950s and then international business from the early 1980s onwards. It is now a cosmopolitan community of roughly 110 nationalities.

7. In the international business sector, the Virgin Islands strives to be at the forefront of services and international standard setting and compliance in due diligence, anti-money laundering and financial crime and regulation.

8. There is a thriving financial services industry comprised of trust and corporate services providers, lawyers, accounting practices and other and related professionals.

9. Specialist bodies such as the Financial Services Commission deliver stringent oversight of the financial services industry through the regulation of corporate service providers, banks, insurance companies. The functions of the Financial Investigation Agency includes accessing the Beneficial Ownership Secure Search System (BOSSs) - arguably the most advanced beneficial ownership register in the Overseas Territories and Crown Dependencies.

10. The Virgin Islands is also bound by major international treaties on tackling organised crime, illicit drugs, corruption and terrorism and participates in international standard setting bodies such as FATF, CFATF, IOSCO, the OECD and the OECD Global Forum. It has signed 28 tax information exchange agreements and is also part of the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters*, was an early adopter of the *Common Reporting Standard* for the automatic exchange of tax information and provides information under the United States *Foreign Accounts Tax Compliance Act* through the International Tax Authority which was established to work with tax authorities worldwide.

11. A premium is placed on training and education and the Government has invested heavily over the years in schools, the community college and scholarships for study abroad.

12. There is a good access health care for citizens and residents and the Government is carefully navigating the challenges of the COVID-10 pandemic with commendable success to date.

13. The rule of law remains sacrosanct and the judicial system is independent, respected and world renowned.

Good Governance

14. No doubt dictionary definitions of good governance abound but it essentially entails doing things properly. In any organisation, rules are the foundation of good governance. Lawyers (and the other persons tasked with setting and assessing

compliance with rules, advising on how to foster compliance and taking action if rules are broken) should play a key role.

15. As the principal legal adviser to the Government, the Attorney General has to ensure, so far as possible, that the operations of the Government are conducted lawfully and constitutionally; and that the Government is not prevented from lawfully implementing its chosen policies. This has translated into the vision statement of the Attorney General's Chambers which is "...to uphold good governance and the proper and adequate administration of justice... " in the Virgin Islands. Essentially, the Attorney General's Chambers stands at the interface between policy and law.

16. The Virgin Islands has a bevy of legislation, rules and policies to promote high standards of behaviour as well as several entities created for this purpose such as Service Commissions, disciplinary bodies, a Complaints Commissioner and so on. However, mechanisms alone won't achieve good governance. The critical element is having the right people to translate the rules into practice by those who are governed or affected by them. Even as Attorney General, I have great difficulty carrying out my responsibilities primarily due to a severe and intractable shortage of counsel generally and specifically, with expertise in areas currently critical to the needs of Government.

17. The intractable challenge in the area of human resources procurement has resulted in a status quo where, at 1 October 2020 when I took office as Attorney General, the organisational chart boasted 46 staff positions of which more than half (24 - 52%) were vacant. With respect to counsel, there were 23 positions (excluding the Attorney General), of which 16 (69%) were vacant.

18. 8 months later, the picture is not much different. Only two legal practitioners have been recruited despite keen interest. This recruitment may be cancelled out by at least 3 counsel contracts coming to an end and one counsel retiring. One request for counsel recruitment was 'going through the process' from November, 2020 until just last week and, in other cases after waiting for more than 3 months post interview, 2 very good candidates declined the offers made to them because the overall compensation levels were too low. The Attorney General's request of 18 March 2021 to re-advertise all vacant posts has still not translated into advertisements being placed meaning that applications from other interested candidates cannot be actioned.

19. Inevitably, and though largely good natured and resilient, staff are overwhelmed and the status quo has real and costly consequences for the Government as client and poses professional risk to Counsel as constitutionally appointed officers and members of the legal profession and to other staff in their capacity as public officers.

20. My conviction is that every effort must be made for the legal departments of Government to get the mix of human resources, tools, systems and processes right. In the case of the Chambers, it must not only do what comes to it but it must reach deep into the Public Service to identify and address areas requiring attention, to eradicate 'self-lawyering', to raise reciprocal awareness of the needs of client and counsel, and to influence change in those behaviours that can lead to risks and disadvantages for Government. It has to be proactive. In its current state, it is largely reactive.

21. As a member of the public and having been a member of the Bar for 23 years and a client of the Chambers from 2017-2019 while acting as Permanent Secretary, I knew that a lot needed to be done to ensure that Chambers was not only fully but properly

staffed and that the best standards in legal practice were observed. Therefore, on taking office, my immediate priorities were to pay close attention to:

a. staffing and expertise
b. processes and procedures
c. consolidation and revision of the laws of the Virgin Islands

Since taking office, I have been pursuing these objectives with some success but the main setback is not having enough counsel to progress the work referred to Chambers or otherwise requiring attention within my desired service standards.

22. I have already outlined the challenges with recruitment in the preceding paragraphs.

23. In terms of expertise, governance in the Public Service would also benefit from sustained access to expertise in a number of areas including:

i. financial services/international business;
ii. maritime and shipping law,
iii. data, information, technology and cybersecurity law;
iv. environment and climate change law;
v. legislative drafting;
vi. litigation
vii. constitutional and administrative law
viii. international matters generally and arising from relevant treaties, conventions and international agreements; and
ix. transactions (e.g. contracts for works, technology, consultancies, property, development agreements, etc;
x. legal operations; and

xi. paralegal, general administration, library/research, records management and data analysis

24. I also hope to develop a strong team culture supported by agreed team norms and to train and develop recently qualified counsel and legal cadets via mentorship and on-the-job training through rotations and secondments over 2 year periods with seats in central Government, statutory bodies and the private sector. This initiative is also dependent on recruitment of recently qualified counsel to undertake the training and other counsel to cover work assignments while trainees do the rotations.

25. Chambers has been greatly assisted by external counsel and short consultancies. I have also proposed the establishment of a panel of legal practitioners to provide drafting, civil and specialist legal services at published standard rates. This panel would complement the counsel team in Chambers in relevant areas but cannot replace the need for a strong cadre of in-house counsel.

26. A review of business processes, records management procedures, human resources, and information technology is also underway. This has resulted in staff training and 3 reports assessing the status quo, mapping mission-critical processes and analyzing associated workflows, making recommendations for improvements and efficiency, developing standard operating procedures for Chambers and making recommendations for implementing document and records management systems. We have also made recommendations in the Creations, Upgrades, Renames and Transfers (CURT) process for a Director of Legal Operations Support Division, a Senior Records and Information Management Officer and a Senior Legislative Officer.

27. The last comprehensive revision of the laws of the Virgin Islands was about 30 years ago (the 1990 revised version). Since then, there have been extensive amendments, new legislation, statutory instruments, Orders-in-Council and other legal instruments. Against this backdrop, the objective of the Accessibility of Law Project is to make the laws of the Virgin Islands accessible, intelligible, clear and predictable for everyone - public officers, counsel, the Court and the general public by:

    i. creating a process for the immediate revision and publication of amended legislation as soon as amendments are made; and
    ii. establishing a user-friendly searchable online platform where anyone can access the laws of the Virgin Islands.

    On 21 April 2021 Cabinet approved the launch of the Project. In the meantime, Chambers' collaboration with the Financial Services Commission to produce an interim revision of financial services legislation to 1 January, 2020 has come to fruition with the Regional Law Revision Centre in Anguilla delivering electronic copies of the final approved PDF files on 28 May, 2021.

28. I hope that my efforts will bear fruit but the process for the engagement of legal practitioners in the Public Service and the offered terms and conditions militate against the Attorney General carrying out her role in good governance and every other area of responsibility. Low compensation levels and an inexplicably long and opaque recruitment process combine to ensure that suitably qualified and interested candidates do not make it to Chambers or cannot afford to stay. I understand that this is nothing new and is not peculiar to Chambers but it undermines governance when a Government's principal legal adviser and its other legal departments (the drafters, keepers and enforcers of the rules) are severely under-lawyered.

29. As a concept, good governance in the sense of doing things properly is at the heart of the Virgin Islands. Culturally, Virgin Islanders expect each other to behave honestly and fairly and laws and rules on the subject abound or are being considered. However, good governance insofar as it entails best practice in conducting the affairs of the Government will always be a challenge unless and until the legal departments are resourced to properly exercise their functions and to advise all elements of Government on the Constitution, the laws of the Virgin Islands, our rules, regulations and best practice and to take action against breaches of any kind. That is, in essence, my position statement on good governance.

Agencies of Law Enforcement & Justice

30. The agencies of law enforcement and justice in the Virgin Islands are the courts and those bodies responsible for the enforcement of criminal and regulatory laws as well as financial investigations including:

    i. Eastern Caribbean Supreme Court (Virgin Islands) (Civil, Criminal and Commercial);
    ii. The Magistracy;
    iii. The Governor's Office
    iv. Attorney General's Chambers;
    v. Office of the Director of Public Prosecutions;
    vi. Royal Virgin Islands Police Force;
    vii. Her Majesty's Customs;
    viii. Immigration Department;
    ix. Financial Services Commission;
    x. Financial Investigation Agency; and

xi. International Tax Authority

31. The organisation and respective roles as well as the inter-relationship and cooperation of these agencies is a study in itself. However, their annual reports should provide useful information and insight into their operations, successes, challenges, strengths and weaknesses. If required, I have located and can provide such reports for the Magistracy (2019), Governor's Office (2018), Office of the Director of Public Prosecutions (2018), Royal Virgin Islands Police Force (2019), Immigration Department (2019); Financial Services Commission (2019); Financial Investigation Agency (2018) and International Tax Authority (2019).

32. Within the overall system of law enforcement and justice, the Attorney General is, or is responsible for, among other things:

    a. advising Government on legal and policy matters;
    b. drafting and revision of legislation;
    c. the competent authority under the Criminal Justice (International Cooperation) Act, 1993. ;
    d. a member of the National Security Council;
    e. a member of boards of the Financial Investigation Agency and International Tax Authority;
    f. the Deputy Chairman of the Virgin Islands General Legal Council;
    g. providing a range of assistance including advice and the provision of documents, applications for freezing and charging orders, service of foreign process, and requests for evidence under statutes such as the Evidence (Proceedings in Foreign Jurisdiction) Act, 1988, Mutual Legal Assistance (United States of America) Act, 1990, Drug Trafficking Offences Act, 1992,

Criminal Justice (International Cooperation) Act, 1993 and Proceeds of Criminal Conduct Act, 1997; and

h. working with the Governor's Office on international requests for assistance under a legal framework comprised of the Extradition (Overseas Territories) Order 2002, (United Nations Measures) (Overseas Territories) Order 2001, the Anti- terrorism (Financial and Other Measures) (Overseas Territories) Order 2002 and other legislation.

The role profile for the post of Attorney General is attached at Appendix 1.

33. As to be expected, the agencies of law enforcement and justice in the Virgin Islands aspire to high standards and have had their share of successes. For example, the continued functioning of the Eastern Caribbean Supreme Court in the Virgin Islands during the pandemic, no doubt informed by the lessons of the aftermath of the 2017 disasters, is commendable.

34. However, as in the case study of the Attorney General's Chambers, it is fair to say the overall system of law enforcement and justice in the Virgin Islands would benefit from strong investment in institutional capacity building at this point in time. Though driven by the pursuit of excellence and the need to remain competitive or compliant, too few people are doing too many things for sustained long periods of time.

35. I hope that my contribution is helpful.

Dawn J. Smith
Attorney General

Government of the Virgin Islands

Role Profile

JOB TITLE: Attorney General	**JOB CLASSIFICATION:** Legal
MINISTRY: Governor's Group	**COST CENTRE:** 2117
DEPARTMENT: Attorney General's Chambers	**GRADE:** 20
SECTION/UNIT: N/A	

REPORTS TO:	**Directly:**	Governor
	Indirectly:	Deputy Governor

SUPERVISES:	**Directly:**	Solicitor General Chief Parliamentary Counsel Assistant Secretary Senior Administrative Officer/PA
	Indirectly:	Administrative staff

PURPOSE OF THE ROLE:

Serves as the principal legal adviser to the Government as established by the Constitution, and has the overall responsibility for all aspects of civil litigation. Manages the day-to-date administration and activities of the Attorney General's Chambers.

MINIMUM QUALIFICATIONS & EXPERIENCE:

- Bachelor of Laws Degree or equivalent
- Bar Professional Training Course Certificate (BPTC)
- Admitted to the BVI Bar or imminent Call or other common law Bar qualifications
- Ten (10) years post qualification experience

WORKING CONDITIONS:

- Normal office environment
- Courtroom environment
- Extended working hours

KNOWLEDGE & SKILLS:

- Expert knowledge of Government structure, policies and procedures
- Expert knowledge of the Civil Procedure Rules of the BVI jurisdiction
- Expert knowledge of and experience in Court proceedings
- Expert knowledge of applicable statutes and statutory interpretation
- Ability to master and interpret legislation
- Expert legal research skills
- Expert analytical, negotiating, interpersonal and organisational skills
- Sound knowledge of the use of standard office equipment and computer applications
- Expert oral and written communication skills

- Ability to work well under pressure
- Excellent leadership and management skills

KEY RESULT AREAS: GENERAL

1. Ensures the smooth and efficient operation of the Department and the supervision of staff.
2. Serves as the principal legal adviser to the Government on constitutional matters and all other issues relating to the law or having legal implications.
3. Represents the Crown in all civil proceedings relating to or affecting the Crown.
4. Serves as a Member of the Cabinet, National Security Council and the Prerogative of Mercy Committee and advises Cabinet as may be necessary in its decision-making process.
5. Serves as an Ex-Officio of the House of Assembly, Pilots Bills and renders advice on legal issues arising with respect to the proceedings of the House of Assembly and other matters relating thereto.
6. Negotiates contracts for and on behalf of the Government.
7. Represents and defends the Government in international fora on matters affecting the Territory's interests, particularly in the financial services field.
8. Maintains within the Chambers oversight on the assignment and execution of work emanating from other Government Ministries and Departments.
9. Serves as the Territory's central authority in the processing of mutual legal assistance matters.
10. Liaises with the Governor and the Commissioner of Police on security matters to stem the spread of crime in the Territory.
11. Provides guidance on legislative matters, including the formulation and drafting of legislation.
12. Performs functions given to the Attorney General by statutes.
13. Serves as the Accounting Officer for the Attorney General's Chambers.
14. Prepares and manages the Department's Annual Budget.
15. Ensures the preparation and submission of Performance Planning and Appraisal Report for all staff.
16. Develops and implements strategic plans.
17. Performs any other related duties as required by the Governor or Deputy Governor in order to contribute to the effectiveness and efficiency of the Department.

KEY RESULT AREA: DEPARTMENTAL

As specified above.

BEHAVIOURAL COMPETENCIES:

1. Manage organisational challenges
2. Manage change in organisational activities
3. Manage relationships across the organization
4. Provide leadership for the organization
5. Encourage innovation in the organization
6. Obtain and analyse information for critical decision-making
7. Communicate and influence effectively
8. Ensure compliance with legal, regulatory, ethical and social requirements
9. Manage your own resources, development and networks
10. Manage financial and physical resources effectively and efficiently, ensuring value for money

Note: This role profile incorporates the most typical duties performed. It is recognised that other related duties not specifically mentioned may also be performed. The inclusion of these duties would not alter the overall evaluation of this position.

Compliance statement: In the performance of their functions as detailed in the role profile, public officers have an obligation to avoid ethical, legal, financial and other conflicts of interest to ensure that their actions and outside activities do not conflict with their primary employment responsibilities. Public officers are also expected to understand and be in compliance with applicable laws, policies, and procedures for areas and departments which their essential functions cause them to interact.

Government of the Virgin Islands
TTT Building
P.O. Box 4572
Road Town, TORTOLA VG1110
BRITISH VIRGIN ISLANDS

DIRECTOR OF PUBLIC PROSECUTIONS' POSITION STATEMENT
15th June, 2021

1. **A.** The following agencies in the British Virgin Islands (BVI) are designated as law enforcement agencies:

    i. The Royal Virgin Islands Police Force (RVIPF) – which is under His Excellency, the Governor.

    ii. Her Majesty's Customs (HMC) – which is under the Ministry of Finance.

    iii. The Department of Immigration(DOI) – which is under the Ministry of Natural Resources and Labour.

    iv. The Financial Investigation Agency (FIA) – which is a statutory body.

    B. The following Departments within the Government Service are responsible for the Administration of Criminal Justice:

    i. The Office of the Director of Public Prosecutions (ODPP) which is the sole prosecuting authority in the Territory as stated in Section 59 of the Virgin Islands Constitution Order 2007.

    ii. The Magistrate's Court which deals with summary matters, committal proceedings, and first appearances and bail hearings.

    iii. The Eastern Caribbean Supreme Court, Territory of the Virgin Islands (High Court Registry) – where Court of Appeal matters and High Court matters are heard.

2. Assessment of Performance is done through the agencies and departments providing annual reports, to Cabinet and subsequently to the House of Assembly. Performance of the Criminal Justice System is also assessed through the Criminal Justice Advisory Group which is a governmental group that is chaired by His Excellency the Governor, the membership is the Deputy Governor's Office, the Office of the Director of Public Prosecutions, the Eastern Caribbean Supreme Court, the Magistrate's Court and the Ministry of Health and Social Welfare (while the Ministry of Health and Social Welfare is not a law enforcement agency, it is the Ministry responsible for Legal Aid Parole and Her Majesty's Prison).

3. The Director of Public Prosecutions (DPP) is the sole prosecuting authority in the BVI. The Director of Public Prosecutions under Section 59 of the Virgin Islands Constitutional Order 2007, commences, takes over and discontinues criminal prosecutions. The DPP leads

prosecutions in the Magistrate's Court, the Eastern Caribbean Supreme Court, the Court of Appeal and Privy Council. The DPP also advises the Royal Virgin Islands Police Force (RVIPF), Her Majesty's Customs, the Department of Immigration, Financial Investigations Agency on criminal investigations, and to other Government departments on matters of criminal procedure and criminal litigation.

4. The following are what are considered to be the strengths and weakness of the overall criminal justice system:

Strengths:

a) There is cooperation between the ODPP and the Courts, in working together to progress matters;

b) There is in place a system between the ODPP and law enforcement agencies to ensure that they receive advice during the conduct of investigations;

c) That the VI Constitutional Order 2007 ensures that all accused persons are ensured due process and fair trial.

Weakness:

a) The ODPP, Magistrate's Court and the Eastern Caribbean Supreme Court, Territory of the Virgin Islands are grossly understaffed and under-resourced.

b) There has not been sufficient resources and attention provided to assist the ODPP, Magistrate's Court and the High Court in eliminating the backlog of cases that exist as a result of the 2017 Hurricanes and the COVID-10 Pandemic.

c) There are difficulties with the administration and selection of the jury array, and in having jury trials. In a small jurisdiction such as the BVI it is an issue to find jurors who do not know or are not related to witnesses or accused.

d) There are insufficient Court Room facilities.

e) The security at the Courts is unacceptable, and the security needs for Judges, Magistrates, and Prosecutors is below par.

f) The current Criminal Code and other criminal legislation are outdated. They only receive minimal amendments which may address one issue but cause another to arise.

g) There are no criminal procedure rules for the High Court. For example, there is no provision to read agreed statements, make admissions as to facts not in issue or for Defense Counsel to file an Accused's statement. The Magistrate's Court is guided by the Magistrate's Code of Procedure, Cap. 44 which requires a proper review and revamp.

h) Matters take too long to progress from first appearance to conclusion.

i) There is a need for there to be set custody time limits, and to ensure that law enforcement abides by same.

j) There is an urgent need for witness anonymity and other special measures for scared or vulnerable witness.

k) There is a problem with pretrial publicity in the online media and the use of public commentary or "blogs", which can easily prejudice a criminal trial.

l) There is need to abolish Police Prosecution, as it is a conflict of interest, for police to investigate and prosecute. They only deal with traffic offences and breach of curfew offences.

5. In order to maintain the strengths and remedy the weakness mentioned the following steps and recommended:

a) The immediate introductions of criminal procedure rules passed as actual legislation. The Magistrates are creatures of statute and the rules should be passed an Act, to allow the rules to be applicable to the Magistrate's Court. These rules which were drafted by the Bench and Bar Committee in 2018 – 2019 were received by His Lordship Justice Morely. These rules need to be instigated soonest. The rules are hoped to promote effective case management, and to ensure matters are progressed efficiently. It should also give guidance on schedule of matters and the obligations for Counsel (both Crown and Defense) in a criminal trial.

b) A proper review and revamp of the 1997 Criminal Code (as amended) and other criminal legislation to ensure that they are current with developing trends in criminality.

c) Proper Security must be established at the Magistrate's Court and the High Court. There is also need for Prosecuting Counsel to receive security as well.

d) In order to eliminate the backlog of cases, all outstanding posts in the High Court Registry and the Magistrate's Court should be filled. The outstanding posts in the ODPP also need to be filled. Once these positions are filled steps should be taken to give an additional Criminal Court room at the Magistrate's Court. Eventually there should be a move to have a second Criminal High Court. However, it must be borne in mind that the Madame Chief Justice would be the person who would make that final determination.

e) There are persons who witnesses to criminal incidents but who are fearful to come forward. It is necessary to have witness anonymity to protect those persons. The undersigned made an oral presentation on the need for witness anonymity in 2020, and the Deputy Governor's Office submitted drafting instructions to the Attorney General's Chambers. No word has been received on this.

f) The Jury Act Cap 136 is antiquated and needs to be updated. In 2020 a draft bill was circulated, and comments were provided by the ODPP but no further action has been seen. In light of the COVID-19 Pandemic, including other issues concerning jury arrays (relation

to accused, witnesses, etc.), there is need for a constitutional amendment to allow an election for a judge only trial in cases of murder, gang cases, sexual offences (especially with children), other matters will still be conducted by way of trial by jury.

g) There is need for a Media legislation on how to properly report criminal matters. The right to freedom of expression must be balanced with an accused's right to a fair trial and the right of privacy as it relates to witnesses.

h) The Police Prosecution Unit should be transferred to the ODPP, this way proper supervision and guidance can be given. This will be the first step in reforming this Unit. It is hoped that in the next five years to have the role of Junior Crown Counsel to conduct traffic matters, and the minor matters before the Courts.

The Criminal Justice Advisory Group is cognizant of the weakness and strengths identified, and are taking steps to remedy these issues. The Chairman of the Criminal Justice Advisory Group, His Excellency the Governor would be the most appropriate and suitable person to provide that information.

The undersigned finds it prudent and practical to address questions 6, 7 and 8 together.

6. The ODPP is a prosecutorial authority and is not an investigative body and is not involved in investigations, any questions concerning investigations should be directed to RVIPF, HMC. DOI and FIA.

7. When a matter is investigated prior to charge (in the cases of serious matters i.e. all indictable matters, summary matters, drug matters, drug trafficking, money laundering, theft, sexual offenses, etc.) the file is submitted to the ODPP to be reviewed. When the ODPP reviews a file for any criminal offense, there are two tests that must be satisfied before any criminal proceedings can commence. The first test is the evidential burden, there must be sufficient evidence that would more than likely lead to a conviction. If that burden is satisfied, then the second test is determined: that is whether it is in the public interest to commence a prosecution.

8. The responsibility of the DPP does not change based on the type of offence. All offences are treated with equal seriousness. The DPP is responsible for ensuring that every case file presented satisfies the two tests mentioned above before any criminal complaint is laid.

9. We cannot speak to internal processes within the law enforcement agencies to deal with insubordinate officers. However, if an officer commits any criminal offence, it is investigated normally by a senior police officer. In some cases, external investigators are brought in to ensure that an honest and thorough investigation is done. As it relates to any suspected criminal act committed by a public officer, a thorough investigation would be conducted normally lead by a senior police officer of the rank of Inspector or above. If deemed necessary by the DPP external investigators or specialists can be sought to ensure that a full and thorough investigation is made

10. There are matters that are currently before the Court involving law enforcement officers and public servants, there are also a number of ongoing investigations involving impropriety of law enforcement officers or public officers. We can indicate that there are approximately:

    - Six investigations in progress concerning public servants and, law enforcement officers;
    - Two matters before the High Court for trial concerning offences of crimes of dishonesty where the accused are public officers and law enforcement officers;
    - Two matters before the Magistrate's Court concerning law enforcement officers.

    The undersigned will not and cannot disclose the details of those matters. As to do such shall taint or prejudice the matter which may impeded on the persons involved right to a fair trial as provided in Section 16 of the Virgin Islands Constitution Order, 2007.

11. The challenges faced with prosecutions:

    a) Lack of forensic accounting, and financial investigation resources for financial investigations;

    b) Difficulty in obtaining statements as persons may be fearful or concerned of giving evidence, hence why witness anonymity is important;

    c) As there are cases where records are not properly maintained or lost, it provides difficulty in getting the requisite evidence;

    d) If it is a jury trial, unnecessary publication prejudice matters. If an accused is a well known individual, persons are reluctant to serve on a jury panel.

Tiffany R Scatliffe Esprit, LL.M.
The Director of Public Prosecutions

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY ("COI")

COMMISSIONER OF POLICE MARK COLLINS QPM POSITION STATEMENT

The following Position Statement is provided in response to the letter of 19th May from Andrew King, Senior Solicitor to the COI.

In answering the questions posed. I wish to accentuate that I commenced my three-year tenure as Commissioner of Police for the Royal British Virgin Islands Police Force (RVIPF) on the 15th April 2021 and I was formally sworn in on the 19th April 2021. In responding to the questions, I will be drawing from my limited experience in the BVI and information gleaned in my handover period with the outgoing commissioner and also conversations with colleagues within the RVIPF. I have 35 years' experience in Policing, with over 10 years as a senior Officer. My last post in the United Kingdom was the Chief Constable of Dyfed-Powys Police. A post I held for five years.

Matters to be addressed – the operation of the agencies of law enforcement and justice

(1) How are the agencies of law enforcement and justice organised in the BVI?

The police sit directly under the Governor/Deputy Governor.
Her Majesty's Prison sits jointly under the Governor and the Minister for Health.
Customs, Immigration Courts and Director of Public Prosecutions (DPP) come under the British Virgin Islands Government (BVIG).
However, the Magistrates court fall under the Governor's office. Customs fall under the Ministry of Finance.

Immigration sits jointly under both the Deputy Governor's and the Premier's office. The Financial Investigations Authority is an executive agency that also sits under the Deputy Governor's office and Premier's office.

Under the constitution the Royal Virgin Island's Police Force (RVIPF), Director of Public Prosecutions, Attorney General and the High Court are all constitutional.

The Attorney General sits under the RVIG. British Virgin Islands Ports Authority and Airport Authority boards are appointed by the Premier but have a dotted line to the Governor's office for matters involving security.

There is a Joint Task Force consisting of officers from Customs, the RVIPF and Immigration. I would question the operational effectiveness and value for money the unit provides and I have commissioned a review

Recommendation - complete review of Governance structures across all departments, as you can appreciate from the aforementioned precise the lines are very blurred as regards accountability and reporting.

(2) What processes and systems are in place to monitor the effectiveness of the overall system law enforcement and justice?

The RVIPF runs a COMPSTAT meeting monthly that monitors the performance of the force, as the Commissioner I regularly update the Governor on a weekly basis and prepare an annual report offering an overview of each department and district at the National Security Council (NSC). The RVIPF has a daily management meeting which reviews the previous 24hrs crimes and incidents, ensuring appropriate action and resources are deployed. There is also a court users group which looks at attrition rates and overall performance across the criminal justice section, of which I attend.

The Police Service Commission appointed by the Governor, has quarterly meetings which I attend as Commissioner. My presence is in order to update them on the performance of the force and address any matters that are brought to my attention

via this group from the community. The aforementioned Commission has a similar role to that of a Police Authority or Police and Crime Commissioner in the UK, as they are the voice of the community.

However, I would suggest that the role of this Commissioning body needs to be reviewed as their remit appears to stretch further than primarily a community-based agenda. Such as, the Commissioning body are responsible for the entire process of signing off all police appointments, all promotions of the rank of Chief Inspector and above – without any police representation on the promotion panel. And have the final decision on the cessation of probationary constables this is an unnecessary burden on both the Human Resources department and the RVIPF.

(3) What particular responsibilities do you have, as the Commissioner of the Royal Virgin Islands Police Force, within the overall system of law enforcement and justice in the BVI?

I command the RVIPF on all aspects of operational deployment and investigations. My role is to set the strategic direction of the RVIPF in line with force priorities and current crime trends.

I have just re-introduced community policing and a key part of their duties will be to liaise and engage with the public in order to encourage a more citizen focused approach going forward.

As the Commissioner of Police, I have the primacy over law enforcement, but where possible I endeavour to work collaboratively with other agencies. I am a member of the National Security Council.

I am able to direct the force to open up investigations – an example of this would be the BVI airways investigation.

I attend Joint Task Force meetings, Criminal Justice Advisory Group and I have regular meetings with the DPP, Deputy Governor's Office and the Governor's Office.

(4) What particular responsibilities do you have, as the Commissioner of the Royal Virgin Islands Police Force, in respect of detecting and investigating corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

All complaints made by a member of the public are received by the Commissioner of Police office, I assign a senior officer to investigate such a complaint. All complaints which reference criminal behavior (including corruption) are referred to the Deputy Commissioner who I have delegated to be the appropriate authority. They have the authorisation to refer the matter to the DPP or direct an internal disciplinary case. I provide the strategic direction in these matters, but I am also the avenue for appeals. I can order the opening of an investigation – I am able to accentuate with examples if required. In serious matters such as operation [redacted] I am in the position to call in the assistance of other overseas territories i.e. the shooting of [redacted] when officers from the Turks and Caicos came to investigate.

In relation to serious allegations of corruption, I believe that it would be both pertinent and necessary to engage UK assistance, via the Foreign Commonwealth and Development Office/National Crime Agency.

I have commenced a conversation with the FCDO about a review of professional standards within the RVIPF seeking the assistance of the UK. The RVIPF Professional Standards department at present has an Inspector and a Sergeant managing a large number of outstanding investigations. RVIPF currently has nine officers suspended for various offences; including indecent assault, handling stolen goods, possession with intent to supply, possession of an unlicensed firearm and making obscene publications. All matters are before the court, and further details can be provided by myself if required. However, a concern is the time line on these cases as some date back to 2014.

(5) What processes and systems are in place to detect and investigate matters relating to corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

The Office of the Complaints Commission is a grievance handling body with independent status. It is the machinery for the resolution of maladministration in the public service. The RVIPF Professional Standards department are able to manage some of these matters but as I mentioned previously the capacity and capability required for fulfilling this role exceeds the departments current remit.

The Auditor General's office deals with all issues with regards to revenue and expenditure. They are mandated under the constitution and can refer matters to the RVIPF for investigation. The RVIPF proactive team have the capability to investigate as well. Clearly the mechanisms in place at present are not fit for purpose.

I am exploring the plausibility of reintroducing Crime-stoppers. Following an appeal within our communities the result identified a total deficit in trust and confidence as regards, the RVIPF professionalism, integrity, ability to act on information offered instead of divulging amongst colleagues and friends. Therefore, during my first press conference, I launched a hot line number accessing direct contact with myself. This line is in place for any member of the public to provide information on any criminal investigation, historical or current, or a concern about any serving police officer.

I am also considering introducing and promoting an internal reporting mechanism such as "make the right call". In order to encourage serving officers to opportunity to report confidentially any misconduct matters, this initiative will be discussed as part of the PSD review. There have been a number of high-profile alleged corruption cases involving officers from the RVIPF and also other officials. [redacted] 2.353 tons of cocaine recovered – where serving police officers are allegedly involved.

(6) What, if any, challenges have there been/are there in relation to detecting and investigating matters relating to corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

Undoubtably there is a deficit with trust and confidence in the RVIPF, other law enforcement agencies and the justice system – court process.

The current system of recruiting does not delve deep or far enough into the background checks of potential candidates for the RVIPF. At present, there are no social media or financial checks made and limited checks are made in relation to previous employer and criminal records. It is my view that I would need to recruit a vetting/recruitment officer to deal with this matter.

The RVIPF has an operating budget of $18.5 -$19m annually. There is a shortage of equipment and human resources. The RVIPF currently has 67 vacancies, and these are from an agreed force establishment. Every vacancy and expected vacancy require the approval of the Ministry of Finance before a selection can take place. Very often requests are refused due to a lack of available funds hence the vacancy factor.

There is tremendous pressure on the organisation in all departments. We have had 8 murders since last September and a number of high-profile drugs, robbery and burglary offences. It is my view that there is not a policing department in the UK with the capacity of the RVIPF that would have been able to operate effectively and efficiently with the current available resources, combined with an ongoing deficit of a fifth of the work force remaining vacant.

The RVIPF have recovered over 3.6 tons of cocaine since November last year. Policing the waters around the BVI is also a challenge. We know that due to our close proximity to the USVI there are regular drug runs and criminal activity that goes unchallenged despite our best efforts.

There is a lack of legislation to deal with unexplained wealth. Also there isn't an independent authority to investigate such as the Independent Office for Police Conduct (IOPC) there is also fear of retribution and nepotism that runs throughout the RVIPF.

(7) What do you, as the Commissioner of the Royal Virgin Islands Police Force, consider to be the strengths and weaknesses of the overall system of law enforcement and justice in the BVI?

There is a lack of joined up working and trust across all law enforcement agencies. The jury system in the BVI necessitates that unless you are a belonger you cannot be a juror. This creates a big issue when all parties are known to each other, and historically justice will not be bestowed on a fellow belonger, instilling a feeling of omnipotence for the few.

There is an overall lack of information sharing across all agencies and departments impeded by the fact that computers systems are not linked. There are outdated working practices; we are still working on paper files, with many agencies still only accepting paper files and reports, with the exception of the FIA.

I also believe that culturally there is a huge resistance to change we have always done it like that appears to be the attitude within the BVI. There is a complete lack of training within the RVIPF and other agencies. I am constantly being asked about opportunities for local officers within the organization. A number of officers appear to have the capacity and capability to develop but just do not have the training and experience. Again, this all needs to be funded and that funding is not forthcoming. Our investigations seem to be DPP led and not police led due to a lack of knowledge.

(8) **What steps do you, the Commissioner of the Royal Virgin Islands Police Force, consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?**

I intend to carry out a complete review of the force. Implement a performance management regime of holding people to account.

I am in the process of reviewing policies and procedures. Which include sickness management, retention and promotion.

I am extremely concerned that officers are allowed to have secondary jobs that in my view are not compatible to working as a police officer. Mainly this is centered around working as a security officer or operating your own security business.

I intend to introduce a business interest register as part of the Professional Standards review to address this.

I consider our newly launched community policing team as a big step forward. The previous team was dissolved after hurricane Irma and had not been re-established. However, I do believe it will take some time to start to regain the support of the Community and instill any trust and confidence.

I have seen that swift action in dealing with high profile cases such as the [redacted] murder does give a level of reassurance and confidence within the community. I welcome the review of the Police Act. We are currently operating under a 1991 act, and this has serious effects on our ability to operate effectively. Only being able to hold someone in custody for a maximum of 24 hours is untenable and does not afford officers the time to do not even the basics. An example of this is the recent murder of [redacted] - there were seven people arrested in connection with that offence and it was impossible to deal with them all within the current time frame. Effectively it means we are releasing people back out into the community that have committed the most serious of offences, as in this case suspected murder and we are

affording them the opportunity to kill again because the Police Act is 30 years out of date.

Currently DNA is only used for intelligence purposes, and a person who has been arrested does not need to provide a sample on arrest and this is the same approach for taking fingerprints. This approach results in evidence being lost or diluted at the scene; we have a number of people responsible for very serious offences that cannot be charged due to the current legislation.

The apportionment of the equivalent to the Proceeds of Crime Act in the BVI is between 2-5%, again this needs to be reviewed to bring us in line with the United Kingdom.

Due to the increase in financial crime within the BVI, the RVIPF necessitates an increase in both resources and training in this area of policing. Most serious crime requires some financial crime or digital forensic work to assist in building and proving a case. Improvements in capacity and effectiveness of financial crime resilience is extremely important especially as there is a planned inspection of the Territory in 2022.

Law Enforcement and Security in BVI: Recommendations for Improvement

Mark Collins QPM, Commissioner of Police, BVI, and Andrew Munday, Police Adviser to the Overseas Territories

In order to adequately address the challenges that are currently facing the British Virgin Islands, it is important to ensure that the Territory's law enforcement functions are fit for purpose. A review of the structure of the Royal Virgin Islands Police Force (RVIPF) would help to identify areas that require change, opportunities for capacity building, and highlight ways to improve the overall capability of the Force.

Resources

A key aspect of the review should consider what proper resourcing requirements are not currently being met, and whether there are any implications as a result of possible shortcomings.

Funding will likely be an important consideration. RVIPF should have a Fixed Post profile, to set the number and position of officers required to meet the operational and business policing demand, and be funded to that amount. RVIPF should be given control over that funding allocation, to enable the flexibility required to best meet the needs of the organisation.

This would provide an opportunity to address important Human Resourcing and Staffing issues. As well as being under resourced staff have not had increments since 2017 and there are staff who were promoted over 12 months ago and haven't received incremental payment since. There needs to be appropriate remuneration for overtime and recall to duty in the Terms of Service which is standard practice across UK Police Services. The current conditions result in many officers turning to second jobs and low-level corruption in order to make a decent standard of living. Addressing these basic flaws will go some way to reducing the need to have a supplementary income, and can in turn have a positive impact on staff morale.

Professional Standards

A review of professional standards would help drive changes required to create a modern police service. This will build an agile workforce, able to adapt to the challenges at hand and enable RVIPF to tackle the prominent risk of corruption. Like other Overseas Territories, the RVIPF could benefit from a Professional Standards Unit. Bermuda has recently implemented Police Performance and Conduct Orders based on UK regulations. The latter are designed to address gross misconduct and allow for prompt and effective action in the face of clearly criminal or extreme levels of gross misconduct. Performance regulations are used to address instances where an Officer's conduct does not amount to gross misconduct but repeatedly falls short of suitable professional standards. Performance regulations have been found to be successful in the UK in supporting and improving officer performance to an acceptable standard.

Existing bodies, such as the Police Service Commission (PSC) may also benefit from a review to consider its role in holding policing to account and whether it is fit for purpose. The Terms and Conditions of the PSC should be agreed with the Governor and Commissioner of Police. Having mechanisms embedded throughout the Force that hold Officers to agreed standards and being accountable, not only to themselves, but also to the BVI people, will go some way to improving the overall capability of the force.

Another important element of increasing Professional Standards is the need for law enforcement, customs, immigration and prison officers to be vetted correctly and consistently. Current practices leave the service vulnerable to corruption. From a security perspective, this will help improve trust between the various Agencies and as a result, information sharing and co-ordination of operations. Vetting should be accompanied by appropriate policies for gifts and hospitality, drug and alcohol misuse, secondary employment and business interests and appropriate associations. Failure to comply with such policies and procedures could adversely affect vetting status and ultimately job security. This is to ensure an ethical and professional workforce, as seen in Bermuda where a vetting process has been successfully introduced.

There should also be an Anti-Corruption Intelligence Unit to deal with the most sensitive corruption matters and to proactively safeguard the organisation.

Continuous Profession Development

As part of the modernisation programme of the RVIPF, structured learning, development and professionalization is essential. There should be an agreed minimum standard of training and annual appraisal for all disciplines. In addition, the service should have a series of core annual training and reappraisal activities that all officers undergo – for example, first aid, officer safety and professional standards.

Intelligence Directorate

A modern intelligence directorate is fundamental to an intelligence led problem solving police model, this requires establishment and resourcing in RVIPF. The directorate would follow the National Intelligence Model (of the UK), it would securely protect and handle sensitive information and intelligence. In TCI, the UK is facilitating the design and implementation of a modern intelligence directorate that includes: the functions of a confidential unit (to receive assess and analyse sensitive intelligence); a dedicated source unit (to ethically and lawfully deal with human intelligence); a product from sensitive investigation; and analysis and tasking of intelligence (to inform and support a tactical tasking process).

Investigative Capability

Adequate training and resources are required for the RVIPF to effectively deal with the full spectrum of offences facing the communities of BVI. This includes safeguarding, financial crime, online and cyber and digital evidence. In addition, investment is required in forensic science investigative capability e.g. ability to use DNA evidence in casework.

Health and Welfare of Officers

Awareness and provision of services for mental health in policing should be addressed. There should be provision of appropriate equipment, estates and vehicles for the safe and efficient deployment of resources. This protects the public as well as the officers. For example, access to Taser and other defence tactics.

Custody

Investment is required to ensure custody facilities are safe for police and detainees and comply with basic human rights international obligations. Officers should receive specialist training for those performing specific duties within the custody suite. RVIPF should have the capacity and capability to fully exploit evidential opportunities from those detained in police custody.

Legislation

Legislation should be fit for purpose. It requires modernisation and strengthening to address current social, criminal and political challenges. This applies both specifically to law enforcement legislation such as the Police Act and generally to other areas including victim care, domestic violence, sexual violence, protection and recognition of same sex partners, financial crime, digital evidence and online offences and court process including bail, curfew and special measures. Comprehensive lawful legitimacy is needed for covert policing. Improved legislation and police regulations are dependent on the AG chambers being adequately resourced.

Security structure

The distribution of law enforcement through different agencies should be reconsidered. Customs and Immigration would be better placed under the direction of the Governor with RVIPF to have a more effective security network, more effective funding and to prevent over financing of the areas under the Minister of Finance's control to the detriment of the police. Customs and Immigration should be reviewed and held to account in the same manner as the police and all improvements as suggested relevant for the police should also be considered for the other security agencies. This will additionally bring some collective oversight of the security agencies to prevent different standards prevailing.

The prison must also be integrated into the law enforcement system. This should include a functioning prison and police intelligence sharing operation to disrupt Serious Organised Crime activities, to improve rehabilitation outcomes and to improve the safety of the prison population.

Rehabilitation & Management of Offenders

There should be additional support for young offenders, women and those mentally ill or otherwise vulnerable to protect them when in prison. Young offenders' programmes can be put into place, as being trialled in other Overseas Territories, to encourage law abiding lives.

Young offenders require support and rehabilitation opportunities away from the main prison to further protect them from more seasoned criminals.

Criminal justice system

The criminal justice system needs to be modernised. Consideration should be given to judge only trials versus jury trials. Jury lists should be widened to include all eligible people, the definition of which could expand, with particular note to those from Sister Islands and wider residents. Any further changes to reduce the time it takes for cases to go to courts should be made to prevent individuals being imprisoned in remand for excessive lengths of time. Examples should be drawn from the UK case management hearing and general processes to manage the timeliness of trials and progression post charge. The interaction with the Eastern Caribbean Supreme Court should be considered to ensure it is an effective mechanism for dealing with the challenges of prosecuting SOC groups and complex large scale cases, especially those involving financial crime or volumes of digital evidence.

BVI should draw on best practices from the UK and other European and North American authorities where prison transfer is used as an integral part of prison management and rehabilitation of offenders.

Having minor claims court mechanisms would also reduce the impact on magistrates and criminal courts for lower level activities (small claims court).

Commission of Inquiry
Position Statement
Chief Immigration Officer

Commissioner your requested Position Statement of 31st May, 2021 refers. I am pleased to assist with the below answers to your questions posted to me in my capacity of Chief Immigration Officer, as to assist with the Commission of Inquiry (COI) through my views on the posed matters. My responses are as follows:

1. **How is the system of immigration organized in the BVI?**
    a. The BVI's Immigration Department (the "Department") is governed by Immigration and Passport Act, Cap 130 (the "Act") and the Immigration and Passport Regulations, 2014 (the "Regulations"). Administratively, the Department falls under the Ministerial umbrella of the Ministry of Natural Resources, Labour & Immigration. The Chief Immigration Officer is the advisor to Government on matters relative to Immigration.

2. **What processes and systems are in place to monitor the effectiveness of the immigration system in the BVI?**
    a. The effectiveness of the immigration system or processes are monitored through the legislative arm of government which allows for members of the House of Assembly to question any policy, process and procedure that is being undertaken by the Department. Further to this, Regulations allow any procedural issues to be readily addressed in support of the requirements of the legislation. Another system in place to monitor the effectiveness of the immigration system is the Immigration Board. Although the Board has no executive or administrative functions in respect of the day to day operations of the Department, it can give advice to matters within the control of Immigration. The function of the Board is detailed in section 14 of the Immigration Act.

3. **What particular responsibilities do you have, as the Chief Immigration Officer, in the BVI?**
    a. As the Chief Immigration Officer, I am responsible for maintaining the security of the Territory's borders in so far as it relates to the proper processing of persons entering and exiting those borders, with a view to ensuring that undesirable persons or person whose

presence in the Territory is not deemed conducive to the public good are not given leave to enter or remain.

b. ensuring the smooth and efficient operation of the Department.

c. providing advice and guidance to the Government of the Virgin Islands on the review of national immigration policy and legislation.

4. **What particular responsibilities do you have, as the Chief Immigration Officer, in respect of detecting and investigation corruption, abuse of office or other serious dishonesty that may have taken place in public office within the immigration system in recent years?**

   a. As stipulated in Section 12 of the Act I am responsible for the administration and discipline of the Department. In respect of the latter, this includes in the investigation of any suspected corruption, abuse of office, or dishonesty. Where any such an allegation is made, an internal investigation is to be executed. However, in keeping with General Orders I am expected to report such suspected misconduct to the parent ministry by way of the Human Resources Department for further consideration by the Public Service Commission. Thereafter, the necessary action would be determined in accordance with the Virgin Islands Constitution Order 2007 as well as the Service Commissions Act and Regulations.

5. **What processes and systems are in place to detect and investigate matters relating to corruption, abuse of office or other serious dishonesty that may have taken place within the immigration system in recent years?**

   a. The structure of the Department is set so that all officers report to a supervisor who then reports up the chain to a Unit Head/Manager, thereafter following the chain upward to the Deputy Chief Immigration Officer and then the Chief Immigration Officer. These layers allow for checks and balances to take place at each level, thus resulting in the detection and investigation of any suspected wrongdoing.

6. **What, if any, challenges have there been/are there in relation to detecting and/or investigating matters relating to corruption, abuse of office or other serious dishonesty that may have taken place within the immigration system in recent years?**

   a. During my tenure as Chief Immigration Officer I have not encountered any challenges in detecting and investigating any suspected corruption, abuse of office or serious dishonesty.

This is due to the swift implementation of internal investigations where any suspected wrongdoing is reported.

7. **What do you, as the Chief Immigration Officer, consider to be the strengths and weaknesses of the immigration system in the BVI?**
   a. The strengths of the Immigration Department are as follows: (1) The ability to properly detect and manage migration in the Territory; (2) Having a highly skilled and trained officer complement thus allowing for efficient execution of tasks; and (3) Benefits from working jointly, both locally and regionally, with other law enforcement agencies to mitigate any form of migration related risk.
   b. The most evident weaknesses faced by the department are as follows: (1) The current technological limitations, as it relates to the full implementation of technology across all of our services offered to the public; and (2) Limited staffing.

8. **What steps do you, as the Chief Immigration Officer, consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?**
   a. As Chief Immigration Officer I believe the strengths listed previously can be maintained by continued training of staff and the continued strengthening of relationships with other local and regional law enforcement agencies. Recent attempts to strengthen the effectiveness of the Department include the introduction of the new Border Management & eVisa System (the "BMS"_ which will increase the efficiency of the Department. The BMS is currently in phase II of its implementation and is expected to be fully operational by the first quarter of 2022. This system allows for proper tracking of individuals travelling to and from the BVI and facilitates seamless data management within the Department. Further to this, the BMS allows the Department to receive advance passenger information for persons travelling to the BVI.

IN THE MATTER OF THE TERRITORY OF THE VIRGIN ISLANDS COMMISSION OF INQUIRY 2021

AND THE COMMISSION OF INQUIRY ACT (CAP 239) (THE 'ACT')

TENTH AFFIDAVIT OF JEREMIAH FRETT

I, Jeremiah Frett of Major Bay, Tortola, Financial Secretary, **MAKE OATH** and **SAY** as follows:

Introduction

1.1 I am the Acting Financial Secretary of the Ministry of Finance in the Government of the British Virgin Islands. I have served in this capacity effective as of 1 January 2021 and I make this Affidavit from facts which are within my own knowledge and are true or are without my own direct knowledge but are true to the best of my knowledge, information and belief, the sources of which are identified.

1.2 I make this Affidavit on behalf of the Hon Andrew A. Fahie in response the letter sent to him on 10 June 2021 entitled *'Request for Information /Documents and Affidavit No 4'* (the **'Request'**) in relation to budgeting, fiscal planning, financial assessment and the funding of the public service.

1.3 I shall refer in this Affidavit to the exhibit marked 'JF-14', which is a paginated bundle of documents.

Disclosure

2.1 A copy of the Request is exhibited at pages 1-4 of Exhibit JF-14.

2.2 On Wednesday 23 June 2021, the Ministry of Finance provided (via the IRU) a bundle of documents in relation to points 1-6 at page 2 of the Request (the **'R0095 Disclosure Bundle'**). That bundle consists of 5531 pages, and so I do not reproduce it here.

2.3 I would like to add the following explanation of the material provided in relation to point 6(ii) of the Response, that is, "*the fiscal commitment of the BVI Government to public service during the unaudited period and (especially) now*", particularly given that the letter raises the question whether the public service is underfunded: see "*Other Position Statements clearly suggest that governance has been adversely affected by a failure properly to fund the public service including the institutions designed to uphold good governance*".

(a) The BVI's budgets for 2017-2020 are included at pages 1-3 of the R0095 Disclosure Bundle (see pages 5-16 of Exhibit JF-14). Employee compensation can be seen at page 2 of the R0095 Disclosure Bundle (see pages 5-16 of Exhibit JF-14. The figures are as follows:

	Employee compensation: Budget estimate	**Employee compensation: Actual**
2017	121,290,089.01	119,476,569.00
2018	123,112,775.00	111,722,435.00

2019	120,356,032.00	114,954,607.00
2020	116,053,044.00	110,234,085.00

(b) The impact of the 2017 hurricanes and floods on the economy of the BVI is apparent from the Medium Term Fiscal Plan ('**MTFP**') for 2018-2020 (see pages 17-50 of Exhibit JF-14), which states that the trio of natural disasters caused damage initially estimated at $3.6 billion (constituting more than 3.5 times the size of the BVI's economy at the end of 2016). The then Premier's 2018 Budget Address explained that the Public Sector Transformation process would be begun in order to contain the operational costs of the public service (see page 51-82 of Exhibit JF-14).

(c) The MTFP for 2019-2021 outlined that predicted shocks to the financial services sector from the UK's Sanctions and Anti-Money Laundering Act would cause negative impacts on overall GDP, eclipsing any positive growth in the tourism sector (see page 83-129 of Exhibit JF-14)

(d) The delivery of government services was affected by the storms, with workers displaced and offices relocated. In the immediate aftermath of the weather events there was often no office accommodation from which the public servants could work. Furthermore, remote working was often not possible as private homes lacked basic utilities such as electricity and internet. The Government did not, however, lay off large numbers of public sector works, instead aiming to freeze compensation for 2021 and 2022 by relying on natural attrition and only considering essential positions (see pages 130-187 of Exhibit JF-14).

(e) The recent constraints on the public finances following the COVID-19 pandemic are described in detail in the MTFP for 2021-2023 (the '**2021 MTFP**') (see pages 188-252 of Exhibit JF-14). In particular:

(i) GDP is projected to realise negative performance in 2020 by 14.8% when compared to 2019 and further contractions in 2021 and 2022 are estimated, with recovery expected to be in 2023: see 2021 MTFP p.4, Executive Summary, penultimate paragraph.

(ii) In 2020 "*The GoVI had to quickly make temporary fiscal sacrifices, in order to protect and save the lives of its people*": see 2021 MTFP p.9.

(iii) A 17.0% drop in nominal GDP from 2020 original projections is expected to be shown as a result of economic shocks to the financial services and tourism industries: see 2021 MTFP p.12 2nd paragraph and pp 14-15 at page 1616 and following in the R0095 Disclosure Bundle. The financial services sector saw a 20.9% negative growth in new registration to September 2020 as compared to the same period in 2019, although the second and third quarters of 2020 showed improvement and the overall stock of active companies remains healthy: see 2021 MTFP pp 16 to 17. The potential overall loss to the economy in respect of tourism could be within the range of $360 to $450 million: see 2021 MTFP p.21. Central Government has been forecasted to have lost $17-$23 million in revenue from Tourism: see 2021 MTFP p.21. Overall revenue losses in 2021 were projected to range from $340 to $430 million: see 2021 MTFP p.21.

(iv) Government spending in response to the crisis included $62.43 million for the phase 2 response plan: see 2021 MTFP p.33.

(v) Recurrent expenditure for 2020 is expected to come in at 15.2% ($49.76 million) over approved budget expectations: see 2021 MTFP page 41.

(vi) The recurrent deficit for 2020 is projected to be recorded as $45.08 million for 2020: see 2021 MTFP page 43.

(f) In the approved budget for fiscal years 2017, 2018, 2019, 2020 and 2021 (see pages 253-2586 of Exhibit JF-14), as set out at paragraph 6 a. (above) employee compensation represents 43%, 42%, 41%, 43% and 42% of the total recurrent expenditure, respectively. The high cost of employee compensation has remained a concern for several successive governments and policy options geared towards reducing this expenditure were proposed to Cabinet. However, only interim measures aimed at freezing personnel costs have been adopted as outlined in i.-vi. immediately below.

(i) In March 2010 a paper entitled "Growth in the Public Service" was presented to Cabinet proposing several strategies for managing "*the growth and reducing costs within the Public Service*" (see pages 2587-2591 of Exhibit JF-14), the need for the paper having been prompted by the rise in expenditure on such things as "*personal emoluments and the cost of pensions*": see Cabinet Paper Memo No. 146/2018 from Governor Jaspert, entitled 'Human Resources Recruitment Strategy' (see pages 2592-2596 of Exhibit JF-14). The paper suggested that *"controlling the growth, size and operating costs of the Public Service was of critical importance*".

(ii) On 16 July 2010 the Director of Human Resources recorded the decision of Cabinet to suspend the payment of all "Honouraríums" according to a policy outlined as follows: "*i. Honouraríums will not be paid for extra duties worked or used as payment for exceptional performance. ii. 'Time off in lieu' of overtime hours worked will not be granted. iii. Exceptional cases for honourarium request must be submitted to Cabinet for approval through the Department of Human Resources*": see Circular No.10 of 2010 (see pages 2597 of Exhibit JF-14).

(iii) On 2 November 2010 the Department of Human Resources identified "*reduce the cost of personal emoluments in the public service*" as "*objective 2*" (see 'Growth in the Public Service Proposal' (see pages 2587-2592 of Exhibit JF-14)

(iv) Between 2010 and 4 May 2012 there was an external hiring freeze in the public service: see Cabinet Paper Memo No. 146/2018 from Governor Jaspert, entitled "Human Resources Recruitment Strategy" (see pages 2592-2596 of Exhibit JF-14) and Circulars 5 and 6 of 2012 (see pages 2598-2601 and 2602 of Exhibit JF-14). On 4 April a revised 'External Hiring Process was instituted for a month requiring a vacant position to be analysed using a Job Advertisement Request Form, before the restrictions were lifted: see Circular No.5 of 2012 (see pages 2602 of Exhibit JF-14).

(v) On 9 January 2012, the Financial Secretary and the Director of Human Resources issued a Circular recording Cabinet's decision to reduce performance increments by 50% in the 2012 fiscal year, whilst reaffirming Cabinet's commitment to ensuring that public officers continued to be employed during a period of fiscal stress: see Circular No. 01/2012 (see pages 2602 of Exhibit JF-14).

(vi) In 2017 re-introduction of an external hiring freeze was considered: see Cabinet Paper Memo No. 146/2018 from Governor Jaspert, entitled "Human Resources Recruitment Strategy" (see pages 2592-2591 of Exhibit JF-14).

(vii) On 9 October 2017 Dr Orlando Smith proposed that "*Given that Employee Compensation is by far the largest recurrent expenditure item, it is prudent that an examination of salaries and allowances takes place with an eye to effecting reasonable savings*": see Cabinet Paper Memo entitled "Public Service Cost Saving Measures" (see pages 2603-2605 of Exhibit JF-14).

(viii) On 28 May 2018 Governor Jaspert observed that "*The cost of the Public Service remains critical following the impact of the hurricanes on the Territory's economy*" and recommended that *"voluntary measures are taken to cease non-essential hiring...and to stabilise employment costs to redirect savings to the areas of highest priority and to avoid payless paydays*": see Cabinet Paper Memo No. 146/2018 from Governor Jaspert, entitled "Human Resources Recruitment Strategy" (see pages 2592-2596 of Exhibit JF-14).

(g) Freezing employee compensation has led to a 'brain drain' in several critical government departments. This is because Officers have exercised the option to retire or resign in face of the cuts in compensation and the constant outcry that public officers are underpaid is becoming widespread. Consequently, it is apparent that a balance must be achieved with managing employee cost while recruiting and attracting talent into the public service and funding other critical areas such as infrastructural development within limited budgetary resources. It is through sound and sometimes difficult policy decisions, in the midst of challenging economic times, that we will get closer to achieving a balance that is desirable: see Circular No. 01/2012 at pages 2603-2605 of Exhibit JF-14, and Circular No. 10/2010 at pages 2597 of Exhibit JF-14.

Recurrent Expenditure
2017 - 2021

	2017						2018					
	Budget				Actual		Budget				Actual	
	Approved		Revised				Approved		Revised			
	$	%	$	%	$	%	$	%	$	%	$	%
Employee Compensation	120,962,833	43.1%	121,200,089	40.2%	119,476,569	41%	122,504,928	41.9%	123,112,775	42%	111,722,435	38.2%
Good and Services	59,111,055	21.0%	82,478,047	27.3%	73,648,186	25%	81,685,531	27.9%	84,295,681	29%	63,542,346	21.7%
Interest	5,440,950	1.9%	3,120,181	1.0%	5,119,474	2%	8,103,800	2.8%	8,103,800	3%	5,662,845	1.9%
Subsidies	522,000	0.2%	179,745	0.1%	161,435	0%	620,000	0.2%	534,210	0%	406,758	0.1%
Grants	70,415,019	25.1%	67,389,525	22.3%	66,744,541	23%	96,285,332	32.9%	109,344,086	37%	99,706,413	34.1%
Social Benefits	13,905,800	5.0%	13,747,809	4.6%	13,841,502	5%	15,136,221	5.2%	15,172,674	5%	14,887,018	5.1%
Properties and Other Exp	10,541,174	3.8%	13,621,594	4.5%	13,654,296	5%	14,676,188	5.0%	19,273,238	7%	17,375,564	5.9%
Total	280,903,831		301,826,991		292,646,003		339,102,000		359,796,464		313,303,379	

	2019						2020						2021	
	Budget				Actual		Budget				Actual		Budget	
	Approved		Revised				Approved		Revised				Approved	
	$	%	$	%	$	%	$	%	$	%	$	%	$	%
Employee Compensation	119,725,681	40.9%	120,350,032	41.1%	114,954,607	39.3%	124,307,282	42.5%	116,053,044	39.7%	110,234,085	38%	124,018,200.00	42.4%
Good and Services	81,427,206	27.8%	80,330,048	27.4%	65,606,233	22.4%	77,997,367	26.7%	138,861,548	47.5%	122,013,208	42%	83,461,571.00	28.5%
Interest	5,498,000	1.9%	5,507,400	1.9%	6,921,518	2.4%	7,079,300	2.4%	6,325,955	2.2%	5,919,848	2%	6,258,900.00	2.1%
Subsidies	410,000	0.1%	221,000	0.1%	124,546	0.0%	370,000	0.1%	648,200	0.2%	540,395	0%	415,000.00	0.1%
Grants	88,789,297	30.3%	95,077,554	32.5%	91,937,116	31.4%	82,254,813	28.1%	85,775,278	29.3%	79,302,063	27%	78,341,635.00	26.8%
Social Benefits	16,098,887	5.5%	16,745,185	5.7%	15,730,421	5.4%	17,635,042	6.0%	17,586,535	6.0%	16,516,972	6%	18,636,329.00	6.4%
Properties and Other Exp	19,378,731	6.6%	20,856,788	7.1%	13,504,605	4.6%	17,515,445	6.0%	23,310,100	8.0%	22,646,610	8%	19,014,328.00	6.5%
Total	331,327,802		339,093,987		308,779,046		327,289,249		388,560,660		357,273,141		330,146,229	

(h) It is perhaps worth noting here that the liquid assets ratio under the Protocols for Effective Financial Management (pages 2606-2620 of Exhibit JF-14) requires the Government to maintain at least 25% of its annual recurrent expenditure as unallocated liquid funds. At the end of 2018, this ratio stood at 14%, but with the injection of $41.01 million during 2019, the ratio attained compliance at 26%. The value of the liquid assets at the end of 2019 with only consideration of the reserve fund was at $78.94 million. In early 2020, the Government was successful in negotiating the inclusion of other unallocated funds into the composition of liquid assets. With this revision at the end of 2020, the liquid assets ratio was 38% with liquid assets of $133.99 million (see page 12 of Annex B of the Protocols). However, despite the revision, with rising recurrent expenditure and to remain in compliance with the liquid assets ratio, this means that the Government would need to contribute more to the liquid assets. In circumstances of shocks to the economy with a shrinking revenue base and rising expenditure, this would present challenges to contributions to maintain the required level of the liquid assets.

(i) In annual discussions with the FCO on the Medium Term Fiscal Plan, the FCDO has continually stated or inferred that the Government should reduce personal emoluments. See for example, the notes from a BVI teleconference 28/10/10 at pages 2621-2623 of JF-14 attended by the Governor, Boyd McCleary, the then Financial Secretary Neil Smith and three officers from the Overseas Territories Desk at the FCO

which records the then Premier's unwillingness to cut Personal emoluments to less than 46% of the total Budget, and the view expressed during the Governor and the Financial Secretary's Budget report, that there should be "*a slowing in the rate of increase of personnel costs*". This line of discussion has been consistent over the years.

(ii) Notwithstanding all these challenges, in the MTFP it is noted that *"In further managing the efficiency of the public service, the implementation strategies of action areas in the Public Sector Transformation Programme will continue to be monitored and further developed, as the push towards achieving better results in the service":* see pages 253-659 of Exhibit JF-14.

(iii) As confirmed in the Premier's message at page 2 of the 2021 MTFP, *"There have been no lay-offs in public officers or pay cuts, through an allocation of $62.43 million in stimulus supported by a $40 million grant from the Social Security Board"* (see page 2606 of the R0095 Disclosure Bundle, at pages 253-659 of Exhibit JF-14). This is against a background of significant unemployment rises in the Territory as a result of the pandemic.

Reporting obligations

3.1 I now deal with the points at 1 to 3 on pages 2 and 3 of the Request concerning reporting obligations.

1 (i), 2 [and 3] House of Assembly

3.2 The principal obligations are founded upon the following legislative provisions.

(a) Section 35-36 of the Public Finance Management Act 2004 (as amended) (see pages 2624-2645 and 2646-2654 of Exhibit JF-14):

> "35. (1) The Accountant General shall, within four months after the end of a financial year or such longer period as the Minister may approve in writing, transmit to the Auditor General accounts showing the financial position of the Legislative Council and all Government departments and offices, including the Public Service Commission, at the end of that financial year. Annual accounts. (2) Where, pursuant to subsection (1), the Minister grants a longer period for the Accountant General to transmit the accounts to the Auditor General, he shall within thirty days of such decision, inform Executive Council in writing of that fact."
>
> "36. Where the Minister causes a report of the Auditor General to be laid in the Legislative Council in pursuance of section 66(3) of the Virgin Islands (Constitution) Order, 1976, the Minister shall cause a copy of the relevant annual accounts referred to in section 35, to be attached to the report of the Auditor General."

(b) Sections 11 and 12 of the Audit Act 2003 (see pages 2655-2666 of JF-14) provide that the Auditor General shall undertake an audit of all Government departments and offices and submit a report and in certain circumstances a "*supplementary audit report*" to the responsible Minister (the Minister of Finance). Sub-section 12(4) provides that the Minister shall lay any supplementary report before the House of Assembly within three months of its receipt:

> "11. - (1) The Auditor General, acting in accordance with section [109 (2)] of the Constitution, shall undertake an audit of the accounts of the [House of Assembly] and all Government departments and offices, including the Public Service Commission, for each financial year
>
> (2) The audit shall be undertaken in accordance with good auditing practices and standards generally accepted as applicable to the auditing of the accounts of governments.

(3) At the conclusion of each audit the Auditor General shall submit a report on the audit to the Minister.

(4) The report shall include

(a) a certificate stating that the audit of the accounts for the financial year has been completed;

(b) an opinion as to whether those accounts present properly

(i) the assets and liabilities of the [House of Assembly] and all Government departments and

offices, including the Public Service Commission, at the end of the financial year; and

(ii) the receipts and payments of the [House of Assembly] and all Government departments and offices, including the Public Service Commission, during the financial year; and

(c) such other information as the Auditor General considers necessary or appropriate to assist in a consideration of the audited accounts for that financial year."

"12. (1) The Auditor General shall submit to the Minister a supplementary audit report in respect of each annual audit.

(2) The report shall contain

(a) details of any instance when a public officer or other person did not fully comply with a requirement by the Auditor General;

(b) details of any instance the Auditor General considers significant where

(i) money was not collected, paid or accounted for in accordance with the law; or

(ii) other property was not received, held, issued, sold, transferred, destroyed, or accounted for in accordance with the law; and

(c) such other comments or observations as the Auditor General considers relevant to

the audit including, in particular, comments or observations on

(i) any matter relating to the performance of his duties or the

exercise of his powers;

(ii) the records that are being kept or should be kept; and

(iii) whether resources are being used with proper regard to economy, efficiency and effectiveness.

(3) The Auditor General shall submit the report to the Minister within six months after the conclusion of the relevant annual audit.

(4) The Minister shall, within three months after the receipt of the report, lay the report before the [House of Assembly."

(c) In accordance with sub-sections 109(2) and (3) of the Constitution (see pages 2667-2724 of JF-14), the Minister is then obliged to lay annual reports of the Auditor General before the House of Assembly.

"The Auditor General

109.—(1) There shall be an Auditor General whose office shall be a public office.

(2) The accounts of the House of Assembly and all Government departments and offices (including the Public Service Commission, the Teaching Service Commission, the Police Service Commission and such other body as may be designated by law) shall be audited and reported on annually by the Auditor General, and for that purpose the Auditor General or any person authorised by him or her shall have access to all books, records, returns and other documents relating to such accounts.

(3) The Auditor General shall submit his or her reports made under subsection (2) to the Minister who shall, within three months of the receipt of the reports, cause them to be laid before the House of Assembly.

(4) In the exercise of his or her functions under this section, the Auditor General shall not be subject to the direction or control of any other person or authority."

3.3 I attach a spreadsheet containing a list of the reporting obligations with which the Ministry regularly deals (see pages 2725-2749 of Exhibit JF-14).

3.4 At present, the 2017 to 2020 financial statements and audited financial statements are not complete. To the best of my understanding, the reasons for this are as follows:

(a) The present Auditor General, Ms Webster, was previously the Auditor General up until 2015 when she retired. The post remained unfilled until 14 August 2017, when Mr Phil Sharman began work as Auditor General. Mr Sharman left the role not long after Hurricane Irma, and Ms Webster came out of retirement in early 2018 to resume as Auditor General.

(b) In 2017 the Territory was devastated by three catastrophic events. The August floods and Hurricanes Irma and Maria.

(c) When Ms Webster recommenced as Auditor General in early 2018, there was a backlog in financial statements. The statements for 2012 had been completed, and her offices had received financial statements for 2013, 2014 and 2015 but her office was unable to certify them.

3.5 The backlog was reduced by:

(a) The implementation of the new JDE Accounting Software system. Oracle's JD Edwards ('**JDE**') EnterpriseOne is an integrated applications suit of comprehensive Enterprise Resource Planning ('**ERP**') solution that provides ERP applications and tools for Finance, Human Resources, Distribution, Consumer Goods, and Manufacturing Sectors. It is designed for all types of businesses:- small, midsized, and large. JDE is compatible with Linux, AIX, Microsoft Windows, IBM and the Oracle Mobile Platform. Some of its primary features include financial management, customer relationship managements, project management, manufacturing, supply chain planning and logistics, reporting and business intelligence. The Government of the Virgin Islands has used JD Edwards since 2004 and migrated to JDE EnterpriseOne version A9.2 in September 2019. Licensed modules include Foundation,

Financial, Procurement, Inventory Management, Fixed Assets, Payroll, Human Resources and Health and Safety, to name a few.

(b) The introduction of the IPSAS and timely training of staff. IPSAS is the International Public Sector Accounting Standard which addresses financial reporting under the cash basis of accounting and the accrual basis of accounting. The training for staff in IPSAS commenced in 2017 (see manual at pages 2750-2855 of Exhibit JF-14).

3.6 In 2019, the consultant who previously assisted the Treasury with preparing the Financial statements resigned. At that time the accounts up to 2017 had been prepared. The consultant was reengaged in 2021 and a contract was entered into for the period July to December 2021 (see contract at pages 2856-2867 of Exhibit JF-14). The consultant was engaged to assist us in answering the Auditor General's queries in respect of the 2017 and to complete the 2018 Accounts. The consultant is also required to train key staff members of the Treasury Department on IPSAS in order to build capacity.

3.7 Despite the challenges I have referred to, the 2017 accounts have now been returned to the Auditor General and the 2018 accounts are expected to be completed by 30 September 2021. Work would commence on the 2019 Accounts immediately thereafter. It is envisioned that the 2019 Accounts will be completed by December 2021. Work on the 2020 and 2021 accounts will then follow.

3.8 CARTAC has also agreed to provide training on the 'IPSAS' accounting systems.

3.9 In addition to the obligations referred to above, the Premier and Minister of Finance also provide updates, from time to time, in response to questions posed by members of the House of Assembly.

1 (ii), 2 [and 3] Reporting Obligations to the Governor

3.10 As far as we are aware there are no reporting obligations to the Governor, although the Ministry of Finance sends the MTFPs and related documents under the Protocols through him.

3.11 Informal reporting to the Governor may take place upon request, or in relation to matters related to subject areas under his responsibility or courtesy visits from time to time.

1 (iii), 2 [and 3] Reporting Obligations to the FCDO

3.12 The Protocols provide as follows:

> "PARTNERSHIP with the UNITED KINGDOM
>
> 22. In support of the commitments to deliver fiscal responsibility made by the Government of the Virgin Islands, the Government of the United Kingdom will:
>
> > a. undertake an annual assessment of the economy of the Virgin Islands, including the state of the public finances;
> >
> > b. monitor compliance with the protocols and subsequently the Public Finance Management Act;
> >
> > c. provide support in identifying and procuring sources of expertise at the request of the Government of the Virgin Islands."
>
> "Exchange of information
>
> 23. Consistent with the partnership between the Government of the Virgin Islands and the Government of the United Kingdom, the Government of the Virgin Islands commits to supply the Government of the United Kingdom with available information on fiscal, economic or project appraisal matters, prepared for the purpose of compliance with the Public Finance

Management Act including but not limited to the information specified in Annex C and the Public Finance Management Act."

"Compliance with the Protocols

26. Without prejudice to the transitional provision in Annex D, where the Government of the Virgin Islands is not in compliance with the Protocols, the Government of the Virgin Islands will present, for the approval of the Secretary of State, a plan and modified MTFP (if necessary) to remedy the breach. The Secretary of State may require modifications to this plan which the Government of the Virgin Islands must consider, and if a disagreement exists, present for consideration to the Secretary of State alternatives to remedy the breach in full and visible consideration of the representations made by the Secretary of State. The Government of the Virgin Islands shall remedy a breach in these protocols within three fiscal years from the point at which the breach occurred, unless the Secretary of State gives express written permission for a longer period.

27. In the event of any substantive non-compliance by the Government of the Virgin Islands in the respect of the Protocols and until the breach has been rectified, the Government of the Virgin Islands will obtain, on an annual basis, written approval from the Secretary of State before:

a. The MTFP is finalized; or

b. Any new public borrowing is undertaken;

c. proceeding with any new project with a lifetime value of more than five (5%) or forecast recurrent revenue;

d. using public assets as collateral as part of any new arrangement with a party external to Government of the Virgin Islands;

e. the hypothecation of any revenue stream; or

f. the divestment of public assets."

"Annex C

MONITORING

The Government of the Virgin Islands will provide the following information to the Government of the United Kingdom:

Annually

(i) The Government of the Virgin Islands MTFP, accompanied by a written request for any approvals that may be necessary over the course of the next fiscal year owing to the Government of the Virgin Islands non-compliance with the Protocols. Both should be submitted to the United Kingdom Government no later than two months before the MTFP is due to be published.

Monthly: Requests for information that is mandated by the Public Finance Management Act.

On request: (i) Details of the composition of debt, currency, date and origin of issue, maturity, and interest rate structure.

(ii) Updates on capital project progress.

(iii) Details of proposed capital investments, PFI, PPP and alternative forms of private finance, an independent accounting option on the IFRS accounting treatment and the capitalised value of the arrangement, and implications for public expenditure.

(iv) Completed investment appraisals.

(v) Such other information as may reasonably be requested."

3.13 Pursuant to these Protocols there has been a healthy dialogue between the Government of the Virgin Islands and the FCO/FCDO.

3.14 Two documents presenting our fiscal position in 2017 were prepared and provided (see Fiscal Review Tables for FCO' and 'GoVI Fiscal Overview' at pages 2868-2890 and 2891-2898 of Exhibit JF-14). These reports presented details of our general revenue, expenditure, financial services revenue and public debt. Between 2018 and September 2019, monthly reports were prepared and sent to the FCDO as required.

3.15 In addition, on 23 January 2019 Kinisha Forbes, Policy Analyst at the Ministry of Finance sent Alex Musson and Aarath Shah of the FCO a summary of the Government of the Virgin Islands Capital Investment Programme (see pages 2899 of Exhibit JF-14). On 17 January 2019, Kinisha Forbes, Policy Analyst at the Ministry of Finance sent Alex Musson and Aarath Shaha 'final' draft of the 'Debt Model' (see pages 2900-2902 of Exhibit JF-14). On 20 February 2019 Michelle Richmond-Phillips sent Aarath Shah the Monthly Reports for December 2018 and January 2019 and the MTFF, Revenue and Expenditure Forecasts (see pages 2903 of Exhibit JF-14). I also exhibit exchanges which Michelle Richmond-Phillips, Policy Analyst in the Ministry of Finance had with Aarath Shah of the FCO between 7 and 13 February 2019 (on Debt Sustainability and the MTFP (see 2904-2908 of Exhibit JF-14).

3.16 There have, in the past, been differences of opinion between the Government of the Virgin Islands and the FCDO as to the extent of the Government of the Virgin Islands' reporting/approval obligation. From my knowledge, Mr. Forbes expressed the view that, on a proper reading of Section 26 of the Protocol, the Government did not require the UK's approval when the Virgin Islands was in compliance with the Protocols. The difference of opinion between the government of the Virgin Islands and the FCDO with respect to submission of our annual budget for approval when in compliance with all the ratios, is demonstrated in the following exchanges. In an email dated 25 March 2019 from FCDO (Holvey) to FS (Forbes) with subject MTFP and the 2019 Budget, the FCDO maintained that the Government of the Virgin Islands must submit a revised 2019 Budget for approval by the UK (see pages 2909-2910 of Exhibit JF-14).

> *"We firmly recognise the importance to BVIG of preparing the 2019 budget ahead of the expiry of the provisional warrant on 30th April and we are willing to take a pragmatic approach to this matter. As you know, unfortunately, the MTFP and budget were submitted three months later than usual, but we will do our best to meet the compressed timeline. I would therefore like to propose that the BVIG submits a revised 2019 budget, excluding all capital expenditure, for approval by UK Government as soon as possible. This will allow more time to finalise the MTFP with you and your team and to conclude discussions on issues concerning capital expenditure, whilst also ensuring that BVIG can continue with the Appropriation Act on recurrent matters.*
>
> *Should this be submitted by the end of March, the UK Government will endeavour to approve it ahead of the expiry of the provisional warrant. I would therefore be grateful if you could advise as to when we can expect to receive a revised 2019 budget."*

3.17 In the then Financial Secretary's response to this email, by return (see pages 2909-2910 of Exhibit JF-14), he indicated that approval was not required as there was full compliance with all ratios. His

email also suggested that the FCDO should not confuse the requirements for the UK loan guarantee with the requirements under the Protocols for our annual Budget.

> "*The record will show that Lord Ahmad, in his High Level Framework letter to our former Premier, Dr. the Hon. D. Orlando Smith, stipulated certain conditions under which the BVI would be able to access the long promised UK Guarantee of GBP 300 million. Key among these conditions is the requirement for the UK to approve the Government of the Virgin Islands' (GoVI) Medium Term Fiscal Plan (MTFP). The Ministry of Finance has been working assiduously to meet this and other conditions in order to avail GoVI of the pledged guarantee. In this regard, it is our intention to continue to work towards that end but we will resist vehemently any and all attempts to confuse accessing the guarantee with us being able to conduct the regular budgetary affairs of the Territory.*
>
> *In my research, I am yet to discover any Law or Contract relating to the relationship between UK Government (UKG) and GoVI that stipulates the need for UKG to approve the GoVI's annual Budget. If I have erred in my research, please rest assured that I will be only too happy to be directed to the relevant Law and/or Contract. I am by copy of this note seeking a legal opinion from our Attorney General. In light of the above, I am prepared to continue to discuss within the context of accessing the guarantee, further revisions of the MTFP if necessary.*"

3.18 This issue was resolved following a telephone conversation between the Attorney General and the then Financial Secretary (Glenroy Forbes). The position of the Government of the Virgin Islands was further communicated to the Governor and the FCDO during additional conversations. The dialogue as relates to the MTFP continued with the technical team in the MFU as per normal. For example, I exhibit the constructive exchanges which Michelle Richmond Phillips had with Aarath Shah in March 2019 (on Capital Expenditure) (see pages 2911-2912 of Exhibit JF-14) between 14 to 21 November 2019 (on the 2020-2022 MTFP) (see pages 2913-2920 and 2921-2923 of Exhibit JF-14). On 19 December 2019 Michelle Richmond Phillips sent Aarath Shah a draft DSA together with MTFF and Debt 'Dashboards'. The Financial Secretary thereafter shared further exchanges with Aarath Shah between 18 and 24 February (on revised liquid assets and net debt ratios in the Protocols (see pages 2924-2926 of Exhibit JF-14). After the changes to the document recommended by the FCDO were made, the MTFP was approved in Cabinet, then sent to the FCDO via the Governor as required.

3.19 Following this clarification, regular meetings (monthly, quarterly or as required) were held with the FCDO to provide updates on our fiscal position and other related financial and operational matters. There was also communication (by email) between the Director of Overseas Territories and the Premier that stated the UKG's support to the Minister of Finance. Due to the excellent and open working relationship between the technocrats in the FCDO and the Government of the Virgin Islands, the calculations for the ratios under the Protocols for Effective Financial Management were successfully negotiated and agreed (see the letter of the 29 April 2020l from Baroness Sugg to the Premier, page 1, final paragraph at pages 2927-2929 of Exhibit JF-14).

3.20 This good and open line of communication continued thereafter. For example a meeting with the FCO took place on 7 May 2020 (see emails of 4 May 2020 referring to this meeting (see pages 2930-2931 of Exhibit JF-14). I exhibit an email dated 18 May 2020 from the Financial Secretary to the FCO referring expressly to the constructive discussions which had been taking place with respect to changing the ratios in the Protocols (see pages 2932-2933 of Exhibit JF-14). Despite the difficulties of the pandemic last year, meetings continued online (see for example the Microsoft Teams invitation from Ms Richmond-Phillips dated 13 August 2020 (see pages 2934 of Exhibit JF-14).

3.21 We have continued to communicate regularly this year (see for example the meeting on 29 April 2021 arranged so that our team might meet Sam Edwards, Head of Economics and Financial Services, in the Caribbean and Economics Section of the Overseas Territories Directorate, who was

taking over from Aarath Shah (see pages 2935-2939 of Exhibit JF-14) and the update meeting on 11 May 2021 which Ms Richmond-Phillips proposed (see pages 2937-2939 of Exhibit JF-14).

3.22 Our recent request for continued technical support for the debt advisor was also accepted. I do hope we can sustain this cooperative and constructive working relationship going forwards.

3.23 The FCDO arranges monthly online meetings and in advance an Agenda is submitted for consideration. The opportunity exists for adjustment to include other items or they are discussed under other matters. The meeting is chaired by the UK and usually I am the respondent. When necessary, other members of the team are called upon to give clarity. The discussions are usually informative or seeking clarity on documentation that may be presented. In addition to the monthly meetings, officers from both Governments continue to dialogue and share information as required.

3.24 I therefore believe that there is currently an open line of line of communication between the Ministry of Finance and FCDO. When meetings are arranged, they are attended by a team from the BVI and in my experience the discussion has been open and candid thus far. Where information is required, it is provided and when we are unable to do so for whatever reason this is communicated.

3.25 The implementation of the new JDE Accounting Software system, the introduction of the IPSAS and timely training of staff have posed some challenges in producing financial statements and other reports. The Government of the Virgin Islands is committed to resolving these anomalies resolved by putting the necessary resources, human, financial or otherwise in place.

3.26 The implementation of Enterprise I, the new accounting software from September 2019, presented us with some technical migration and adoption challenges in the transition. This prevented the generation of revenue and expenditure reports from the system for a time.

3.27 When the reports resumed, the Ministry opted for a combined presentation of data which we had been able successfully to post on the system together with other data from departments and ministries obtained in those departments and ministries' monthly submissions. Monthly reports to FCDO resumed from October 2020. These were based upon the same preliminary data we had used to prepare the 2020 and 2021 MTFP and Budgets. Whilst we worked through the challenges posed by the new system, it was agreed that it was acceptable to use this material in reporting to the FCDO.

3.28 We have recently taken measures to enter details of revenue into the enhanced JD Edwards system and generally to improve the quality of data in the system, to make the data more reliable and aligned more closely with the reality on the ground. More accurate information is being retrieved guided by the preliminary report which it was possible to generate for September 2019. Previously, data had to be sought directly from the departments and Ministries and that, along with limited data on the system, had to be used to generate some preliminary rough estimates in the preparation of the 2020 MTFP and Budget.

3.29 In addition to the monthly data, other reports as requested or as assessed as important to share have been sent to the FCDO. I have already described some of these above. I exhibit (see pages 2940-2958 of Exhibit JF-14). In the absence of the usual monthly reports, these other reports served to provide the required update to the FCDO on our fiscal position.

1. (iv) Other Reporting Obligations

3.30 I am not aware of any other reporting obligations.

3.31 However, the appraisal process noted in the Protocols insofar as it consists of a capital investment analysis, can provide useful information on whether to proceed with capital project. For example, such analysis can help to identifying which option might yield the highest return or deliverables on invested capital.

Affirmed by: Jeremiah Frett)

On 24 September 2021)

At Ministry of Finance)

Qwomar Bldg #2, 2nd Floor

Blackburn Highway

Tortola

Before me:

Notary/Commissioner of Oaths

[redacted]

Jeremiah Frett



Jeremiah Frett
Tenth
24 September 2021
Exhibit JF-14

IN THE MATTER OF THE TERRITORY OF THE VIRGIN ISLANDS COMMISSION OF INQUIRY 2021

AND THE COMMISSION OF INQUIRY ACT (CAP 239) (THE 'ACT')

TENTH AFFIDAVIT OF JEREMIAH FRETT

GOVERNMENT OF THE
VIRGIN ISLANDS

2021- 2023



Medium Term Fiscal Plan (MTFP)

INNOVATION:

Key to building a stable, diverse, competitive economy with strong industries and partnerships for regional and international trade; by building and harnessing the creative capacity of our human capital.

MESSAGE FROM THE PREMIER AND MINISTER OF FINANCE

The year 2020 has indeed been one of readjustment and realignment. Just as the lives of the people of the Territory of the Virgin Islands were being transformed for resilience into the future by shaping critical developmental work, the COVID-19 global pandemic has infringed on progress made. We have had to readjust ourselves while moving forward steadfastly with hurricane recovery and dealing with COVID-19.

Throughout this pandemic, as a Government, we have taken several steps to safeguard our people's health and safety. We did this, carefully and frugally balancing our financial resources to remain good stewards of public funds.

I must say that despite the need for a massive injection of unbudgeted funds for expenditure and the threat to our revenue base, our stewardship through the pandemic ensured that our domestic economy is still staying afloat up to this point. There have been no lay-offs in public officers or pay cuts, through an allocation of $62.43 million in stimulus supported by a $40 million grant from the Social Security Board.

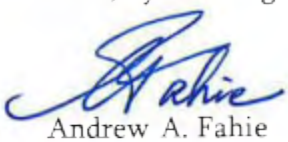
Liquidity has been injected into the economy, and people have remained safe adhering to health and safety protocols. The $40.18 million (as of 4th November 2020) disbursed has kept our domestic economy buoyant and has allowed your Government to put the necessary systems and structures in place for a controlled re-opening of our borders in December 2020.

While the efforts put forward to fight the pandemic have realised good results, my Government's progress in the planned recovery and development projects, as stated in the revised Recovery to Development Plan (rRDP) were put on temporary hold. In the revised 2020 Budget, $65.96 million was projected to be spent on capital projects, but it has been estimated that only about half of this amount would be spent by the end of 2020. On the other hand, almost $60 million is anticipated to be spent on pandemic mitigation. We will continue to move forward with our people and prepare this Territory for its transformation in 'The New regular' of living and working with COVID-19.

The framework set out in this MTFP is the foundation on which the 2021 – 2023 Budget was built, and it presents my Government's strategic direction for the medium-term, 'Stimulus

through Innovation" which we envisage as the medium to rebuild a stable economy, in this New Regular. The positive of this pandemic is that it has forced us to be innovative to survive. We will do this in an Entrepreneurship Programme that links tourism and financial services and its supporting industries. We will also use innovation to ensure our food security and crafting our legislation to help the economy. This document also presents a debt strategy that should support our financing need, but it is based on active and prudent monitoring of our fiscal position, obtaining a credit rating, and our debt sustainability.

COVID-19 is fluid, and we will continue to mitigate risks to keep our people safe. My Government and I will focus on innovation as we see this as the key to building a stable, diverse, competitive economy with strong industries and partnerships for regional and international trade, by building and harnessing the creative capacity of our human capital.



Andrew A. Fahie
Premier and Minister of Finance

EXECUTIVE SUMMARY

The development of a fiscal plan sets the framework for how governments intend to operate in the short to medium term. The creation of that plan forms opportunities for a strategic look at how governments plan to deal with the issues of operating. The challenges of 2020 have created the need for governments to operate in an innovative way, while remaining focused on the rising issues and securing the financial health of their economies. This 2021-2023 Medium Term Fiscal Plan of the Government of the Virgin Islands charts a path that will enable us to continue the difficult task of economic recovery. Our goal over the medium term is to identify, through innovation, the key to building a stable, diverse, competitive economy with strong industries and partnerships for regional and international trade by building and harnessing the creative capacity of our human capital.

The need to adjust our operating strategy centers on our ability to critically assess our macroeconomic performance and fiscal sustainability based on past trends and future priorities, to promote fiscal discipline, to manage our fiscal risks, and to operate through mediums of transparency and accountability.

Working through our Recovery and Development Strategy, our focus will continue to align our SEED framework to our Recovery and Development Plan, and our National Physical Development Plan. We will also continue to link our Recovery and Development Strategy to the budget process over the medium term as we move through reaching the Sustainable Development Goal, while realigning our priorities to adjust to the "New Normal".

In the short term, the uncertainty surrounding the presence of the pandemic and the threats to our public heath continues to have across-the-board impacts on our economy. Growth in nominal Gross Domestic Product (GDP) is projected to realise negative performance in 2020 by about 14.8% when compared to 2019, and further contractions in 2021 and 2022 are estimated, with some signs of recovery in 2023. With the expected decline of economic activities in 2020, losses in tourism are estimated at about $350 to $450 million, fluctuation in monthly prices are expected, and increases in unemployment numbers are projected.

In the medium term, our economic recovery plan will be mitigated by our fiscal risk strategies and our approach to producing macroeconomic stability. With the continued threats of the pandemic on our economy, several fiscal policy responses through initiatives, including new revenue sources are proposed for the direct response to improving the fiscal views of our operation. Additionally, as part of our fiscal strategy, we will explore options to strike a balance between the decreasing economic output and increasing financing needs. Furthermore, our debt strategy will focus on ensuring that our financing requirements are met at the lowest possible cost, while maintain prudent levels of debt.

To support our economic recovery, we have modelled four scenarios – base case, base case with fiscal strategy, base case with fiscal and debt strategy, and shock case. Each case which describes our fiscal

position under different assumptions are identified and analysed. Setting the framework for the 2021 budget, the base case with fiscal strategy, assumes that the economy grows according to the current trend, with the added impact from the implementation of fiscal strategies. These fiscal strategies valued at an estimated $21.52 million to $37,53 million over the medium term seek to support the projected overall deficit from the baseline of $72.03 in 2021, $63.88 million in 2022, and $47.30 million in 2023. While the identified fiscal strategy may not be enough the cover the full cost of the deficit, in bridging the fiscal gap, other measures have been identified. In addition to identifying the fiscal gap measures and creating a better understanding of our financial position in the event of uncertainties, a shock case scenario explores the potential impact on our economy due to the lingering effects of the pandemic, the potential global recession, the ongoing BREXIT negotiation, natural disasters, and other external threats. Based on these results from this scenario, additional cost cutting measures and further revenue generating initiatives would be required.

Our debt strategy will focus on efficiency with cash balances being maintained at 90 days' expenditure plus a further buffer of 25%. In addition to our proposed fiscal strategy, our debt strategy is also linked to a wider fiscal position, flexible borrowing facilities and structured monitoring. Our debt service ratios will show a technical breach 2022, as a result of the proposed repayment of the yearend balance from the use of the Overdraft Facility in 2021. Notwithstanding this projected technical breach, the base case with fiscal and debt strategies scenario estimates a return to compliance in 2023. To demonstrate the impact of our proposed debt strategy, a Debt Model framework was developed which explored options for adaptation, alternation, or amendment of the debt strategy directed by the monitoring of our fiscal position.

It is clear that our economic recovery in the medium term will require prudent financial management, effective reporting systems, and structured monitoring of our fiscal position and key sustainability ratios. Our Government will need to adopt a flexible fiscal policy, and be robust enough to respond to the changing circumstances. This 2021-2023 Medium Term Fiscal Plan presents a plan of how we intend torebuild our economy, improve efficiency in spending, manage our financial risks and debt levels, and ensure the quickest return to sustainable public finances through building a stable, diverse, and competitive economy.

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INTRODUCTION

The advent of the new decade, 2020, was filled with many expectations, globally and locally. On the local level, the Government of the Virgin Islands (GoVI) was on a path to continued economic recovery and growth, building on the performances of 2018 and 2019. The performance of key economic and fiscal indicators, in the first two months of the year, showed early signs that we were well on the way. Revenue receipts were recovering from the shortfall of 2017, and Gross Domestic Product (GDP) was also recovering, despite a slight contraction in 2018. However, it was not long after those positive initial performance indicators, that in March of 2020, the GoVI had to abruptly change its fiscal priorities, in preparation for what is considered to be one of the worst pandemics (Coronavirus, COVID-19) in recent times. The GoVI had to quickly make temporary fiscal sacrifices, in order to protect and save the lives of its people. In addition, the GoVI was required to make adjustments to its macroeconomic and fiscal projections, and its operating structures during the pandemic, which would impact not only our main economic pillars, tourism and financial services, but all other sector activities.

The adjustmens made to our operational strategy, will realise a deficit in 2020 as a direct result of the increased costs associated with funding prevention and safety measures to combat the pandemic. With the many uncertainties surrounding the ongoing pandemic, the threats from natural disasters, and other possible shocks to our economy, overall deficits are also estimated to occur in 2021 and 2022. However, notwithstanding these projected deficits, the GoVI remains optimistic that signs of growth will begin to emerge as of 2023, barring any further significant shocks to the economy.

As we move into the future with confidence that our fiscal position will improve, the GoVI has focused on innovative strategies to strengthen its frameworks and systems to ensure that transparency and accountability remain at the forefront of all decisions. Our medium-term strategy will focus on building a stable, diverse, competitive economy with strong industries and partnerships for regional and international trade by building and harnessing the creative capacity of our human capital. In support of this strategy focus, the GoVI remains commited to exploring new revenue iniativties that will seek to boost growth, and implement expenditure efficiencies to control the growth in spending. Other measures are proposed for consideration to control expenditures and improve receipts. This Medium Term Fiscal Plan (MTFP) provides more detail on the economic and fiscal context for this strategy focus over the next three years (2021 – 2023). The fundamental framework of our MTFP continues to serve the following purposes, namely to:

- assess the macroeconomic performance and fiscal sustainability of the Territory based on past trends and future development priorities;
- provide a clear link between our recovery and development strategies and our fiscal obligations;
- promote fiscal discipline by establishing specific targets and strategies for revenue collection, expenditure prioritisation, and debt management which will grow revenue, prioritise expenditure, and maintain sustainable levels of debt;

- manage fiscal risk by closely examining our current and possible future debt obligations based on recovery and development objectives and forecasted fiscal space;
- provide transparency and accountability in managing the affairs of the Territory;
- support our multi-year, programme performance-based budget process by providing the framework for medium-term planning; and
- guide our decisions in promoting effective and efficient allocation of resources.

OF KEY IMPORTANCE TO NOTE, IS THAT FOR THE DEVELOPMENT OF THE CONTENTS OF THE 2021-2023 MTFP, FISCAL DATA FOR THE PERIOD 2017-2020 ARE BASED ON UNAUDITED FIGURED, THAT ARE SUBJECT TO REVISION.

As we embark on continued recovery works and innovative-focused development projects, careful and cautious use of our available financial resources and more prudent monitoring of our fiscal position in light of the impact of the pandemic became necessary. The 2021-2023 Medium-Term Fiscal Frame (MTFF), on which the analysis in the MTFP is hinged, sets out an integrated framework to analyse and better monitor developments as they occur. The MTFP contains:

1. **Economic Review and Outlook** summarising our recent economic performance and outlining our predicted macroeconomic performance in the medium-term, specifically analysing Gross Domestic Product (GDP) growth, tourism, financial services, inflation and employment.

2. **Recovery and Development Strategy** demonstrating linkages with the GoVI's medium-term development strategy which embodies Social, Economic, Environmental and Direction/Governance (SEED) dimensions as well as the global Sustainable Development Agenda.

3. **Fiscal Review** summarising the recent performance of revenue, recurrent and capital expenditure, and debt.

4. **Discussion of Fiscal Risks** providing a narrative on the main identified fiscal risks with potential to affect our fiscal position in the medium and longer-term horizons, and possible strategies to manage these risks.

5. **Fiscal Strategy** explaining and demonstrating the expected results of our strategy to ensure fiscal sustainability in the medium-term, which involves generating increased revenues, improving expenditure efficiency, and maintaining sustainable debt levels.

6. **Debt Strategy** briefly outlining our proposed option for borrowing under various scenarios explored.

7. **Debt Sustainability Ratio Analysis** demonstrating the projected performance of the Protocols for Effective Financial Management's borrowing ratios of net debt, debt servicing, and liquid assets, as well as our forecast performance based on additional key debt sustainability ratios. Analysis of these ratios will indicate our fiscal sustainability in the medium-term, and demonstrate our trajectory of securing and maintaining compliance with the borrowing limits.

8. **Sensitivity Analysis** demonstrating the effects of a scenario based on a combined shock to the economy due to the impact of the lingering pandemic, a possible global recession, ongoing Brexit negotiations, natural disasters, increased competition, publicly accessible registers, and increased regulations on our financial services industry.

9. **Budget Framework** presenting aggregate figures for revenue, expenditure and debt which set the framework for the 2021 Budget.

1. ECONOMIC REVIEW AND OUTLOOK

Despite the slight contraction of the economy in 2018, the economy of the Virgin Islands was well on its way to recovery following the devastating losses in 2017. Growth in nominal[1] GDP was estimated in 2019 at 5.4% above the estimate of 2018 ($1,234 million). The sectors, including Accommodation and Food Services, Transportation and Storage, Administrative Services (Yachting), and Real Estate realised growth, supporting the return of tourist activities, and boosting multiplier effects in others. Although the importation of goods was on the increase, there was evidence in construction imports to suggest a downward trend towards our normal level of constructon activity. Despite recording continued declines in new incorporations, the stock of active companies was still above 360,000. The rate of inflation continued to stay between 1% – 2%. With the economy poised to move from recovery to development, employment numbers were on the rise to support this direction. From all initial indications, growth was expected to continue into 2020. However, the global Coronavirus pandemic, changed the projected trajectory for 2020.

Initial assumptions and estimates for 2020 could no longer hold true in light of the economic impact of the virus. The trade, tourism and financial services markets began to rapidly contract following the declaration of a global pandemic in March 2020. In an effort to keep the people of the Territory safe, lockdowns and curfews were implemented, and our borders were closed in March 2020. This inevitably resulted in the suspension of all tourist activities. Although these measures did safeguard our people, for the most part, these required actions were expected to result in an immediate contraction of our economy. This reversal of the growth direction for the economy in comparison will be seen in a 17.0% drop in nominal GDP from 2020 original projections as a result of continued decline in new incorporations, marginal increase in revenue from new incorporations and re-registrations, no tourist arrivals after March, losses from tourism of at least $500 million, fluctuating monthly prices, and at least 1,500 persons unemployed.

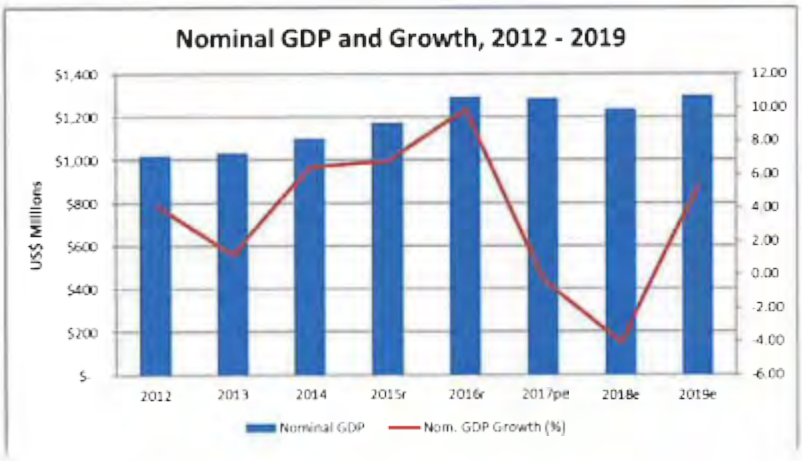
In this section, we will review our past performance and examine our economic outlook for the medium-term in this pandemic era, with specific focus on economic growth in the areas of financial services, tourism, construction, inflation and employment.

[1] Nominal means valued at current market prices.

Economic Growth

The economic activities for 2019 showed signs of improvement from the previous two years. The improvement is credited to the ongoing recovery efforts that accounted for increased activities of about 5.4% growth above the total GDP output of 2018 ($1,234 million) (See **Figure 1**). Preliminary estimates suggest that 2019 GDP output ($1,300 million) was also above the pre hurricane output level for 2016 ($1,291 million) by a mere 0.7%. Despite the challenges within the Financial Services industry, including the slowing down in incorporations, the threats associated with blacklisting, Publicly Accessible Register of Beneficial Ownership by 2023, the BREXIT deal, and other direct and indirect activities, the performance was down by 3.0% when compared to 2018 ($302.73 million). The construction industry in 2019 also realized a downward performance of 5.0% when compared to 2018 ($71.38 million) on the merit of an actual slowdown in construction activities resulting from more completed repairs to properties in 2018 following the disasters.

Figure 1. Nominal GDP and Growth, 2012-2019



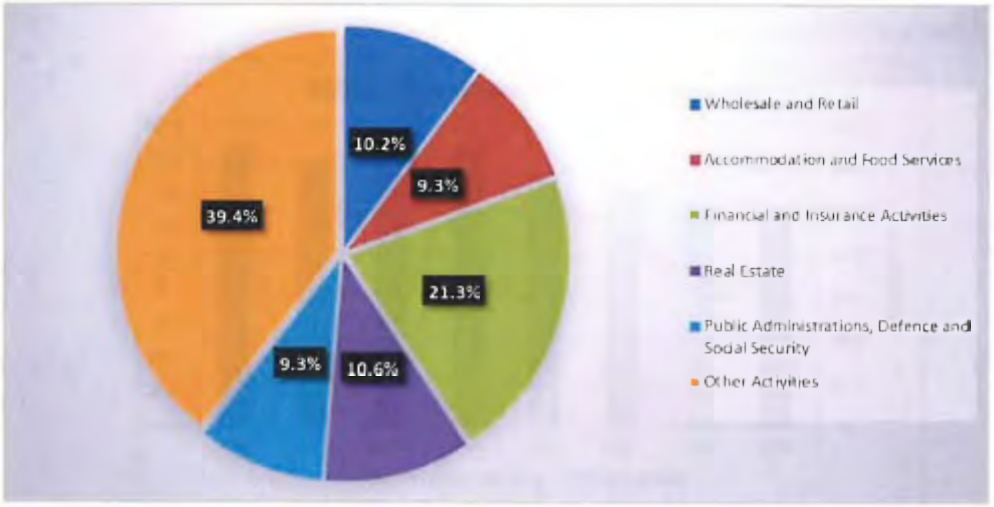
Another sector that significantly contributed to the positive growth in GDP[2] for 2019 when compared to 2018, was the activities of Electricity and Water which saw a 15.4% performance above 2018 ($19.69 million) attributed to a completed restoration of the utility services throughout the Territory. Additionally, the real estate sector realised a 7.0% performance above that of 2018 ($120.85 million), but was not enough to get back to pre-hurricane levels, suggesting that the return of short term rentals was slower due to continued rehabilitation works. Accommodation and Food Services saw performances of 70.0% above that of 2018 ($66.96 million), due to the return of overnight tourists, and therefore, the hotel and restaurant activity. Transportation and Storage activity was 10.0% above that of 2018 ($64.93 million),

[2] GDP estimates from 2010 to 2017 are compiled by the Central Statistics Office (CSO). The 2017 GDP estimate is a preliminary estimate provided by the CSO, prior to the publication of their final 2017 GDP estimates. At the time of compilation of this MTFP, this final estimate was not released.
Higher GDP estimates presented in this MTFP for the period 2010-2016 reflect revisions made by the CSO. Projections for 2018 to 2022 have been produced by the Macro-Fiscal Unit.
pe means **preli**m**inary** estim**ate,** and **p** means **proj**ection.

supporting the return of tourist activity, through the supply of taxi and other transportation support services.

While growth in GDP signals recovery, activities in macroeconomic development can trigger a response to a fiscal outcome that can cause the projections to deviate. The GDP target for 2020 saw a revision downward as a result of the COVID-19 health pandemic. The original nominal GDP for 2020 ($1,333.59 million) was estimated to be 2.6% above the estimates of 2019 ($1,300.31 million), showing continued signs of recovery from the unprecedented events in 2017. Following the declaration of the health pandemic in the first quarter of 2020, the revised estimate ($1,107.33 million) now stands at 17.0% down from the original estimate, and 14.8% down from 2019 ($1,300.31 million). Following the revision, the top three largest individual sector activities contributing to the 2020 revised GDP are Financial and Insurance Activities (21.3%), Real Estate (10.6%), and Wholesale and Retail (10.2%) (see **Figure 2**).

Figure 2. Activity Share of GDP, 2020e

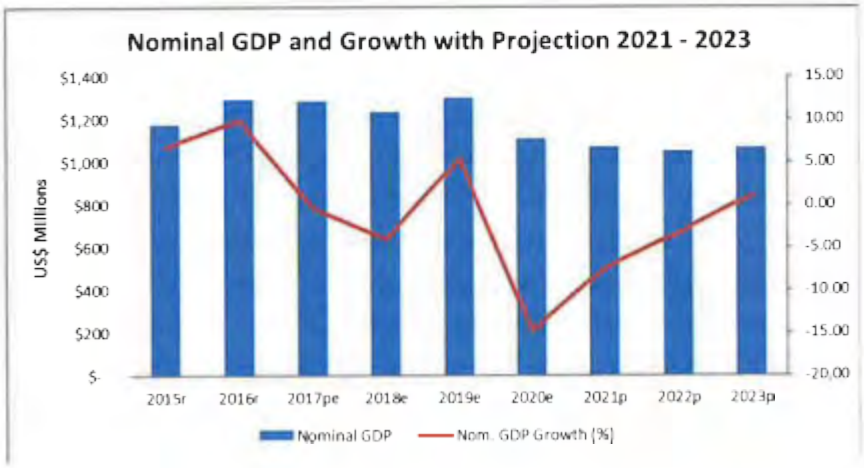


While individual sectors have their share of activities that support economic growth, our main economic pillars continue to be tourism with an estimated 37.0% of GDP and financial services with an estimated 22.8% of GDP. Due to these economic pillars' weights, any major negative shock to these activities would result in substantial economic output losses. The impact of the pandemic will be an initial potential loss of about 14.8% in economic activities for 2020 compared to 2019, and possible further contractions in 2021 and 2022, if conditions continue to be the same or worsen. These losses are attributed to the closing of our borders in March, 2020, which stopped the flow of tourism activity, ultimately triggered a negative multiplier effect in economic activities. Any further adverse changes in the tourism sector (through non-activity in visitor arrival) or threats to our financial services industry and trade relations will further affect our GDP growth. Unemployment numbers have increased and the few current economic activities within other sectors are not enough to offset the net effects of the losses already experienced.

Recognising the potential socio-economic impact and the need to be proactive, the Government initiated policy decisions designed to stimulate businesses through relief packages. While the effect of relief may not be enough to cover the total fall off in output, it is the hope that it will, in the short term, stop the immediate continuation of unemployment and lessen or slow down the losses in activities across other sectors.

Moving forward, projections in the medium-term suggests that by 2023, some form of economic recovery should be realised at a rate of 1.1% above the 2022 level (see **Figure 3**). One of the areas of projected increase activity is within the construction industry. The aim is to ensure we move towards achieving our national social-economic development goals of infrastructure development, while creating employment opportunities for our people. We continue to partner with the private sector on upcoming major projects as a drive towards growth stimulation. Activities within the construction industry, during the medium-term will focus on projects managed by the RDA and other projects, including the West End Terminal, Port Development, and the development of major resorts and hotel (Blunder Bay Resort, Biras Creek, Scrub Island).

Figure 3. Nominal GDP and Growth with Projection



While confronted by many uncertainties, this outlook hinges on the projected viewpoints of the rest of the world which is proactively seeking to introduce measures to curb the spread of the virus, diversify their economies through innovation, and strive to meet their medium to long-term strategic goals. Due to our heavy reliance on these external markets for trade, tourism, and financial services activity, we will embrace the shift to digitalised operations, seek innovative methods of stimulating the economy, and explore ways to diversify our economy. Additionally, we will further explore our need to diversify our financial services product to keep in line with changing realities, particularly as it relates to the upcoming deadline for Publicly Accessible Registers of Beneficial Ownership in 2023, as well as other looming threats to our economic base. Furthermore, with the anticipated re-opening of our borders on 1st December, 2020, we are optimistic that growth from economic activity will begin to happen within the tourism industry as visitors return, creating a multiplier effect within other economic sectors.

We will also seek to reduce our unemployment rate level, and implement strategic and fiscal cushions as mitigating risk management strategies to handle risks of natural disasters and external shocks. Furthermore, we will be introducing more stringent counter-cyclical policies in the current environment to allow for continued economic activity while not accelerating the potential sharp decline in output. Support of these actions will come through our structural reforms and strategic direction, and their spinoffs in other economic activities.

As we continue to plan for the reopening, the diversification of our products and services, and the execution of capital projects that are all aimed at boosting economic growth, we will remain vigilant in monitoring strategies that will prepare us for operating in the medium-term. Base case predictions for economic growth have been prepared, alongside a sensitivity analysis of a shock scenario, which would show the negative impacts to our economy due to shocks from financial services, natural disasters, and a potential global economic recession, in the medium-term. For a detailed analysis, see the **'Sensitivity Analysis'** Section.

Financial Services

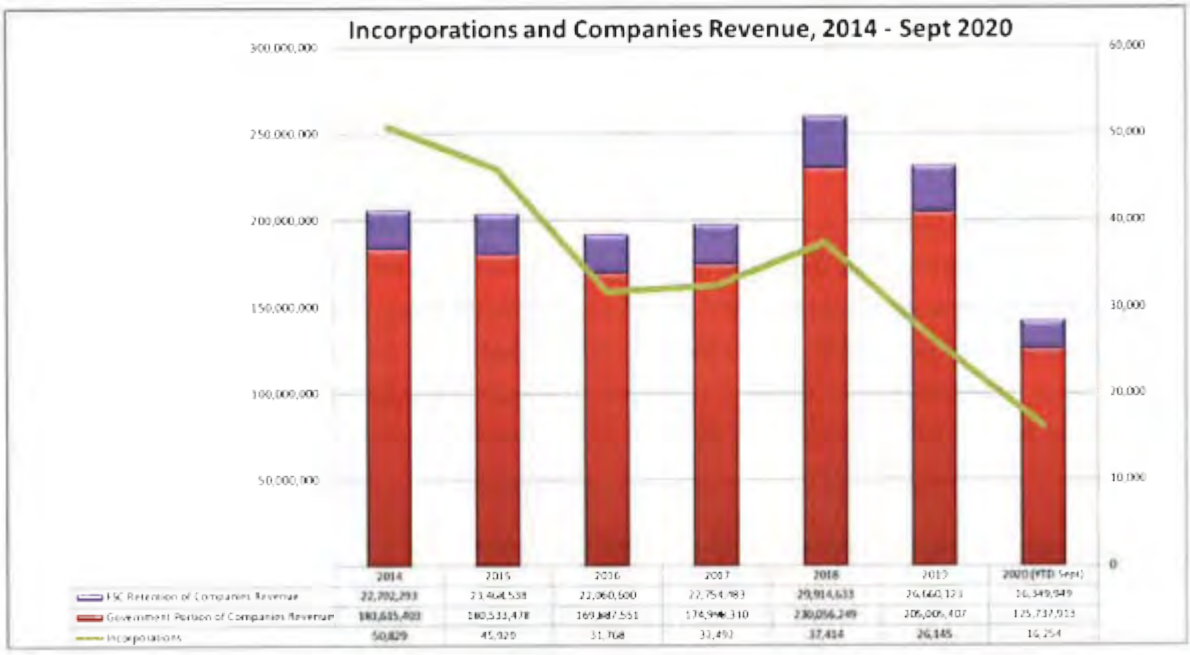
The economic substance requirements were implemented in 2019, and as predicted, this resulted in a decline in new incorporations and re-registrations. New incorporations declined by 30.1% (26,145) in comparison to 2018 (37,414), and there was negative growth of 10.9% in revenue from the industry ($231.67 million) compared to 2018. The result of this negative growth can be seen in the level of the stock of companies in 2019 (387,344[3]), which contracted by 3.9% from its 2018 level (402,907). The impact of this negative growth was also registered in Government's share of financial services revenue which moved from $230.06 million at the end of 2018 to $205.01 million in 2019. Another observer in the declining trend of incorporations is VISTRA, our largest incorporator of companies, which for three years continues to experience a drop-off in the absolute number of new incorporations and renewal rates.

The global pandemic has added to the many challenges this industry has faced and continues to face. With the closure of the borders and domestic lockdowns of the Asia-Pacific markets in February 2020, transactional activity in the industry took a marked downturn. However, this did not continue into March 2020 as China stabilised and the epicentres of the pandemic shifted to Europe and the United States (USA). As the year progressed, some months recorded rises in incorporations in comparison to the previous months' levels. These modest monthly increases are suspected of being driven by China's recovery and re-opening from March 2020 as the country moved to inject capital into the economy, targeting businesses and industries. As shown in **Figures 4** and **5**, up to September 2020, there was a substantial 20.9% negative growth in new registrations compared to the same period in 2019.

[3] FSC's Statistical Bulletin for Q4 2019.

When the first, second and third quarters of 2019 were compared to the same quarters of 2020, negative growth rates of 26.9%, 25.8% and 10.3% respectively were registered in new incorporations. However, notably, new incorporations from the second quarter to third quarter positively grew by 32.4% from 4,725 at the end of the second quarter (See **Figure 4**). This growth was likely spurred by an increase in transactional activity as concerned clientele in the USA and Europe made necessary adjustments to the declining economic conditions in both markets. This growth can be linked to the marginal increase in growth (0.5%) in revenue from incorporations and re-registrations in the third quarter of 2020 in comparison to the same period in 2019 (See **Figure 6**).

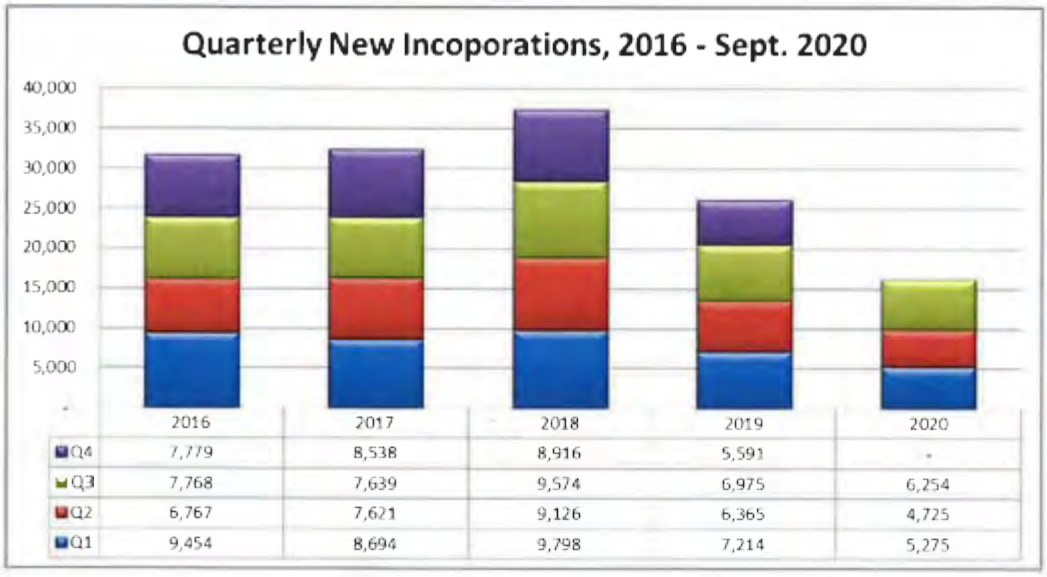
Figure 4. New Company Incorporations and Companies Revenue[4]



Although there were new incorporation/re-registration declines, the industry in the Territory has still been able to maintain an overall stock of active companies above 350,000 by the end of 2019, and up to September 2020. This is a "beacon in the dark cloud", and it attests to the robust and well-structured continuity plan of the industry which has allowed firms all over the world, associated with our industry to continue to work unimpeded with a high degree of productivity.

Figure 5. Quarterly New Company Incorporations

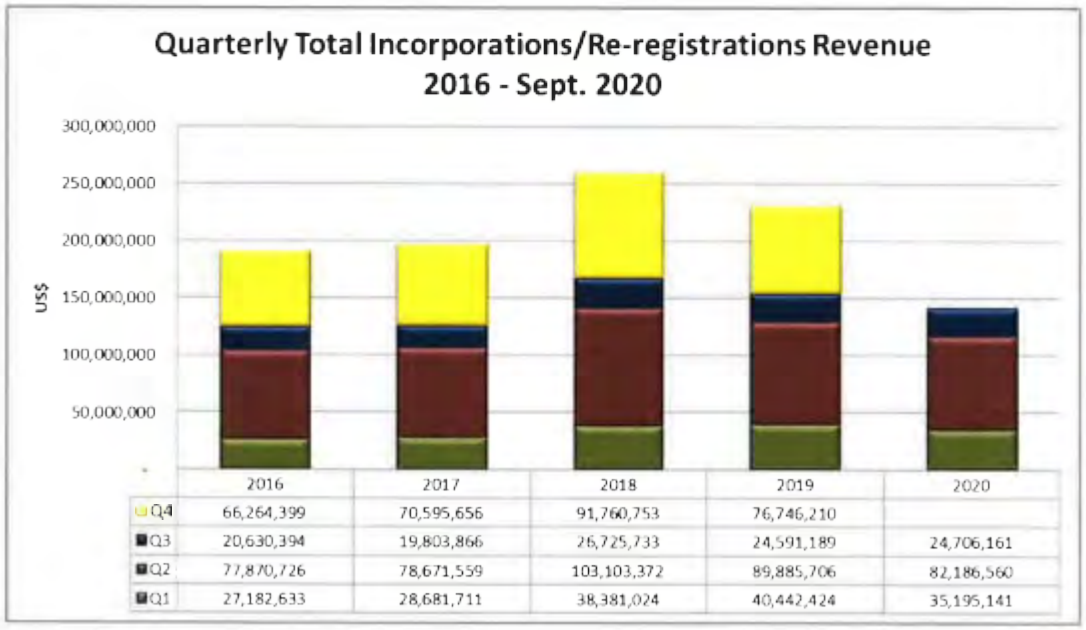
[4] Total Registry of Corporate Affairs revenue is reflected in this Figure. Since 2015, the proportion of financial services revenue remitted to Central Government has been 88.5%.



	2016	2017	2018	2019	2020
Q4	7,779	8,538	8,916	5,591	-
Q3	7,768	7,639	9,574	6,975	6,254
Q2	6,767	7,621	9,126	6,365	4,725
Q1	9,454	8,694	9,798	7,214	5,275

While the economic substance requirement may have been the key driver behind the declines in new incorporations since 2019, it may have also been in combination with other challenges facing the industry, such as negative international coverage of the offshore, derisking practices by banks, regulatory pressures, continued uncertainty in the UK from the BREXIT, recessionary market trends in Hong Kong and Singapore from the protest movements, increasing competition, the plummeting mass demand for products from Asia-Pacific and China by the USA and Europe, and clients re-structuring BVI entities to reduce maintenance costs in the current economic environment.

Figure 6. Quarterly Incorporations and Re-registrations Revenue



	2016	2017	2018	2019	2020
Q4	66,264,399	70,595,656	91,760,753	76,746,210	
Q3	20,630,394	19,803,866	26,725,733	24,591,189	24,706,161
Q2	77,870,726	78,671,559	103,103,372	89,885,706	82,186,560
Q1	27,182,633	28,681,711	38,381,024	40,442,424	35,195,141

The global health pandemic has added another risk dimension. It is forecasted to worsen by the end of the year and the negative follow-on effect of this will be felt by the financial services industry locally. The spectre of a possible recession in the world's three major economies (China, USA and Europe) could see economic contraction worldwide. Any such decline in those major economies especiallyin our target markets could result in a collapse in the Territory's financial services industry. One important risk further retarding the growth in the financial services industry is the Publicly Accessible Register of Beneficial Ownership on all British Overseas Territories (BOTs) to be implemented by the end of 2023. In September 2020, the Premier and Minister of Finance announced GoVI's commitment, subject to certain reservations, to work in collaboration with UKG towards a publicly accessible register of beneficial ownership for companies, at least as implemented by EU Member States by 2023 in furtherance of the EU Fifth Anti-Money Laundering Directive, and in line with international standards, and best practices as they develop globally.

In the medium-term (2021-2023), risk considerations for the financial services industry (See **the 'Discussion of Fiscal Risks'** Section), including those just mentioned have been considered in forecasting the continued decline in growth of this revenue source and output performance. However, the volatility and uncertainty of the pandemic and the many other risk factors, along with the heavy reliance of Government revenue on this source of funds dictates a continuous and prudent monitoring of incorporations and the resulting revenue generated by the sector.

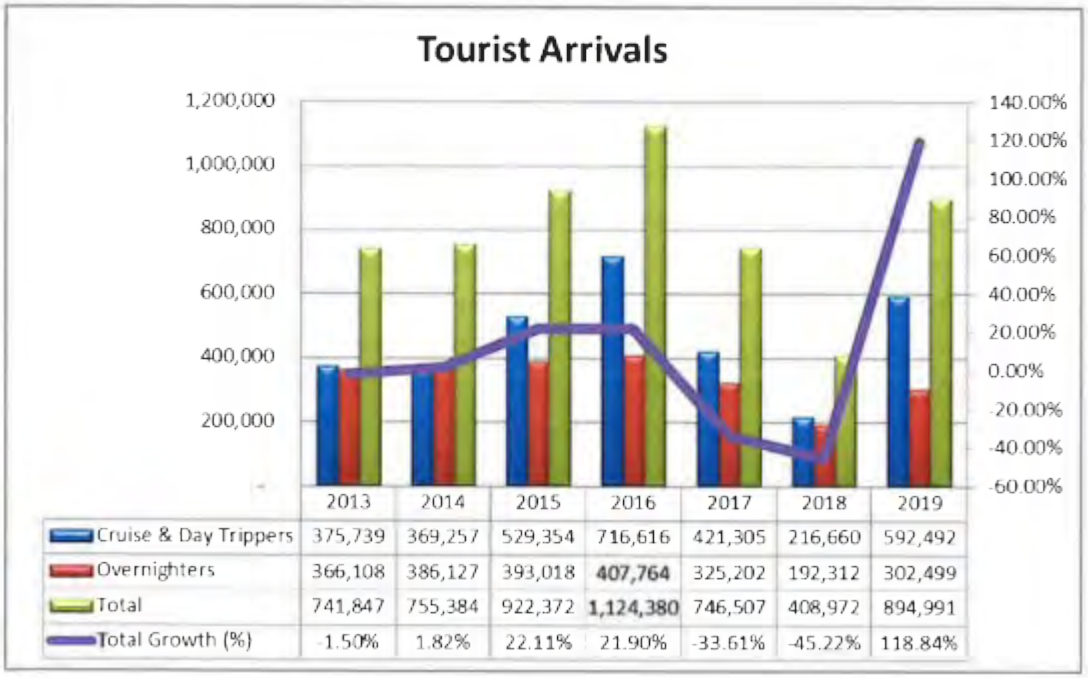
Despite these challenges, the Territory is anticipated to continue to maintain its position in the industry with its tried-and-tested service, but must be creative and innovative in marketing and promoting its products and the jurisdiction through digital, telecommunication and written media as opposed to its historically successful traditional person-to-person or person-to-group medium of communication. This medium is not the most effective means to drive licensees and incorporations, as many companies are already using the digital medium for self-promotion. With the stimulus packages around the world and eventual global recovery, the Territory needs to position itself to be a financial medium for the billions in investment and restructuring needed world over as the crisis subsides and growth spikes globally. Marketing strategy should continue to build on the mantra that 'BVI is open for business'. This strategy must be paired with a diversified and new innovative offering of products that reflects the new reality of the market (e.g. using more digital and telecommunication media) and that builds on the vast expertise in regulation developed over the years.

Tourism

Cruise ships docked at ports and in the harbours, streets bustling with cruisers, local attractions filled with noisy and excited tourists, and the seas filled with multi-coloured sails were all signs of tourism rebounding in the Territory in 2019. Since the fourth quarter of 2018, tourism began to recover with about a 600% growth over 2017[5]. By the end of 2019, there were almost 900,000 visitors which represented 118.8% growth over 2018 (See **Figure 7**). In the tourism visitors subsector, cruise passengers, with a share of 64.3%, dominated the categories, followed by overnighters with a 33.8% share.

The momentum for growth in tourism was set from 2019 with the first quarter of 2020 recording 303,582 arrivals. Although there was a negative growth of 18.9% in January 2020 compared to January 2019, in February 2020 there was a significant increase of 25.7% growth over February 2019. This level of growth in February 2020 was an indication that there would have been noticeable growth in March 2020. However, the closure of the borders in March 2020 resulted in a substantial decline in growth of 53.8%. This massive decline in March led to a 17.6% negative growth for the first quarter over 2019.

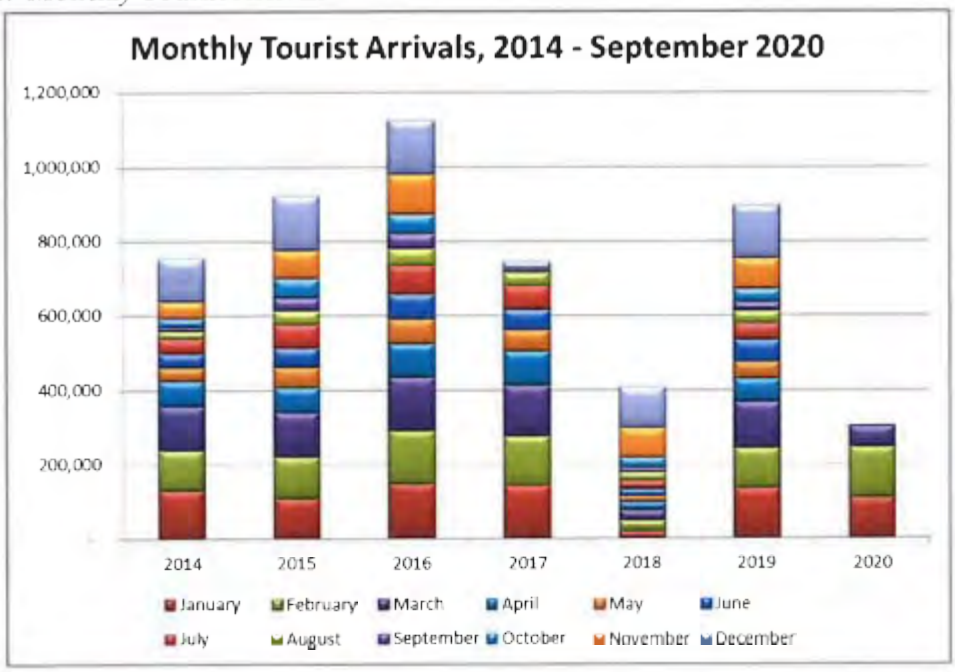
Figure 7. Tourist Arrivals by Type, 2013- 2019



	2013	2014	2015	2016	2017	2018	2019
Cruise & Day Trippers	375,739	369,257	529,354	716,616	421,305	216,660	592,492
Overnighters	366,108	386,127	393,018	**407,764**	325,202	192,312	302,499
Total	741,847	755,384	922,372	**1,124,380**	746,507	408,972	894,991
Total Growth (%)	-1.50%	1.82%	22.11%	21.90%	-33.61%	-45.22%	118.84%

[5] For this **year**, there was **hardly any** tourism **activity** due to the events that occurred in this **year**.

Figure 8. Monthly Tourist Arrivals



Since 22nd March, 2020 our borders have been closed to tourists and this has had a catastrophic effect on our economy. Tourism is the one part of our twin-pillars upon which the majority of the economy is sustained. Based on projections of loss in tourism revenue due to the pandemic, the potential overall loss to the economy in 2020 could be within the range $360 to $450 million. In 2020, Central Government was forecasted to lose revenue from tourism[6] in the range of $17 to $23 million. In the same year, revenue losses (within the economy) from tourist (cruisers[7] and overnighters[8]) spending in the Territory could range from $330 to $430 million, if this pandemic continues or worsens. Further, overall tourism revenue losses in 2021, were projected to range from $340 to $430 million. The impact of revenue losses from tourism on the economy is very visible in the numbers of unemployed persons, closure of businesses, increasing requests for support of the Family Support Network (FSN) and similar services, and the increase in petty crime. As the pandemic continues, the impact exacerbates and the multiplier effects worsen. In terms of the Government, the revenue loss from tourism has already impacted the sustainability of operations of the BVI Ports Authority (BVIPA) and the BVI Airport Authority (BVIAA), with some layoffs necessary, and without some injection of liquidity soon, the Central Government will have to heavily subsidise these entities. While currently, Central Government's operations have not been significantly

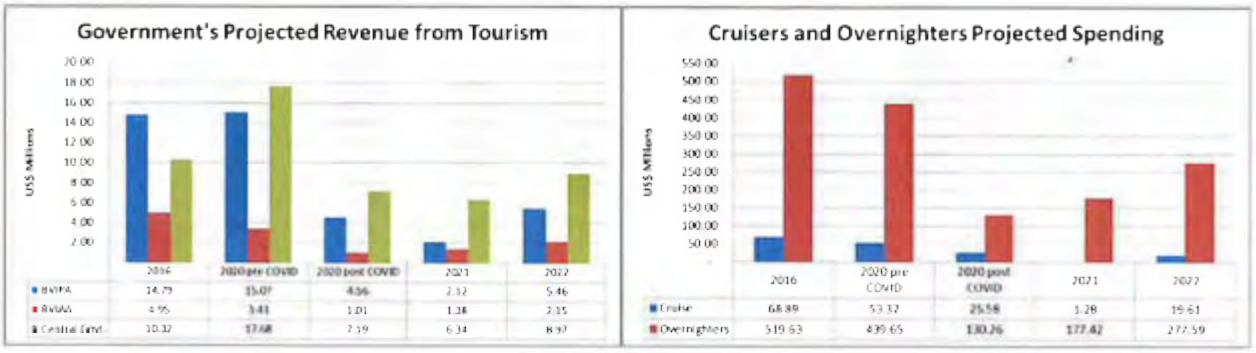
[6] BVIAA revenue refers to departure taxes from overnighters arriving by airline and private; BVIPA revenue refers to cruise head taxes, and passenger taxes from overnighters - private/charter boat, ferry boat; and Central Govt. revenue refers to the following from overnighters – hotel accommodation taxes, environmental levy, import duties, VISAR fees, National Parks Fees, and cruising permit fees.

[7] Cruisers refers to revenue generated from cruise-ship tourists spending on taxis, tours, souvenirs, restaurants, shopping, and other goods and services.

[8] Overnighters refers to revenue generated from overnight tourists spending on accommodations, food & beverage, gratuity/tip/service charges, taxi, car rental, tour/attractions, culture, sporting activities, entertainment, jewelry, perfumes, clothing, tobacco, liquor, souvenirs, phone/internet, and other goods and services.

impacted with the lingering of the economic effects of the pandemic, there may be no escape from this eventuality. Although revenue is just part of the GDP calculation, in dollar value, a massive reduction in revenue with elevated levels of expenditure across the economy will result in its contraction. The main objective of the release of the economic stimulus package by the Government was to curb the pace of the contraction. The effectiveness of this stimulus will be determined by monitoring and evaluating the various programmes implemented under the package.

Figure 9. Government's Tourism Revenue Projections, and Cruisers and Overnighters Projected Spending, 2016 and 2020 – 2022



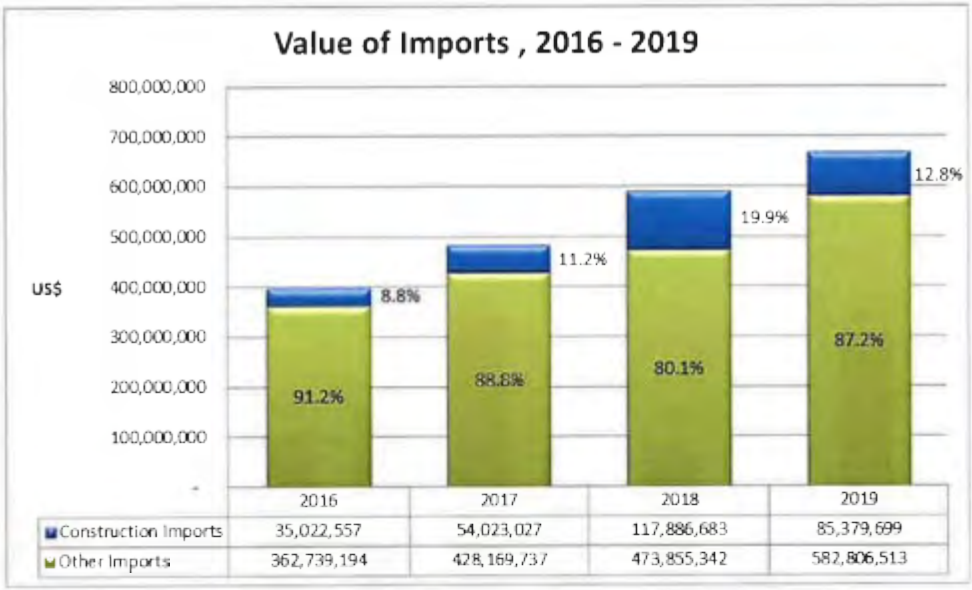
Despite the injection of liquidity into the economy through the $62.43 million economic stimulus package, this will not be enough to reverse the negative economic growth trend. Therefore, the Government decided to re-open the borders in December, in anticipation that demand for our unique tourism product would reignite much needed activity in this industry. However, to support this move, tourism stakeholders have to be very creative and innovative with their services and handling of the protocols for operating, in the context of social distancing requirements and mandatory face coverings. The outcomes from re-opening would have to be continuously and closely monitored and evaluated, and projections reviewed and revised, if necessary.

Construction

Due to continued repair and/or restoration works on many businesses and homes across the Territory, even three years after the 2017 events, construction continues to play a major economic role in the Territory's economy. Construction activity is being measured by the level of construction and related imports. As shown in **Figure 10** on the next page, 2018 provided an exceptional economic boost through construction after the settlement of the majority of insurance claims were finalised. There was a massive 118.2% growth in construction and related imports in 2018 from 2017, attaining an all-time high value of $117.89 million. However, this level of activity, as expected, recorded a negative growth of 27.6% in 2019, falling from the high in 2018 to $85.38 million. This decline is fully justified as a substantial number of

persons and businesses had completed rebuilding or repairing their properties by 2019. However, these levels are still more than double that recorded in 2016, prior to the 2017 events.

Figure 10. Value of Imports

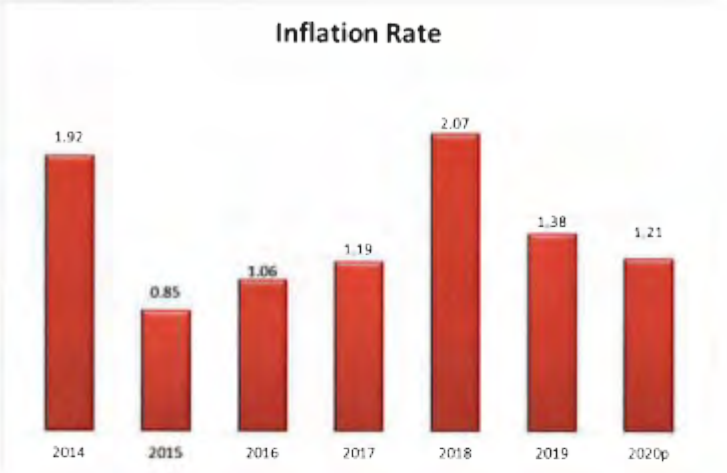


By the end of 2019, total imports of all goods into the Territory surpassed $600 million. This level of imports provided not only a clear indication of our heavy reliance on external economies for our consumption needs, but also highlighted the increased level of rehabilitation and restoration works undertaken in the Territory. However, it is anticipated that the declining trend in construction and related imports from 2018 to 2019 would have continued into 2020 as it relates to rehabilitation and restoration because the majority of the commercial and residential buildings that were damaged have been rebuilt or repaired. Notwithstanding this expected decline in construction activity from restoration driven projects, a substantial capital injection was anticipated from large development projects spearheaded by resorts, marinas, and hotels. Development agreements for a number of corporations were already approved and others were being considered for approval which would have substantially expanded the Territory's overall stock of rooms for visitors, and provide more employment for the people of the Territory. Most of these projects were 3-5 years in duration, and were projected to require large volumes of imports of construction and related goods. However, the pandemic has delayed the progress of these projects in 2020, and based on the current global outlook of the impact and influence of this pandemic on economies, this will further impact the progress of these projects into 2021. As with all sectors of the economy, we will have to closely monitor the continued impact of the pandemic on construction by examining construction imports.

Inflation

Maintaining a low, stable rate of inflation is one of the economic targets for the country. However, because the United States of America (USA) is our major source of goods, this target is heavily externally influenced. Despite this lack of internal control on the prices of goods, the Territory has regularly recorded annual inflation rates below 3.0%.

Figure 11. Inflation Rate, 2014 - 2020[9]



In 2019, the rate of inflation dropped to 1.4% from 2.1% in 2018 (See **Figure 11**). This significant decline in inflation from 2018 was driven by declines in prices of alcoholic beverages, clothing and footwear, and furniture and household equipment. Without evidence to support a lower consumption of alcohol, it can only reasonably be deduced that cheaper options were available for consumption in 2019 from 2018. The decline in the last two categories (clothing and footwear, and furniture and household equipment) were more than likely attributable to increased online shopping activity. Shipping agents, armed with more sophisticated mechanisms and collaborations with agents in the USA, were able to offer more options to obtain packages from online shopping activity. This appeared to be the primary reason for the decline in prices throughout the year in clothing and footwear and household equipment.

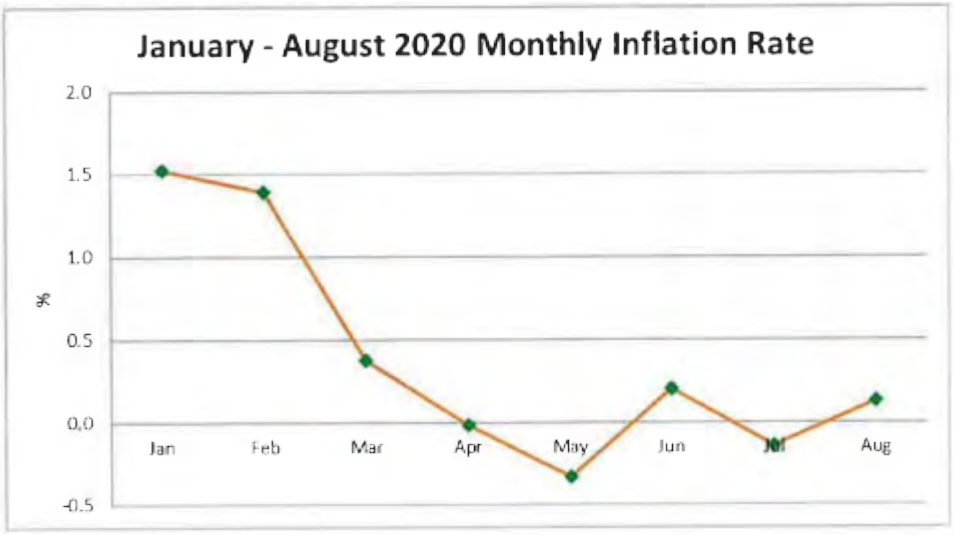
The impact of the COVID-19 pandemic can be seen in the fluctuations in the monthly prices, as shown in **Figure 12**. The housing and utilities (29.8%), transportation (12.8%), and food and beverages (16.1%) categories hold a combined weight of about 59.0% in the Consumer Price Index (CPI) basket. Therefore, any declines in any of these categories will have a significant impact on the overall inflation rate. In March and April 2020, the reduced demand for crude oil and petroleum products (because of responses to COVID-19) led to a sharp increase in global crude oil inventories and, consequently, a sharp reduction in the average price of fuel (gasoline and diesel). The price of fuel is a key determining factor in the prices for transportation and electricity, and indirectly, the prices of other goods. With our economy being

[9] This rate is a projection based on historical trend and monthly inflation rates up to August 2020.

service provider based, not goods producing, a sharp decline in the price of fuel should result is a corresponding drastic decline in overall prices.

The closure of our borders, along with the periods of restrictive curfews and lockdown of our domestic economy, has also impacted the falling trend in prices, with increases in June and August reflecting the re-opening of our domestic economy. The inflation rate at the end of August stood at 0.1%, and it is projected that the inflation rate at the end of the year will continue to be less than 1.0%.

Figure 12. 2020 Inflation Rates



With the planned re-opening of the borders in December, it is anticipated that this would result in a slow but upward trend in the prices of goods and services due to increased demand for goods. However, because our economy is so heavily dependent on the importation of goods, the trend of prices in the USA and the rest of the world will have a substantial influence on the direction of these prices. We will continue to closely monitor the movement of prices monthly in 2021, but we anticipate to see at least an inflation rate above 1.0% in 2021. The final inflation rate in 2021 will be largely determined by the level of restrictions the USA (our main trading partner in goods) places on exports to the Caribbean region.

Employment

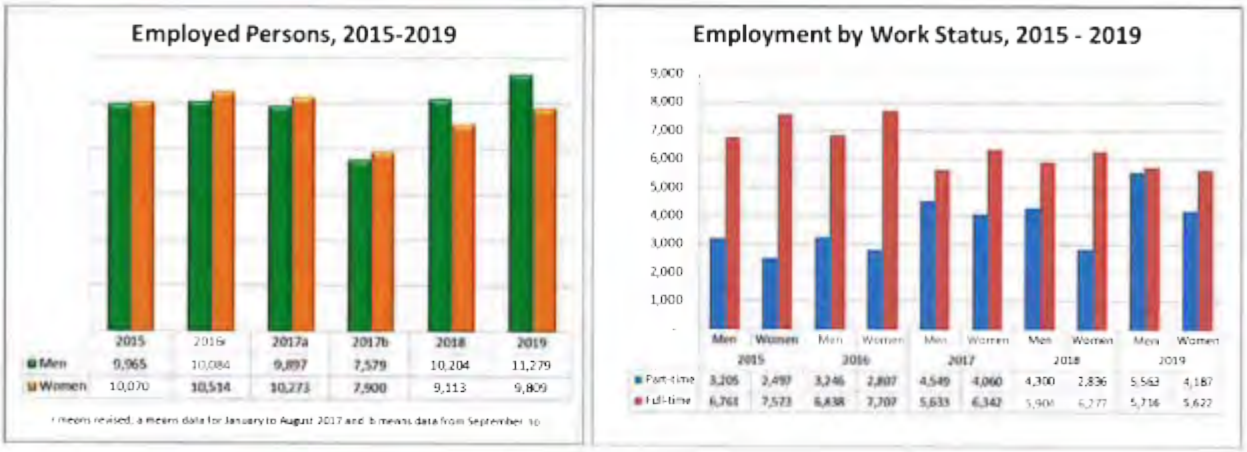
An obvious expected outcome from the massive recovery works ongoing since the 2017 events was substantial annual increases in employment. By the end of 2018, the number of employees reached 19,317 and by the end of 2019, 21,088, were employed in the Territory, up 9.2% from 2018 (See **Figure 13**). The number of persons employed in 2019 was the highest ever recorded in the Territory. Prior to the advent of the global pandemic, several major development agreements for resorts and hotels were about to be approved or were already approved in late 2019 and early 2020, which would have further spiked our

annual employment. However, instead employment levels under the COVID-19 pandemic veered in an entirely different direction.

Performance Pre-COVID-19 Pandemic

The number of men employed in 2019 grew by 10.5% from 2018, which was the highest ever increase recorded for men. Employed women rose by 7.6% over 2018; although not the highest single-year increase recorded, it is nonetheless substantial growth for this group.

Figure 13. Employed Persons by Gender and Work Status



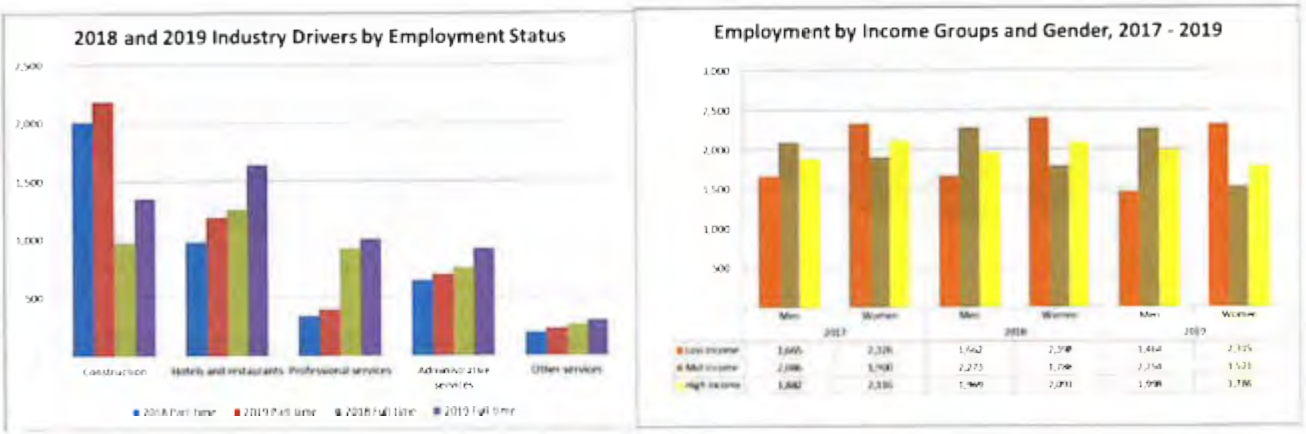
In further analysing the increase in employment, persons employed by work status[10] (part-time or full-time) was examined. When compared with 2018, for 2019 there was a 29.4% growth in men employed part-time and a significant 47.6% in women employed part-time. With this substantial shift in work status, there were negative growth rates of 3.2% and 10.4% recorded for men and women, respectively, employed full-time. **Figure 12** further demonstrates the trends discussed. Although there was a substantial **growth in the number of employed men and women, there were more part-time workers than full-time** workers. This shift in trend speaks to the lingering negative economic impact on households from the 2017 catastrophic events.

This shift of the employed to more part-time employment further translated to a reduction in average earnings for men and women because with less weeks worked there is less earned. In 2019, total earnings grew by 5.8% to $554.89 million from 2018 ($524.57 million). The earnings of part-time workers were a 23.2% share of the total earnings above, moving from 14.6% in 2018. On the other hand, the earnings of full-time employees represented a 76.8% share, declining from 85.4% of total earnings in 2018. In addition, part-time earnings grew by 68.6% in 2018, while full time earnings contracted by 4.9%. This translates to the average earnings of men moving from $27,564 in 2018 to $26.911 in 2019, and that for women declining from $26,699 in 2018 to $25,626 in 2019 (see chart in **Appendix 3**). The decline in

[10] Work status is defined by the number of weeks worked, where 40 weeks or mre is considered full-time. Work status relates to a year.

women's average earnings from 2018 to 2019 seems to have translated to an increase in the number of women in the low-income group and a decline in the number in the middle-income group (**Figure 14**). To conclude, the increases in part-time employees in these industries: construction, hotels and restaurants, professional services, administrative services[11], and other services[12], are the drivers in the increases in the number of part-time employees from 2018 to 2019.

Figure 14. Employment by Industry Drivers and Employment Status and Full-time Employment by Income Groups[13] and Gender



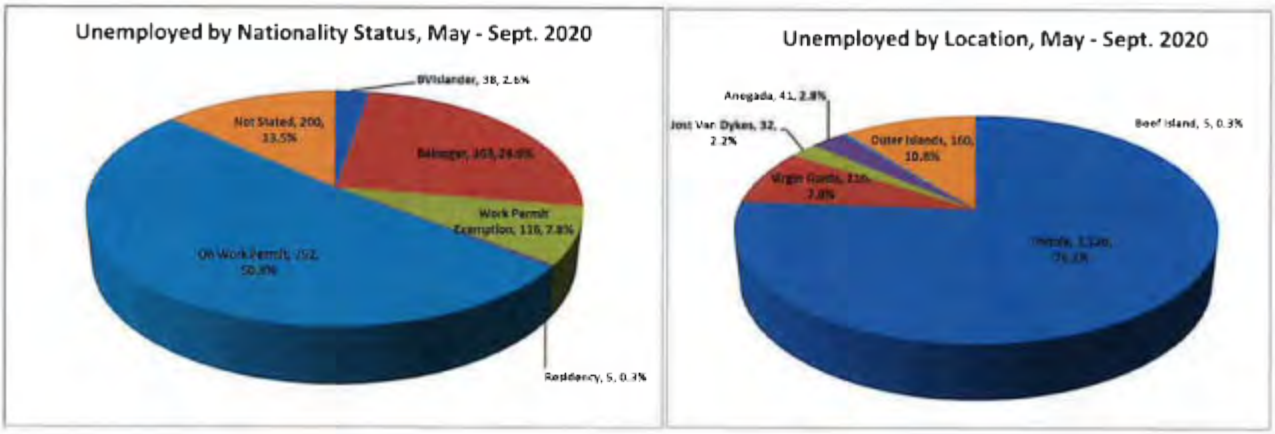
Impact of COVID-19 on Employment

From May 2020, the Department of Labour and Workforce Development has been collecting and collating data on employees and employers through a Business Workforce Assessment Data Survey. This data made it possible to place some numbers to the obvious impact on employment due to the closure of our borders, restrictive curfews, and the domestic lockdown of our economy at various points over the period March – September 2020. The survey covers the period May to September 2020, and the data is based on the responses from 1,290 businesses and 11,358 employees. Of the employees who responded over the period, 1,480 were unemployed.[14] A substantial 50.8% of the unemployed were on work permit, while 27.8% were BVIslanders, Belongers and Residency Card holders. The months of May and June saw the highest unemployment numbers, with 902 and 311 being recorded respectively. Hotels and restaurants (534), administrative services (charter boats) (438), construction (156), arts entertainment and sports (58), and other services (51) were the industries impacted the most. When the period July to September was compared with the period May to June in the data, lower numbers were recorded which could indicate that some persons had returned to work, returned to their home countries, or are still unemployed.

[11] Rental of boats, cars, tours, travel agents, and other administrative and support services.
[12] Hairdressers, spas, repair of computers and household equipment, and other similar services.
[13] The income ranges for these three income groups for each year is shown in Appendix 4
[14] Unemployed means the employees were laid off, released or they resigned.

However, because the data collected does not track the employees or the businesses, there is no data on the current employment status of the sample surveyed.

Figure 15. Unemployed by Nationality and Location



Of the 1,290 businesses that responded, 86.1% were still operating, while 13.5% were not, and 0.4% did not respond to this question. Of the employees of operating businesses, 33.3% were unemployed, 61.8% were retained (employed), and 4.9% didn't respond. When the data was divided by type of business, the large[15] businesses held a 55.9% (828) share of all unemployed, while the micro and small businesses combined had a 25.0% share (370) of the unemployed (1,480).

It is anticipated that with the reopening of our borders on 1st December, 2020 tourism activity will be awakened, and some of those persons directly and indirectly unemployed from related industries would be recalled, and that new opportunities for employment would be created. However, with so much uncertainty in the global market due to the pandemic, the direction that this activity will take is a guess. If the tourism related industries do not re-emerge soon, then a further aprroximately 1,300 of the persons employed nationwide in these industries will be affected. In addition, with tourism being the one part of our twin-pillar economy, and from which economic activity is spread across the entire economy, an indefinite period of little to no activity will have a catastrophic economic impact. The shock-case scenario under the '**Discussion of Fiscal Risks**' Section outlines the potential risk, and the possible level of impact to our macro-economic growth. It is imperative that the economy focuses on diversification through innovation to create strong industries and partnerships that are less reliant on tourism and financial services business evolving from the international markets. The required level of innovation can be realised through capacity building of our people and by harnessing their creative capacity. As a first step towards this process, the Premier's Office is pioneering, through a Trade Commission, an Innovation Lab which will provide an environment within which the people of the Territory can foster their creativity and many innovative products and services can emerge. Along with this first step in establishing an environment

[15] Micro means less than 7 employees, small means 7 – 10 employees, medium means 11 – 20, and large is 21 or more employees.

for innovation and creativity, the approvals of several large development agreements with resorts and hotels will require an injection of human capital which will be visible by elevated employment numbers. However, the impact of the global pandemic on all of these plans will have to be carefully monitored over the medium-term.

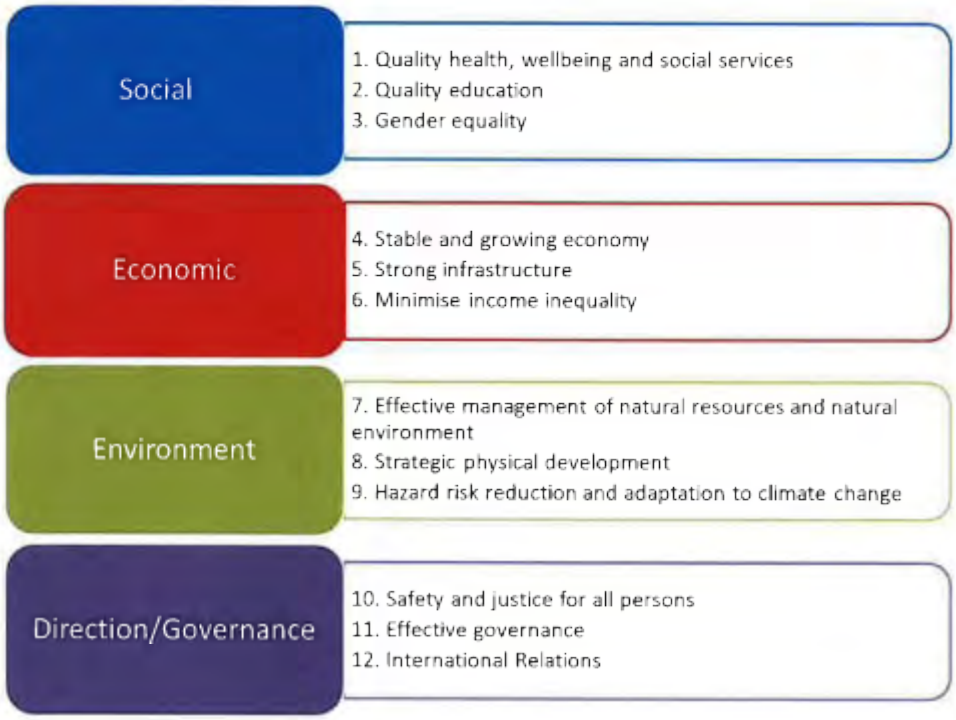
Conclusion

It is evident that our economic outlook will ride heavily on many risks. Our level of readiness is presented in this MFTP, along with our medium-term strategies set out the guiding framework for operating in the medium term. Some of the greatest challenges will be in the successful implementation of our revenue initiatives which seek to raise an additional $21.53 - $37.53 million in the medium term, in the implementation of efficiencies in spending, and in the management of a sustainable debt level that will allow us to remain in compliance with our fiscal rules. In addition to these concerns outlined, there are potential rising negative social activities that could add further pressure of our health and social structures. Lastly, if the pandemic continues into the short-term, the current outlook projected for the Territory would have to be revised to reflect the emerging changes and to recalculate the pertinent macro-economic indicators and statistics.

2. RECOVERY AND DEVELOPMENT STRATEGY

The Medium-term Development Strategy lays out key development strategies from the rolling budget cycle of 3 years into the medium-term. These strategies are then associated with our 12 development areas for where the impacts of the expenditures are intended to be felt. As 2020 has brought the COVID-19 pandemic, there has been a short-term pivot in direction due to the immediate needs of the pandemic. Moving forward, we are realigning our priorities to adjust to the "New Normal" over the medium-term so that we may continue with what is necessary for us as a Territory, on the road to sustainable development.

Our 12 result areas, as shown below, reflect the areas in which our policy decisions are linked at the higher level of the SEED framework. This framework has significant considerations for the 2030 Sustainable Development Goals, and also links harmoniously to other development frameworks, such as the Recovery and Development Plan and National Physical Development Plan.



Social: We are a healthy, vibrant and engaged populace, well-prepared to fully participate in the development of the Territory.



Our social dimension covers three areas: (i) Quality health, wellbeing and social services, (ii) Quality education, and (iii) Gender equality. 2020 has put a strain on the health systems all around the world, and the Virgin Islands are no exception. In preparing for the unknown in relation to the COVID-19 pandemic, the Government of the Virgin Islands (GoVI) made it an absolute priority to take care of the lives of all persons in the BVI by placing stringent precautionary measures in place, even before the arrival of any known cases. The procurement of medical equipment proved to be beneficial in the testing process. In April 2020, the Minister of Health introduced the Airmid application to track the symptoms and keep up-to-date with persons who were suspected to have contracted COVID-19 or were required to be in quarantine. To strengthen the health care in the Territory, the GoVI also saw it fit to acquire the assistance of qualified doctors from Cuba, who started to work in August 2020. This initiative would strengthen the existing man power at our health facilities in the fight against the global pandemic. The Cuban medical team commenced work in August 2020. With all measures and efforts that have been taken, there have been 70 recoveries to date from the virus and the minimising of both the spread of the virus and the number of deaths.

While managing the healthcare issues, the Ministry of Health also upheld the goal of clean, safe and healthy communities. This was done through the mandatory curfew restrictions as well as protocols for social distancing in public places, businesses and throughout the Territory. Ensuring that proper sanitary stations were constructed, as well as a "no mask, no service" protocol, has played a part in keeping the communities safe and reducing possible community spread.

While the GoVI had to put many safety restrictions in place, there has also been the need for an enhanced social protection system. During our initial 24 hour lockdown period back in March 2020, the Premier

stated that no one would go hungry on his watch and allocated two million dollars in resources to the Health Emergency Operations Centre. This money was earmarked for the purchase and delivery of food to residents in need. This initiative saw over 400 residents receiving assistance during the 24-hour lockdown period. This extra assistance did not only include food but also care packages, psycho-social support and various contacts for support. Equally important was the adjustment in execution of the waste management strategy to maintain clean and healthy communities.

The Ministry of Health and Social Development displayed its commitment to supporting our residents through increased capacity to manage mental disorders. This was done in collaboration with PAHO, and is expected to make an impact in various ways throughout the community. The Ministry of Health and Social Development also played a role in providing grants to the Complete Health Improvement Programme (CHIP) which teaches participants how to boost their health and lead healthier lifestyles. The promotion of a healthy lifestyle is key to supporting a healthy population.

The Ministry of Education, Culture, Youth Affairs, Fisheries and Agriculture (Ministry of Education) has pivoted equally to make the necessary adjustments to deal with the pandemic by transitioning the Trinity term of the 2019-2020 school year from in person tutoring to fully online. Considerations were also given to students who required assistance in various ways, which also included a loan programme that allowed parents to purchase laptops at a minimal fee. In working with internet providers, special provisions were also made so that households could afford the increase in demand for internet usage. Other events for engaging the youth also migrated to an online platform through the Department of Youth Affairs. The quick transition from offline to online proved to be effective for the continuation of the schools' agenda and the engagement of the young minds.

In the period just prior to outbreak of COVID-19, the Ministry of Education took initiatives created in the support of human skills development outside of the primary and secondary programmes. These would be identified by providing support to the H. Lavity Stoutt Community College (HLSCC) in areas, such as marine training and solar energy training. Also to be noted, pre-COVID-19 saw the advancement of six persons graduating from an EMT course through the partnership of HLSCC and the BVI Health Services Authority. The GoVI then signed an agreement with CARICOM to establish medical schools in the Territory that would make significant impact to human resource development in the Virgin Islands.

To further support rising social concerns within the current environment, the GoVI has remained committed to fair access to all benefits, treatment, and care across gender lines. Also, the Government has ensured that the needs of single parents are addressed. Furthermore, a stance was taken against the increase risk for domestic violence during the curfew and lockdown periods.

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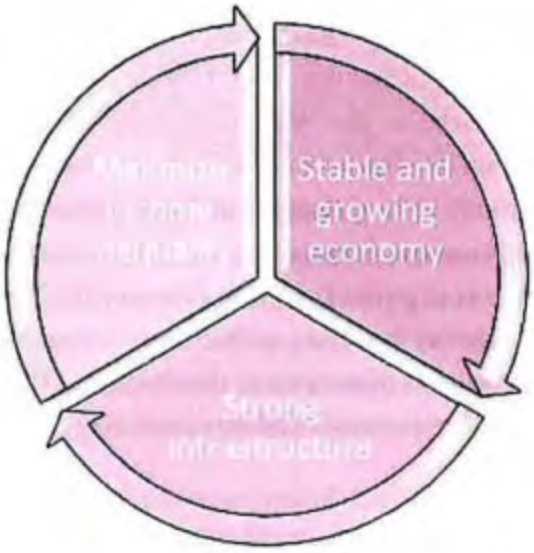
Economic: Our economy is thriving and buoyant, fostering growth through entrepreneurship and trade.



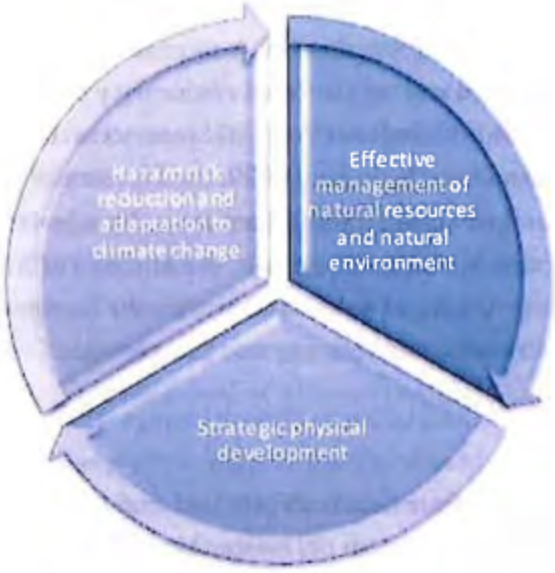
The GoVI remains committed to diversification of the economy so that there is value added in all related activities; providing support for growth and development in sectors that are developing; and raising the bar in areas where we already excel. These are at the core of the vision of the public service transformation noting the need for a green diversification and expansion of the economy, support for tourism, and injections into the agriculture and fisheries sectors. Though this year would not be counted as ideal, the GoVI has remained strong and persistent at the core to provide the support for the economy which has felt significant shocks specific to this COVID-19 era and moving forward into the "new normal".

The initial shocks to the economy were first felt directly in the tourism sector. The Territory-wide lockdowns and curfews have then forced the GoVI to provide support to businesses across the Territory. The main priorities have been to provide support to affected employees and businesses, with the intention of minimising the risk of increased unemployment, as that would further increase the risk of social ills. The response of the Government would also allow for continued local spending, keeping the circulation of funds within the economy. In March 2020, there was a brief suspension of water charges, and an amnesty at the BVI Electricity Corporation, which allowed persons in hardship to apply for benefits regarding to their utility services. In relation to injections for economic response, the GoVI allocated $62.43 million for the phase 2 response plan. The areas for distribution were: unemployment relief support; grants to businesses affected by COVID-19; Hotel and Accommodation Quarantine Stimulus; support to daycares, private schools and religious organisations; food production; traffic transformation and transportation; social needs; National Health Insurance; housing repairs assistance and construction; and a special COVID-19 allocation through the House of Assembly elected representatives. There was also an injection by the Minister of Education, Culture, Youth Affairs, Fisheries and Agriculture of $2 million to provide assistance to farmers and fisher folks. Furthermore, in partnership with the United Nations

Development Program (UNDP), the GoVI provided financial assistance of $40,000 to 10 businesses: restaurants and food vendors.

Prior to the COVID-19 disruption, the GoVI had begun the implementation of upgrades to ports facilities to provide better service to persons coming in and out of the Territory. With the recent introduction of Customer Service Touch Terminals placed at the Waterfront Jetty and the Terrance B. Lettsome International Airport, data collection and feedback from the Deputy Governor's Office showed positive customer satisfaction, with approximately 75% of respondents been satisfied with the experience. This technology will provide necessary information, in real time, to continue to enhance this service. It is the intention to have more of the terminals at all ports of entry. In February 2020, at the Terrance B Lettsome International Airport, the Airport Authority launched an In-Transit lounge with the aim of providing better security and transit accommodation of passengers to the average 200 daily in-transit passengers traveling through the Virgin Islands. This was noted to be beneficial as the airport would have over 200 in-transit passengers daily.

As these result areas from the SEED framework are not just independent, but interdependent, the multiplier effects of these initiatives are evident in the results that they produce. In March 2020 when the effects of pandemic hit the Territory, the hardest hit sector was tourism, but as the months progressed virtually all sectors were impacted by reduced hours and unemployment. This further increased our income inequality issues. To curtail this rising issue, unemployment assistance was provided to employees and businesses to help buffer the effects of the temporary COVID-19 lockdown environment. Other beneficial programmes that have assisted in minimising this issue were the electricity amnesty, suspension of water charges, and the provision and delivery of food.



This year, the GoVI has placed significant importance, in the form of financial resources, to the development and promotion of a sustainable fisheries sector, as well as increasing the productivity of the agricultural sector. The ongoing health pandemic is pushing us to revisit and redefine our approach toward food security. During the periods of lockdown and curfew, our farmers and fisher folk have been able to continue to cultivate from our natural resources as a means of providing some of our food need. To strengthen that sector, farmers and fisher folks were guaranteed support and assistance. In March 2020, there was the launch of the Rapid Response Fishing and Farming Production Programme to assist fisher folk and residents engaged in farming. Besides the established famers and fisher folks, the Department of Agriculture and Fisheries is encouraging more households to get involved in backyard gardening.

Natural resource preservation is vital for sustainable development and ensuring that we are leaving our environment in a better state for future generations should be our goal. Our National Parks Trust was acknowledged, in January 2020, for its work in preserving and managing 21 national parks. The Trust was also awarded, in Hong Kong, for work related to species recovery, reforestation, environmental education and outreach, and biodiversity conservation and historical preservation.

In our drive to capitalise on our natural environment, the GoVI also received useful data from the UK Overseas Territories Seabed Mapping Programme. This information will be used to inform the study on the Blue Economy and will be utilised between the Ministry of Natural Resources, Labour and Immigration, Departments of Survey, Town and Country Planning, and the Environmental Unit. The Ministry of Natural Resources also received data and training in the use of satellite imagery and geographic

information systems software to improve environmental monitoring capabilities under the Mapping for Evidence-based Policy, Recovery and Environmental Resilience partnership.

Strategic physical development and the "built environment" forms part of our sustainable development plan. The GoVI is committed to the promotion alternative sources of energy, providing a greener and cleaner city, and improving the standard and regulation of engineering practices in the BVI. The Office of the City Manager has overseen the installation of over 100 palm trees throughout Road Town, while making Road Town more pedestrian friendly. In June 2020, the Ministry of Transportation Works and Utilities completed testing and launched a historic traffic turn around to allow for more free flowing traffic in our capital. While there is an ease in traffic congestion, the Ministry of Transportation , Works and Utilities also implemented a free city "Park and Ride" Shuttle initiative for those who may wish to park at designated locations and make their way around the city using this service.

Concerning hazard risk reduction and adaptation to climate change, the GoVI has been equipped and upgraded with monitoring systems. In March of 2020, in light of the spread of COVID-19, the Governor activated the National Emergency Operations Centre (NEOC) at Level 1. The centre is comprised of high-level public officials, supported by the Department of Disaster Management to ensure that information is shared timely, activate a sectoral plan, identify relevant resources, and intensify all readiness action plans to help the Territory to be prepared to deal with national emergencies such as COVID-19. In addition to their involvement with the pandemic, the Department of Disaster Management continued to keep the public abreast by issuing early warnings and preparation tips for the hurricane season.

Direction/Governance: We are governed transparently, ensuring the safety, security and cohesion of our populace.



With the global spread of COVID-19 the GoVI worked to protect our borders and ensure the safety of all persons, residents and visitors alike. First was the halting of cruise passenger arrivals to the Virgin Islands in March 2020. Shortly after was the first instance of the 24-hour lockdown, having confirmed the first case of COVID-19. Over the following months there was a series of strengthening and relaxing curfew restrictions, subject to the situation at the time. Time restrictions as well as the measures for social distancing and sanitization, as advised by the NEOC, have all worked to keep the risk of community spread very low. Both air and sea borders were also closed to in-coming passengers, to manage the risk of imported cases. With a gradual opening of the airport in June 2020, Virgin Islanders and Belongers were allowed to return, in the first instance. These periods of slow activity allowed for the proper systems to be put in place for the phased re-opening of the economy. The GoVI also saw it necessary to ramp up the border protection at sea by combining officers from Customs and Immigration Departments to prevent illegal entry.

Good governance, transparency and accountability are ideal goals to promote the integrity of the public service. The GoVI is committed to staying within the Protocols for Effective Financial Management, and also to remain responsible for the development of the Territory. The GoVI also sees the need to move towards producing a National Sustainable Development Plan in partnership with various stakeholders, and the consideration for the 2050 Sustainable Development Goals would be incorporated. This will provide the necessary road map, over a longer period, for where the Territory should be heading. .

Within the plan for this year, the GoVI was steadily progressing towards enhanced technology, e-Government services and the digital economy. The onset of the COVID-19 measures, from one

perspective, could be viewed as having accelerated this process. Given the need to continue operations, the Government had to take a quick pivot to the online space. This created advances in utilising technology and other innovative methods to carry out the daily operations, including online applications and processing at the Town and Country Planning Department, the new Customer Service eCare Centre, new appointment system at the Department of Motor Vehicles, and Civil Registry and Passport services being offered online.

The Government of the Virgin Islands maintains integrity when it comes to international relations. This is in the form of the modern partnership relationship with the United Kingdom, as well as, continuous engagement with our CARICOM and OECS community.

On a wider scale internationally, the GoVI continues to maintain our reputation in the international finance arena. The International Tax Authority, in March 2020, released information with respect to economic substance, and went live in June 2020 with the integration into the Beneficial Ownership Secure Search System "BOSSs".

3. FISCAL REVIEW

Recurrent Revenue

As shown in **Table 1** below, recurrent revenue for 2019 was estimated at $364.24 million, negative $23.65 million (-6.1%) below 2018 receipts, and $2.41 million (0.7%) above the approved budget. The slight above budget performance was assumed to be due to the increase on Income/Payroll taxes, Taxes on Goods and Services, specifically hotel accommodation tax and cruising permits, and the increase on Taxes on International Trade. Payroll tax increased by an estimated $4.37 million (8.7%) over 2018 receipts, while cruising permits increased by an estimated $1.61 million (36.3%). However, it was an estimated $21.67 million (-8.6%) decrease in taxes on goods and services that may have resulted in the decrease reflected in comparison to 2018 receipts.

Usually, it is the Financial Services Commission (FSC) Revenue that largely contributes to our increased performance in comparison to the both the approved budget and the prior year performance. However, it had already been projected that there would have been a decline in that revenue stream driven by factors including the economic substance requirement implemented in 2019 for both new and existing incorporations and the approaching 2023 deadline regarding the Publicly Accessible Register of Beneficial Ownership. Though still contributing to 53.6% of total recurrent revenue receipts, FSC Revenue came in at $20.30 million (-9.3%) below the 2019 approved budget and 26.14 million (11.6%) below 2018 receipts, thus largely contributing to the overall reduction in 2019 revenue.

Table 1. Annual Revenue 2020

Annual Revenue 2020	Original Budget	Preliminary Actual 2020	Estimated 2019	Budget Variance $	Budget Variance %	Prior Year Variance $	Prior Year Variance %
TAX REVENUE	**340.87**	**288.51**	**343.47**	**(52.37)**	**-15.4%**	**(54.96)**	**-16.0%**
Income/Payroll Tax	52.36	47.29	54.78	(5.07)	-9.7%	(7.49)	-13.7%
Property Tax	2.90	2.83	3.04	(0.07)	-2.4%	(0.21)	-7.0%
Taxes on Goods and Services	224.72	190.92	229.67	(33.80)	-15.0%	(38.75)	-16.9%
FSC Revenue	*195.41*	*168.92*	198.73	*(26.49)*	*-13.6%*	*(29.81)*	*-15.0%*
Taxes on International Trade	49.90	40.04	51.35	(9.87)	-19.8%	(11.32)	-22.0%
Other Taxes	11.00	7.43	4.62	(3.57)	-32.4%	2.81	60.7%
GRANTS	**5.00**	**40.13**	**1.21**	**35.13**	**702.5%**	**38.92**	**3215.6%**
OTHER REVENUE	**16.51**	**11.40**	**19.56**	**(5.12)**	**-31.0%**	**(8.16)**	**-41.7%**
TOTAL RECURRENT REVENUE	**362.39**	**340.03**	**364.24**	**(22.36)**	**-6.2%**	**(24.21)**	**-6.6%**

As of September 2020, overall recurrent revenue was estimated at $247.15[16] million. It is projected that by the end of 2020, there will be a decline in revenue due to a number of different factors. FSC Revenue continues to decrease since the implementation of economic substance in 2019. However, declines across other revenue streams would largely be connected to the ongoing effects of the COVID-19 pandemic.

[16] The revenue as at **September** 2020 **represented** about 95% of our revenue **base,** and is **subject** to change.

Since March 2020, the Territory has had to close its borders to non-nationals. This closure has largely affected our tourism industry and would have caused declines in revenue streams such as, hotel accommodation tax, cruising permits, and tourist arrival levy. Other revenue streams that may have been impacted by declines include, payroll tax due to layoffs and reduced working hours as a result of border closures and various lockdowns and curfews from March 2020 to present and import duties due to a slowed down economy. In an effort to cushion the shock to our economy, in July 2020 the GoVI received a grant from the Social Security Board in the amount of forty million dollars, to allocate towards 'Phase Two' of the implemented Economic Stimulus Package. Without this cash injection, revenue would be estimated to come in at about $300.03 million.

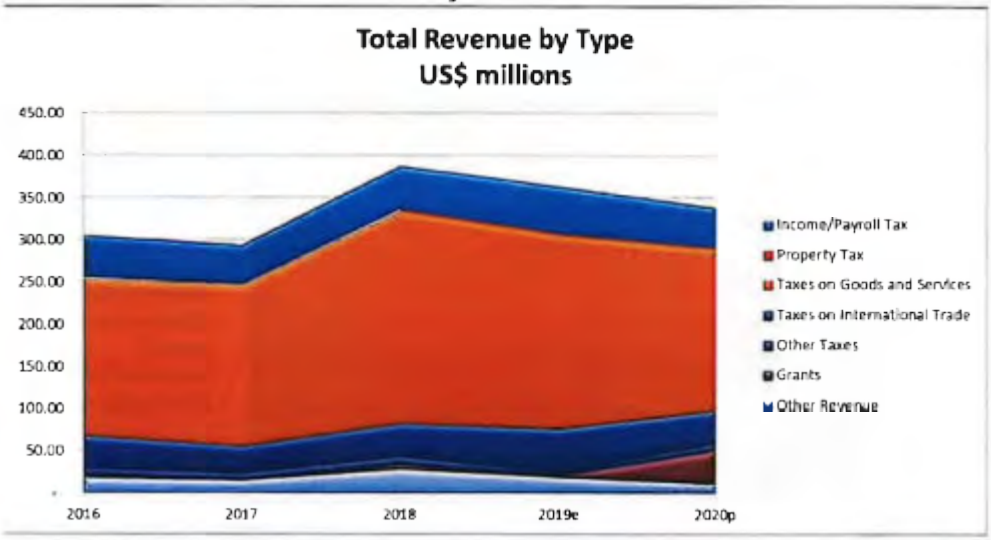
The decrease under Taxes on International Trade for 2020 can be assumed to stem mainly from the slowing down of the importation non-alcoholic goods. However, this decline could also be linked to the ongoing COVID-19 pandemic since the as the importation of cargo has also slowed down due to business closures and/or reduced business operations resulting from both border closures and various implemented curfews.

Though rehabilitation and recovery is still ongoing and is expected to continue through the medium-term, revenue streams relating to such have already begun to see a decline as the focus of the recovery is assumed to have shifted from being private sector driven to being led by public sector.

Overall revenue in 2020 is expected to come in at 6.2% below its budget expectations ($362.39 million) and 6.6% below 2019 revenue receipts, consistent with the trend within the financial services sector coupled with the economic shock suffered from the effects of the ongoing pandemic.

Our tentative re-opening date is scheduled for 1st December 2020, thus we do not expect to see any drastic improvement in our revenue streams as it relates to tourism, this year.

Figure 16. Total Annual Revenue, 2016-2020p



Recurrent Expenditure

Overall recurrent expenditure for 2019 was estimated at $293.45 million, $37.74 million under-budget, representing a 11.4% budget variance.

Table 2. Annual Expenditure 2020

Annual Expenditure 2020	Original Budget	Preliminary Actual 2020	Estimated 2019	Budget Variance $	Budget Variance %	Prior Year Variance $	Prior Year Variance %
RECURRENT EXPENDITURE	**327.29**	**377.05**	**293.45**	**49.76**	**15.2%**	**83.60**	**28.5%**
Employee Compensation	124.40	115.70	116.52	(8.70)	-7.0%	(0.82)	-0.7%
Goods and Services	78.00	132.72	62.26	54.72	70.2%	70.46	113.2%
Interest	7.08	6.33	5.98	(0.75)	-10.6%	0.35	5.8%
Transfers and Subsidies	100.30	103.96	98.25	3.66	3.6%	5.71	5.8%
Other Expenses	17.52	18.34	10.45	0.83	4.7%	7.89	75.6%
CAPITAL EXPENDITURE	**65.96**	**38.19**	**29.43**	**(27.77)**	**-42.1%**	**8.76**	**29.8%**
TOTAL EXPENDITURE	**393.25**	**415.24**	**322.88**	**21.99**	**5.6%**	**92.36**	**28.6%**

Total expenditure in 2019 was estimated to be significantly lower in comparison to 2018 ($345.08 million) because the funds transferred by GoVI to the National Bank of the Virgin Islands for the implementation of the National Housing Programme and to the Recovery and Development Agency (RDA) for the implementation of projects under the Recovery to Development Plan (RDP) were implemented in 2018, and were not part of 2019.

Recurrent expenditure for 2020 is expected to come in at 15.2% ($49.76 million) over approved budget expectations at $377.05 million from a budget of $327.29 million. This would be largely due to approximately $63.43 million being spent on COVID-19 prevention, the governmental burden of having to deal with said pandemic. Without said prevention expenditure, 2020's overall recurrent expenditure was projected to come in at $313.60 million, $13.69 million **below** budget but still $20.15 million above 2019 recurrent expenditure.

*Figure 17. Recurrent **Expenditure, 2016-2020p***

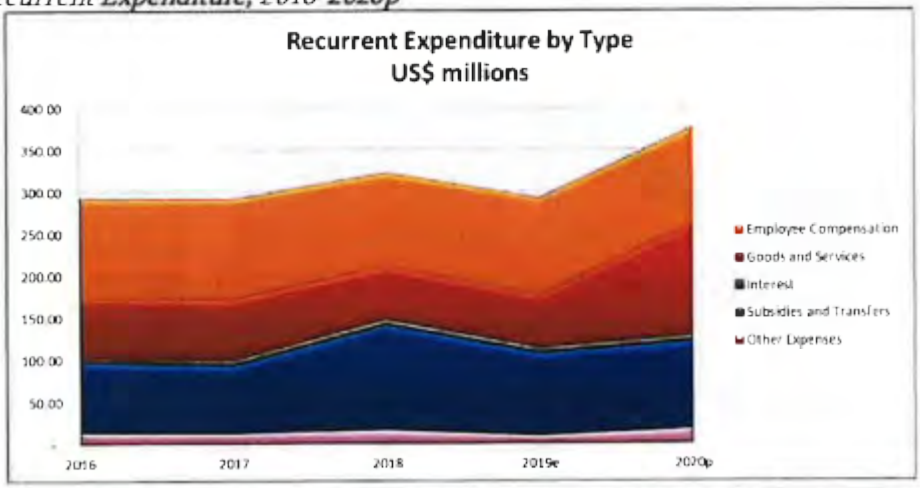
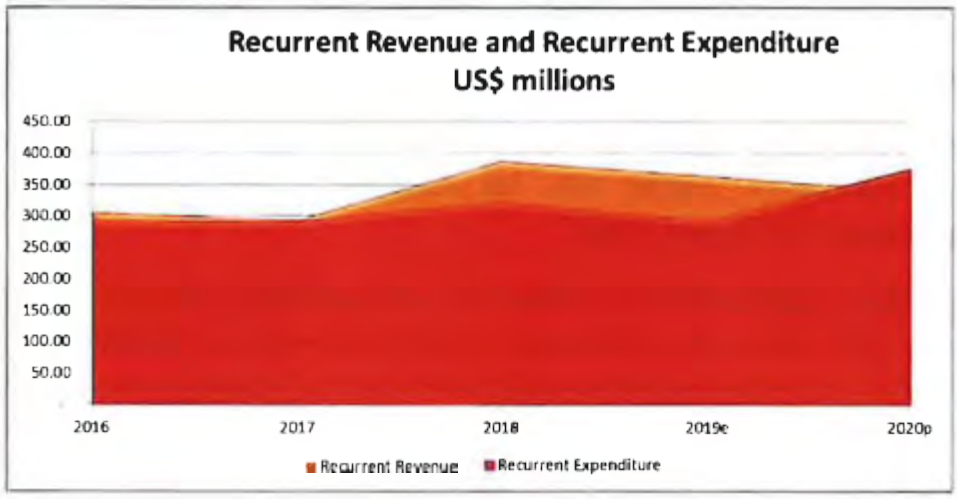


Figure 18. Recurrent Revenue and Expenditure, 2016-2020p



Capital Expenditure

Capital expenditure for 2019 was budgeted at $75.37 million, but it came in at $25.68 million for Central Government and $3.75 million for RDA, towards the end of the year. This was mainly due to the reprioritisation of projects in the Capital Investment Programme (CIP) and the RDP, when the Government changed in February 2019. Consequently, there was a delay in proposal submissions, thus setting back the tender process for most projects slated for 2019. A revised RDP (rRDP) was approved by House of Assembly in 2019.

Capital expenditure for 2020 was budgeted at $65.96 million but has been projected to come in at $35.53 million for Central Government and $2.66 million for RDA, by the end of the year. This is mainly due to factors, such as the temporary interruptions to tender processes, negotiations, and construction works, brought on by GoVI's response to the COVID-19 pandemic. This shift in response was necessary to mitigate the further spread of the virus in the community. The above mentioned mitigation measure, along with a full closure of the borders, as well and various country-wide lockdowns and curfews, impacted negatively on the construction sector, thereby impeding progress on the delivery of the CIP.

The RDA was expected to complete $41.69[17] million in projects in 2020, but based on their August 2020 monthly report, only $9.36 million in works, including $2.20 million in CDB RRL projects, was completed which can also be attributed to the effects of the pandemic. With the RDA and Central Government working together, we would expect to see continued roll-out of capital projects in medium-term. The balance on the CDB Rehabilitation and Reconstruction Loan (RRL) ($33.92 million), which was secured

[17] Taken from 2020 **Budget Allocation**, Caribbean **Development** Bank **(RDA Component)** – Project **Expenditure** as at 17 **July** 2020.

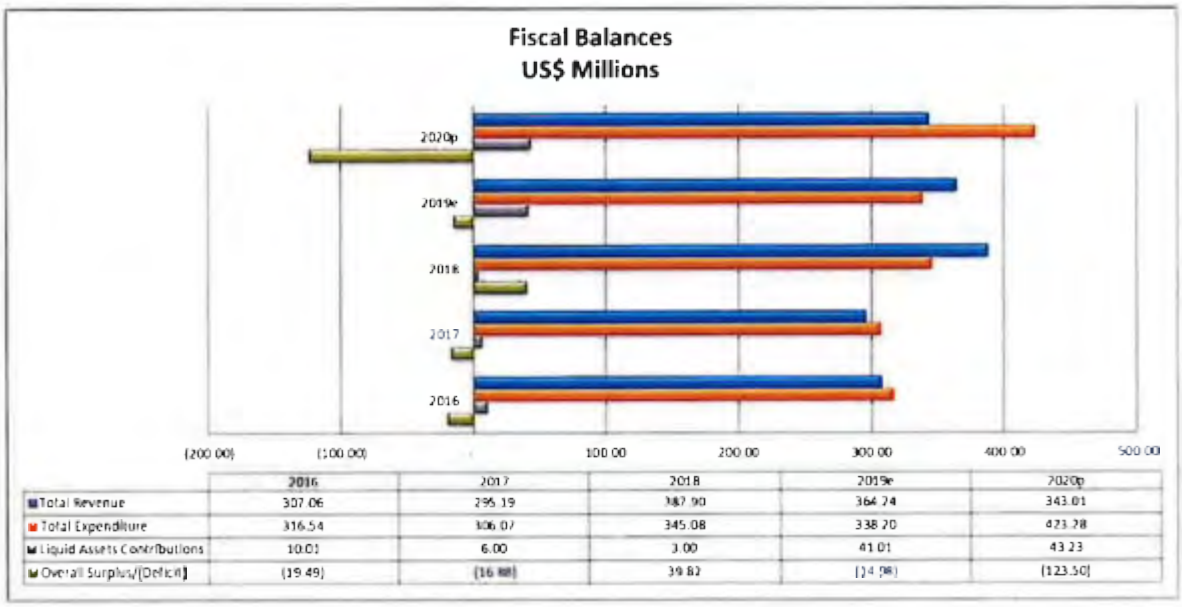
to fund recovery and development projects after the passage of Hurricane Irma is expected to be fully disbursed by December 2022.

Fiscal Balance

As at the end of 2019, there was an overall deficit of $14.98 million. This can be attributed to an increase in recurrent expenditure, coupled with the forty-one million dollars contributed to the Reserve/Contingency Fund (Liquid Assets).

Based on preliminary figures as shown in **Figure 19**, a recurrent deficit of ($88.31) million is projected to be recorded for 2020, with under-performing revenues coupled with over-expenditure. Even though, the capital expenditure is projected to be substantially below budget expectations at a projected $38.19 million, the estimated overall deficit would be attributed to performances of revenue and expenditure.

Figure 19. Fiscal Balances, 2016-2020p



	2016	2017	2018	2019e	2020p
Total Revenue	307.06	295.19	387.90	364.24	343.01
Total Expenditure	316.54	306.07	345.08	338.20	423.28
Liquid Assets Contributions	10.01	6.00	3.00	41.01	43.23
Overall Surplus/(Deficit)	(19.49)	(16.88)	39.82	(14.98)	(123.50)

Debt

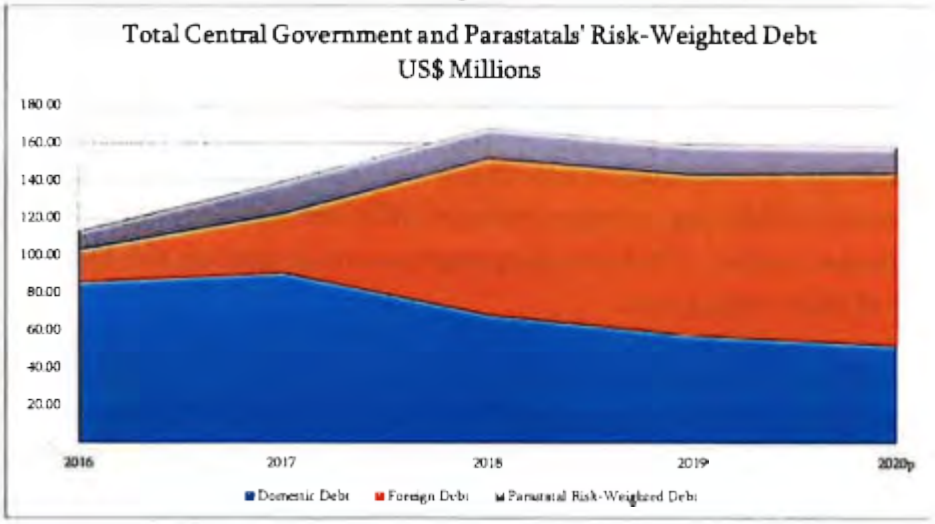
By the end of 2019, total public sector debt stood at $215.79 million (16.6% of GDP), of which $143.61 million (66.5%) was Central Government debt and $72.18 million (33.5%) was parastatals guaranteed debt. Central Government debt comprised of $57.42 million (40.0%) of domestic debt and the remaining $86.19 million (60.0%) was external debt, by the end of the year. Parastatals guaranteed debt of $72.18 million solely fell under domestic debt as of April 2019, when the Student Loan Scheme V from CDB was reclassified from under parastatals debt to under Central Government debt. A total of $4.58 million was disbursed in 2019, all of which was in public sector external debt. This disbursement total in 2019 comprised the remaining balance $0.40 million and $0.63 million on the Caribbean Development Bank's

(CDB) Immediate Response Loans (IRLs) and Student Loan Scheme VI respectively, $2.70 million on the CDB Disaster Infrastructure Loan, and $0.86 million on the RRL.

In 2020, total public sector debt is expected to reach $215.73 million with $149.11 million in Central Government debt and $66.63 million in parastatal debt. By the end of the year, a total $15.11 million is anticipated to be disbursed on CDB loans. General Government debt which is defined as the total of Central Government debt and risk weighted parastatal debt is expected to be around $162.43 million by the end of 2020, with $13.33 million in risk weighted[18] parastatal debt.

Figure 20 depicts the distribution of domestic and foreign Central Government debt, and risk weighted parastatals debt over the period 2016 to 2020.

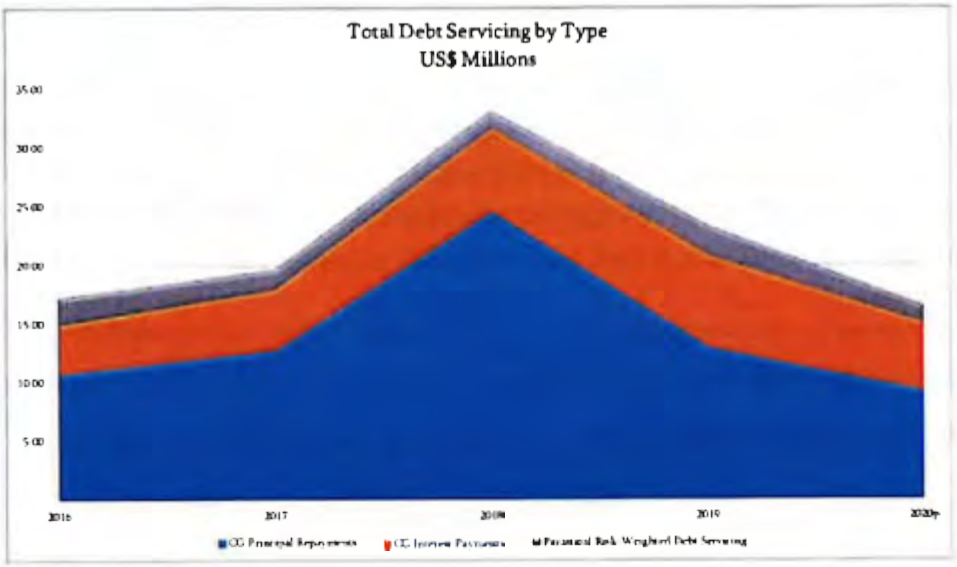
Figure 20. Central Government Debt and Risk Weighted Parastatals Debt, 2016-2020



Debt servicing payments in 2019 totalled $20.93 million, with $7.82 million in interest payments and $13.11 million in principal repayments. While, in 2020, GoVI is expected to pay approximately $15.89 in debt service consisting of $6.28 million in interest and $9.61 million in principal repayments. **Figure 21** provides a distribution of our debt obligations for the period 2016 – 2020. Notably by the end of August 2020, CDB continues to hold the majority share (60.7%) of our debt, and a 45.2% share of debt servicing (interest payments of $2.80 million and $2.86 million in principal repayments). Principal repayments on the $50 million Policy Based Loan (PBL) commenced in July 2020.

[18] Parastatal debt is risk weighted as stipulated on page 12 of the Protocols for Effective Financial Management

Figure 21. Principal Repayments and Interest Payments, 2016-2020



In the forward years, it is important to note Government's increasing debt obligations to CDB as the CDB RRL is expected to be fully drawn before the end of 2022, but principal payments are not expected until 2023. The interest portion of debt servicing continues to be paid on this loan, along with ongoing amortisation of other existing debt.

Under the present global pandemic growing deficits to finance, GoVI needs a well thought-out debt strategy, with flexible borrowing arragements in the event the economic situations change. In addition to this strategy, there is a need to continuously monitor, analyse, and evaluate our debt profile and debt servicing levels to ensure that our borrowing is sustainable and our financial position remains stable. Although our debt levels are relatively low, the cost of our debt is very high, so the UKG Guarantee undoubtedly would allow us to borrow under more favourable interest rates and terms. The materalisation of this offer not only provides the opportunity to lower our debt servicing obligations, but also to refinance some of our existing expensive debt.

Potential performance against the Borrowing Limits and in additional Debt Sustainability Ratios are presented in the '**Debt Sustainability Ratio Analysis**' Section. A separate document with a full analysis of the long-term sustainability of our debt will be prepared.

4. DISCUSSION OF FISCAL RISKS

Fiscal Risk Statement

Managing fiscal risk contributes to increased investor confidence, macroeconomic development and stability, and Government's operating confidence. While certain risks are unavoidable, the level of preparation and the mitigating strategies outlined by a country, determines the focused plan in understanding what is needed in the short to medium-term to address how the fiscal operations are managed. Recent global events affecting the Virgin Islands have continued to prompt our response and readiness to handle potential fiscal risk in the short-term to medium-term. We are aware of the threats surrounding our fiscal risk, and we have linked our fiscal priorities to debt sustainability and the reduction of fiscal pressures in the medium-term.

Prior to the devastating natural disasters of 2017, we prided ourselves on a manageable fiscal position. With a debt to GDP ratio of approximately 11.0% in 2019, we did well in servicing our obligations. Subsequent to those events, our economy was on track to recover until the world was faced with the ongoing health pandemic, COVID-19, from the declaration in March 2020. This pandemic continues to threaten the economies of all countries, including the Virgin Islands. As we brace for the uncertain future, we have given careful consideration to our fiscal risks and have developed a management framework as a guide to understanding and developing mitigating strategies to operate within the short to medium-term.

While global challenges continue, we understand that the sound management of fiscal risk can produce macroeconomic stability. The current pandemic, the threats of natural disasters, and the potential unfavourable changes in our fiscal balance are the primary sources of our fiscal risks. Therefore, several fiscal policy responses through initiatives to include identification of new revenue sources are proposed for the direct response to improving the fiscal views of our operation.

Our fiscal risk response strategies will focus on macroeconomic risk: shocks to revenue, output (GDP), inflation, interest rates, recurrent expenditure, credit risk. Other risk areas include: risk associated with the operation of State Owned Enterprise (SOEs) and Statutory Bodies, risk associated with natural disasters, risks linked to the environment, political risk, risk in the health environment, behavioural and social related risk, and risk associated with job and food security.

Table 3. Fiscal Risk Management and Action Plan

				ACTION PLAN		
RISK PRIORTY	RISK CATEGORY	RISK DESCRIPTION	RISK ASSUMPTION	RISK MANAGEMENT STRATEGY	LEAD RESPONSIBILITY	EXPECTED START
High	Shock to Revenue	Loss in reveune for the collection of Payroll Tax due to the ongoing Heath Crisis, and Financial Crisis	Shock to Payroll Tax: 2% - 10%	Explore new revenue generating initiatives as fiscal buffers.	Inland Revenue Department	Q1 2021
Medium	Shock to Revenue	Loss in reveune for the collection of Property Tax due to the ongoing Heath Crisis, and Financial Crisis	Shock to Property Tax: 15% - 35%	Explore new revenue generating initiatives as fiscal buffers.	Inland Revenue Department	Q1 2021
High	Shock to Revenue	Loss in reveune for the collection of Taxes on Goods and Services due to the ongoing Heath Crisis, and Financial Crisis	Shock to Taxes on Goods and Services: 3% - 5%	Explore new revenue generating initiatives - TRC revenues, Medical Schools, along with other revenue initiatives	Premier's Office, and Ministry of Education	Q1 2021
Medium	Shock to Revenue	Loss in reveune for the collection of Other Tax Revenue due to the ongoing Heath Crisis, and Financial Crisis	Shock to Taxes on International Trade: 10% - 20%	Explore new revenue generating initiatives - Passenger Tax(sea)	Ministry of Finance	Q1 2021
Medium	Shock to Revenue	Loss in reveune for the collection of Other Tax Revenue due to the ongoing Heath Crisis, and Financial Crisis	Shock to Other Tax Revenue: 35% - 55%	Explore new revenue generating initiatives - Medical Marijuana	Ministry of Education	Q2- Q3 2021
Medium	Shock to Revenue	Loss in reveune for the collection of Other Revenue due to the ongoing Heath Crisis, and Financial Crisis	Shock to Other Revenue 15% - 35%	Explore new revenue generating initiatives - Berthing Fees, Gambling and Gaming, Asset Mining	Ministry of Finance	Q1, and Q2 2021

				ACTION PLAN		
RISK PRIORTY	RISK CATEGORY	RISK DESCRIPTION	RISK ASSUMPTION	RISK MANAGEMENT STRATEGY	LEAD RESPONSIBILITY	EXPECTED START
High	Shock to Output	Sluggish output growth as a result of a shock to the main economic pillars (Financial Services and Tourism)	Shock to GDP: 10% - 15%	Boost productivity through the identification and implementation of public and private sector investment. Identify ways to diversify the economy.	Premier's Office, and Ministry of Finance	As the need arises
Medium	Inflation	The effects of the changes in prices	Impacts on prices and real output	Identify ways to manage government's expose to inflation.	Premier's Office, and Ministry of Finance	As the need arises
Medium	Low Interest Rates	The potential for compressed risk premium	Compressed risk premium	Closely monitor relative risk and absolute risk potentials	Ministry of Finance	As the need arises
High	Credit Risk	Default in Debt Service Obligations	Unable to meet Debt Service Obligations	Use of the Line of Credit	Ministry of Finance	As the need arises
High	Increase in Expenditure	Increases in the activities of expenditure, surpassing budget and frame levels	Rising cost associated with the recurrent expenditure budget	Policy coordination that would allow for an efficient link between fiscal risk management and relevant policies	All Ministries and Departments	As the need arises
Medium	SOEs' operation	Inefficient operation of the SOEs	Rising cost associated with Transfers and Subsides.	Legislate and implement the SOEs Monitoring and Management Framework	Ministry of Finance	As the need arises
Medium	Explicit Liebilities	Increases in compensation in legal cases	Insufficient allocation in the budget	Use of the Line of Credit. Establish a payment plan over time	Ministry of Finance	As the need arises
High	Implicit Liabilities	Increase cost associated with the ongoing pandemic that requires Health Insurance payouts.	Increasing cost associated with National Health Insurance (NHI), Social Security, and Pension	Contributory Pension Scheme. Reform to the NHI Scheme. Health campaign	Ministry of Health, Ministry of Finance, Ministry of Natural Resources and Labour	As the need arises

				ACTION PLAN		
RISK PRIORTY	RISK CATEGORY	RISK DESCRIPTION	RISK ASSUMPTION	RISK MANAGEMENT/MITIGATION	LEAD RESPONSIBILITY	EXPECTED START
High	Natural Disaster	Unprecedented events such as floodings, hurricanes, earthquakes, other natural hazards, that can significantly impact the budget and economic activties	Frequency and intensity of natural disasters	Create a Fiscal Risk fund or other related fund as an immediate buffer. Strengthen capacity to handle natural hazards.	Department of Disaster Management	As the need arises
High	Health Crisis	Increase in the number of active cases	Increase in cases	Develop and implement additional protocols to mitigate impact	Ministry of Health	As the need arises
Medium	Ecosystem (terrestial and marine)	Destruction of the Ecosystem (terrestial and marine)	Increased damage to the Ecosystem	Regular maintanence of vulnerable areas. Heighten climate change awareness and adopt mitigating strategies.	Environmental Health	As the need arises
High	Impact of Brexit	Uncertainty of the UK's economy following the departure from the European Union	Challenges in assessing the guarantee, and other support	Carefully monitor the progress towards the exit and the potential impact to the Virgin Islands.	Premier's Office, Ministry of Finance, Deputy Governor's Office	As the need arises
High	Impact of the US Economy	Pending slow down of the US' economy due to the ongoing health pandemic, trade tension, and the results of the general elections	Impact on Imports. Impact on the tourism product	Monitor the progress of the US economy and other world economies	Premier's Office, Ministry of Finance	As the need arises
High	Impact of the Rest of the World	Rising world trade tension. Downward projections of regional economic outlook, and pending world recessions	Impact on Financial Services Industry. Impact on Trade. Indirect impact on other sectors, including Tourism	Conduct industry and economic watches to gaining current knowledge of activities/trends.	Ministry of Finance	As the need arises
Medium	Changing Behavioural Patterns	Increase in negative behaviour that affects the social fabric of society	Increase in criminal activities due to job losses and other negative triggers	Promote continous education. Create recreational activities and employment opportunites	Ministry of Education	As the need arises
High	Emotionally behaviours in children	Withdrawal and isolation of children	Increase psychological changes in children due to changes in the normal forms of operation	Promote outdoor programs and activities geared towards improving the pyschological needs of children	Youth Affairs, Ministry of Health	As the need arises
High	Food Security	Shortage of food	Trade barriers restricting the importation of goods.	Encourage and provide incentives for backyard gardening.	Agricultural Department	As the need arises
High	Job Security	Increase level of unemployment	Increases in the unemployment rate	Creating opportunties. Reassign workers to other areas within the job market. Job training and mentorship programme. Business Innovation Lab. Stimulus packages	Department of Labour, Department of Human Resources	Q1 2021

5. FISCAL STRATEGY

Fiscal policy responses are critical components in the fight against the pandemic and the threats of any other risks. We will seek to strike a balance between the increasing economic output and increasing public debt. With no immediate change to the current health and economic crisis as a result of the COVID-19 pandemic, our base level of revenue projected may not be enough to cover the operating costs of our rising expenditure needs. As a result, fiscal policy actions through the framework of fiscal strategies have been identified to cover the cost of our baseline expenditure in the medium-term. The plans for managing our fiscal strategy will focus on maintaining a balance between revenue receipts and recurrent expenditure, creating fiscal buffers, preserving our Liquid Assets, and maintaining the fiscal rules as outlined in the Protocols for Effective Financial Management. Consideration is also given to strategic measure formulation that is linked to achieving surplus and debt targets.

Revenue Initiatives

From the baseline estimates, an overall budget deficit is projected at $72.03 million in 2021, $63.88 million in 2022, and $47.30 million in 2023. Funding the deficit is important for the continued financial operation of the budget in the medium-term. This projected fiscal balance position and the acquisition of loan funding, along with the identification of revenue initiatives could bridge the pending fiscal gap, and satisfy the projected total resource envelope of $339.96 million in 2021, $435.13 million in 2022, and $376.43 million in 2023.

In support of the measures to finance the fiscal gap, an estimated total of $21.52 million to $37.53 million in new revenue, through revenue initiatives over the medium-term is proposed.

Table 4. Revenue Generating Initiatives, 2021-2023

	REVENUE INITIATIVES	PROJECTED RANGE
1	TRC Royalties	$6.5 - $13.5 million
2	Medicinal Marijuana	$5.0 - $9.0 million
3	Medical Schools	$0.02 - $0.03 million
4	Passenger Tax (sea)	$3.0 - $4.0 million
5	Berthing Fees	$1.0 million
6	Gambling and Gaming	$3.0 - $5.0 million
7	Asset mining	$5.0 million
8	Apostile & Notorial Service	$0.49 - $0.50 million
	TOTAL	**$21.52 - $37.53 million**

Expenditure Efficiencies

Over the medium-term (2021 – 2023) recurrent expenditure is expected to surpass the levels before 2020. However, 2020 expenditure is expected to finish with a significant increase which would cover

the operating costs associated with the pandemic. While the pandemic continues with many uncertainties, we are aware that the cost related to expenditure can increase to accommodate for the safe keeping of all and the continued operation of the economy. Notwithstanding these potential concerns, to ensure that we maintain a continued drive toward expenditure efficiency, we will focus on commitment to prioritised expenditures where possible, by looking across sectors, programmes, and projects to identify the best way to restructure our policy objectives. The areas for consideration in this medium-term will be:

- **Managing efficiency in the Public Service**

  As part of managing the efficiency of the public service, we will actively seek to reduce the rising costs associated with the operations of the service. Savings are also expected with the exiting from the service by some public officers, through means of retiring or voluntary departures. We also intend to explore the option of introducing bonus structures to replace increments as a means of stabilising the increasing cost associated with employee compensation.

  In further managing the efficiency of the public service, the implementation strategies of action areas in the Public Sector Transformation Programme will continue to be monitored and further developed, as the push towards achieving better results in the service.

- **Goods and Services**

  The demand for goods and services may continue into the medium-term following the many uncertainties. While not to the level of 2020, we will focus on negotiating better rates, where possible, and procure goods and services that are not only cost efficient, but effective in meeting our needs. We propose to forge a heightened awareness of the virtues of competitive shopping and tendering in our procurement activities.

- **Transfers and Subsidies**

  Prior to this health crisis, our goal was to gradually reduce the expenditure on transfers and subsidies as a weaning step towards creating an opportunity for self-reliance, and ultimately independence. However, this process will have to take a staggered approach, given the many uncertainties with the pandemic and the possible need for added resources from the dependent agencies.

- **Capital Expenditure**

  Stimulating the economy with capital projects and the continued works of recovery and development are the driving forces behind our medium-term capital expenditures. As part of our fiscal responsibility, we will continue to fund and execute our projects in the most accountable, efficient, and transparent way. Best international practices are expected to form part of our procurement strategy and processes, and value for money are expected to be received on the delivery of each project.

  Continuing to assist us in the implementation of our capital projects, is the RDA. Currently they are tasked with the execution of capital projects funded from the RRL, which was secured by the Caribbean Development Bank (CDB).

In addition to the exploration of identifying revenue initiatives and expenditure efficiencies, we will examine other areas that bear weight to our strategies for sound fiscal management and accountability.

- **Contingent Liabilities**

  The Territory continues to face the reality of the need to address the concerns with our pension scheme, and the rising demands that may cause us to become unsustainable. We remain committed to the creation of a contributory National Pension System. We will also seek to reform the current National Health Insurance Scheme to provide for sustainability of the programme. Additionally, consideration would be given for the SOEs and SBs in light of the impact of the pandemic on their operations, and their dependence on Central Government.

- **Preserving Liquid Assets**

  With the revised calculation of our liquid assets under the Protocols for Effective Financial Management, the value of our liquidity is much higher. Therefore, it is only prudent that we utilize some of these funds to support the added pressures on our finances from the pandemic. However, to still remain in compliance, a minimum threshold has been established, and will be carefully monitored.

- Fiscal Rules

  Over the years, we have been able to maintain low levels of debt. However, with the realities of the current health crisis and the pending economic crisis, there may be a need to increase our debt portfolio. Guided by the targets of fiscal rules, we are cognisant of the need to remain in compliance with the the borrowing ratios as we honor our commitment to the Protocols for Effective Financial Management. Based on our current projections, as we move from medium-term to long-term development, a technical breach is expected. Notwithstanding this reality, we will continue to ensure that efforts and mechanisms are in place to return to compliance at the soonest realistic time, pending any further risk disruptions.

- Fiscal Buffer

  Since the passing of the storms in 2017, the Virgin Islands has been experiencing increasingly frequent threats of natural hazards and weather events. Furthermore, other global threats are also applying pressures on our health and economic structures. These activities have prompted the GoVI to examine our approach to Fiscal Risk Management and the Budget process towards ensuring a level of fiscal responsibility. This can serve as an immediate first response to the impact of fiscal risk due to natural hazards and other pending threats. As part of our fiscal risk management strategy, we have included in our medium-term fiscal framework, a cushion from which we can build fiscal resilience and strengthen fiscal management.

  In building our fiscal buffer, we have adopted a risk-based approach to financial management for immediate post-disaster/threat expenditure. Based on international experience, which suggested reserving up to 3% of spending, we have modeled our fiscal buffer using 3% of recurrent spending. To further strengthen our fiscal responsibility towards fiscal transparency, we recommend that any unused funds from surpluses could, within certain limits, be transferred at the end of the budget year to a notional fiscal buffer (identified fund) for use during future events. Given the current health crises, we will temporarily suspend our fiscal buffer strategy, until we are in a better fiscal position to implement this measure.

- **Financing the deficit**

  Projection in the medium-term for the base case, shows recurrent and overall deficits, ranging from $1.11 million to $11.66 million on the recurrent side, and $47.30 million to $72.03 million from the overall perspective. Our strategy towards financing the deficit in the medium-term is to introduce the list of revenue initiatives mentioned previously, along with expenditure efficiencies. In addition to these fiscal measures, we will also consider existing loan disbursements, the use of the current line of credit facility, and some new loan funding options, as presented in our debt strategy.

  Our fiscal balances with fiscal strategies and debt strategies in the medium-term forecasted improved performances in current balances, shifting from recurrent deficits in the base case to projected surpluses in the medium-term. The consideration of capital projects as stimulators to the economy, given the current global financial position, will reflect a projected overall deficit in the medium-term, as we seek to maintain job security and to continue economic activity.

Table 5. Medium-Term Fiscal Frame (MTFF), 2021 – 2023

MEDIUM TERM FISCAL FRAME (US$ millions)	ACTUALS			PRELIM ACTUAL	PROJECTIONS		
	2017	2018	2019	2020	2021p	2022p	2023p
Total Revenue	**295.19**	387.90	364.24	**343.01**	339.76	360.60	**379.12**
Total Current Rev	**295.19**	382.89	363.03	**302.88**	337.76	358.60	**377.12**
Total Tax Revenue	**279.37**	354.14	343.47	**291.37**	317.14	334.96	**350.61**
Payroll/Income Tax	**46.36**	50.34	54.78	**47.76**	49.16	50.98	52.20
Property Tax	**1.92**	3.02	3.04	**2.86**	2.92	2.97	3.04
Taxes on Goods & Services	**191.02**	251.34	229.67	**192.81**	210.37	221.13	228.94
Taxes on International Trade	**32.20**	39.69	51.35	**40.44**	45.34	48.46	52.87
Other Tax Revenue	**7.87**	9.75	4.62	**7.50**	9.34	11.42	13.55
Other Current Revenue	15.83	28.74	19.56	**11.51**	20.62	23.64	26.50
Grants	0.00	5.01	1.21	**40.13**	2.00	2.00	2.00
Total Expenditure	**306.07**	345.08	338.20	**423.28**	396.35	392.05	**383.13**
Total Primary Expenditure	**300.93**	338.04	330.46	**417.00**	387.73	380.66	**376.90**
Total Recurrent Expenditure	**292.77**	324.67	308.78	**388.09**	335.99	336.17	**336.94**
Total Interest Payments	5.14	7.04	7.75	**6.28**	8.62	11.39	6.22
Total Non-Interest Recurrent Expenditure	287.63	317.63	301.03	**381.81**	327.37	324.78	330.71
Employee Compensation	119.48	111.72	114.47	**119.17**	125.50	129.45	132.97
Goods & Services	73.77	63.53	65.41	**136.29**	81.40	74.18	72.77
Subsidies & Transfers	80.73	125.00	107.69	**107.13**	99.46	101.66	109.56
Total Other Expenses	13.65	17.38	13.47	**19.22**	21.01	19.49	**15.42**
Total Capital Expenditure and Net Lending	13.30	20.41	29.43	**35.19**	60.37	55.88	**46.19**
Capital Expenditure	14.30	20.41	29.43	**38.19**	62.37	56.88	46.19
Net Lending	-1.00	0.00	0.00	**-3.00**	-2.00	-1.00	0.00
Contribution to Reserve/Contingency Fund	6.00	3.00	41.01	**43.23**	0.00	0.00	0.00
Contribution to Debt Servicing Sinking Fund	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00
OVERALL BALANCE: SURPLUS(DEFICIT)	-16.88	39.82	-14.98	**-123.50**	-56.60	-31.45	-4.01
PRIMARY BALANCE	-11.74	46.86	-7.23	**-117.21**	-47.98	-20.06	2.22
CURRENT BALANCE	-3.58	60.23	14.45	**-88.31**	3.77	24.43	42.18
Fiscal Risk Buffer	0.00	0.00	0.00	**0.00**	0.00	0.00	0.00
Financing	16.88	-39.82	14.98	**123.50**	56.60	31.45	4.01
Net Borrowing	19.32	29.29	-8.53	**5.50**	56.39	-43.08	6.70
Loan Disbursements	32.20	53.93	4.58	**15.11**	68.89	8.08	30.77
Principal Repayments	12.88	24.64	13.11	**9.61**	12.50	51.15	24.08
Use of Reserve as Financing Instrument	6.31	13.92	5.02	**56.10**	0.00	0.00	0.00
Total Financing Gap	-8.75	-83.03	18.48	**61.90**	0.20	74.53	-2.69
TOTAL RESOURCE ENVELOPE				**404.91**	339.96	435.13	376.43
Total CG Disbursed Outstanding Debt	122.46	151.75	143.61	149.11	205.50	162.43	169.12

Note: Includes Fiscal Strategy and Debt Strategy

6. DEBT STRATEGY

Our Government's overall debt management objective is to ensure that our financing requirements are met at the lowest possible cost, while maintaining risk (as discussed in the section **'Discussion of Fiscal Risks'**) at prudent levels. The impact of the continuing global pandemic on economies has placed even more emphasis on maintaining and carefully managing this risk.

The proposed UKG guarantee would allow GoVI to access more favourable borrowing terms, particularly for interest rates and repayment periods, thereby allowing GoVI to borrow and still maintain sustainable debt servicing obligations. This is the primary reason that our Government is still pursuing this offer from the UKG. As an agreement has not been reached to date, a debt strategy was modelled without the guarantee, after an examination of our financing needs in the various scenarios. However, if the guarantee is finalized and approved, this strategy will be revised to reflect that. The evolving and prolonged nature of this pandemic has rendered forecasting very difficult, so instead of our usual long-term outlook, our scenarios span a five-year series, starting from 2021.

The details of this debt strategy have not yet been discussed with banks, so these assumptions and their validity have not been tested. In particular, we need to confirm the extent to which the banks are willing to allow GoVI to draw on short-term facilities without agreed amortization schedules. If the banks require higher/earlier amortization, the debt service ratio, in particular, could deteriorate.

The impact of the pandemic on our lower revenue collections and escalating expenditure resulting in larger deficits, is expected to continue into the medium-term. A comparison of these quarterly numbers for 2019 and 2020 actuals, and 2021 projections, is shown in **Table 6**. Therefore, it is important to create a debt structure that is flexible and sustainable in the short-term.

Table 6. Q1 – Q3 Comparison of Revenue and Expenditure, 2019 – 2021[19]

	2019				2020				2021 (base case with fiscal strategy)			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Total Revenue	72.74	116.91	62.30	112.29	53.22	102.45	88.68	98.66	60.04	114.34	54.71	110.67
Total Recurrent Expenditure	71.28	71.04	79.39	94.16	74.87	91.80	95.95	125.46	66.79	80.20	84.28	106.00
Capital Expenditure	4.86	6.57	6.49	11.51	5.12	8.70	8.95	15.60	14.38	18.25	13.47	16.75
Total Cash movements			(23.57)	6.61	(26.77)	1.95	(16.22)	(42.40)	(21.13)	15.88	(43.05)	(12.09)

The following strategy has been structured using the fiscal data in the **base with fiscal strategy scenario**, but with the debt facilities being set at a level that would still ensure adequate liquidity if the shock case scenario does occur.

[19] The impact on our revenue from the $22.50 million of the $40 million grant from the Social Security Board can be seen in the third quarter of 2020. While, the spending from these funds is spread across the remaining quarters of 2020. At the time of preparation of this report, it was not decided how much of these funds remaining at the end of 2020 would be transferred to 2021.

The proposed debt strategy which considers a shock event, over the next five years involves:

1) utilising a portion of existing reserves to fund some of the funding gaps;
2) utilising our existing Overdraft Facility at FCIB (which is really a Revolving Credit Facility (RCF)) ($25 million limit) to finance our local capital projects (pending refinancing on a longer term basis), and any other short falls in recurrent expenditure in the short-term;
3) arranging a Line of Credit (LoC) of $100 million for financing the rRDP by June 2021, while keeping the Central Government's overdraft facility as part of this $100 million facility;
4) obtaining an internationally recognized investment grade rating to give the Territory the flexibility to access debt markets in future, if desired;
5) refinancing balances on Central Government's overdraft facility (RCF),rRDP, and new LoC in June 2022 (eighteen months from the start date of the facility in 3) with a short-term term loan ranging of $75 - $100 million, but retaining both the RCF and the LoC for ongoing Central Government and rRDP funding needs after June 2022;
6) assuming ongoing use of the LoC to continue to finance the rRDP, and thus modelling an amortization schedule with reasonable repayments twice a year to reduce the balances on this Facility; and
7) considering longer term refinancing options as the overall debt position becomes clearer, with monitoring in the short-term. These might include issuing a bond for which we would need to have arranged an investment grade credit rating.

The debt strategy focuses on efficiency with cash balances being maintained at 90 days' expenditure plus a further buffer of 25%, by using the existing Overdraft Facility (RCF) followed by the new LoC. This means that our liquid assets ratio tracks the 25% limit on the ratio very closely, and would rely on frequent drawings on the Overdraft Facility and the new LoC.

The debt service ratio shows breaches under all cases in 2022, with the base case with fiscal and debt strategies projected to return to compliance in 2023 after a technical breach in 2022. This technical breach was the result of the repayment of the yearend balances on the LoC and RCF, in 2022. Early amortization of the growing LoC thereby reducing the balances on this facility, early in 2022 could avert this course and allow the Government the security of knowing that more funds would be available in the reserves, in the event of other shocks to the economy.

This strategy must be supported by these measures to achieve its objective of maintain ing low levels of cheaper debt:

1. Using undisbursed balances on any existing CDB loans;
2. Monitoring of cash flows, fiscal position levels, impact of shocks to the economy, and movements in debt transactions, and undertake the necessary cost cutting measures, and additional fiscal strategy (such as, increasing taxes) to increase revenue; and

3. Revising strategy in 2021, subject to the strength of our fiscal position, tracking the impact of any shocks to the economy, as the RDA still requires funding beyond this initial short-term period to complete the remaining projects under the rRDP.

In the last quarter of 2019, the GOVI successfully negotiated with the UKG to revise the calculations for the liquid assets and debt service, under the Protocols for Effective Financial Management. **Table 7** shows the approved changes to the calculations of the definitions compared to the original calculations. These changes would have a significant positive impact on the levels of our ratios, and would give the GoVI more flexibility in managing its finances.

Table 7. Net Debt, Debt Service and Liquid Assets Definitions (Original and Refined)

Components of Definitions in Protocols								
	Refined Net Debt	Net Debt Protocols		Refined Liquid Assets	Liquid Assets Protocols		Refined Debt Service	Debt Service Protocols
Public Borrowing			Liquid Assets			Debt Service		
Conventional borrowing			Reserve Fund (including dormant accounts)			Principal repayments		
Capitalized borrowing of all PFI and PPP arrangements			Contingency Fund			Interest payments		
Risk weighted debt and PFI/PPP arrangements of all SOEs/SBs.			Emergency Fund			Contributions to sinking fund		
Borrowing contracted by Government, then on-lent, and any other guaranteed debt.			Consolidated Fund (year's lowest balance)			Repayment penalties, commitment fees, etc.		
Less: Liquid Assets						Less: Withdrawals from sinking fund		
Less: Refined Liquid Assets						Less: Proceeds of loans taken to refinance debt		

To demonstrate the possible impact of the proposed debt strategies, GoVI has prepared a Debt Model using the four scenarios – base case, base case with fiscal strategy, base case with fiscal strategy and debt strategy, and shock case. The adaptation, alteration, or amendment of any of these strategies would be directed solely by the results of monitoring our fiscal position, the offerings of the credit market, and the openness of the GoVI to engage in any necessary mitigation measures. Under the shock case, without the appropriate debt strategy, cost cutting measures and additional revenue generating initiatives would have to be employed to avert General Government debt from growing infinitely and as such be unsustainable.

BASE CASE SCENARIO is projecting based on the assumption that the economy grows according to the current trend, without any economic stimulus or fiscal strategies.
BASE CASE SCENARIO WITH FISCAL STRATEGY is projecting based on the assumption that the economy grows according to the current trend, with the added impact from the implementation of fiscal strategies.
SHOCK CASE SCENARIO is projecting based on the assumption that there will be a shock to the economy (such as from natural disasters or continued impact from the pandemic), and the normal growth patterns even with a fiscal strageies have been disrupted.

7. DEBT SUSTAINABILITY RATIO ANALYSIS

The ongoing COVID-19 pandemic and its increasing impact on the global economy has placed a financial and economic strain on the Virgin Islands economy. As we absorb the impact on our revenues and work to respond to the needs of the affected businesses and people of our Territory over the medium-term, while simultaneously stimulating our economic activity, it has become clear that we will need to borrow not only to fund the capital expenditure but also to support our budget from around 2023.

The proposed strategy on which the 2021-2023 Budget is linked, hinges on the fiscal strategy, a wider fiscal position, flexible borrowing facilities, and structured monitoring. Therefore, all debt sustainability ratios must be continuous monitored, cash flows and the fiscal position, along with obtaining an investment grade sovereign rating are critical to an effective debt strategy under the base case with fiscal strategy.

Our debt sustainability ratio analysis mainly focuses on showing how the projected levels of debt under this scenario (fiscal and debt strategies with base case) could potentially affect the Borrowing Ratio limits in the Protocols for Effective Financial Management over the period, 2020 – 2023. **Figure 22** demonstrates our likely performance against these ratios under the base case with fiscal strategy scenario, and with both strategies (debt and fiscal), and further shows the possible performance of the ratios under the shock case scenario.

Sustainability of our debt is linked to prudent financial management, effective reporting systems, and structured monitoring of our fiscal position and key sustainability ratios. No debt strategy can work effectively without these components working in tandem, and there should be flexibility to make adjustments to any strategy as required in order to meet our fiscal and economic objectives. In addition, given the fiscal risks outlined, as well as the uncertainty of our changing environment, our agility and ability to adapt to changing circumstances will be crucial.

Figure 22. Potential Performance against Borrowing Ratios in Protocols, 2020 – 2023

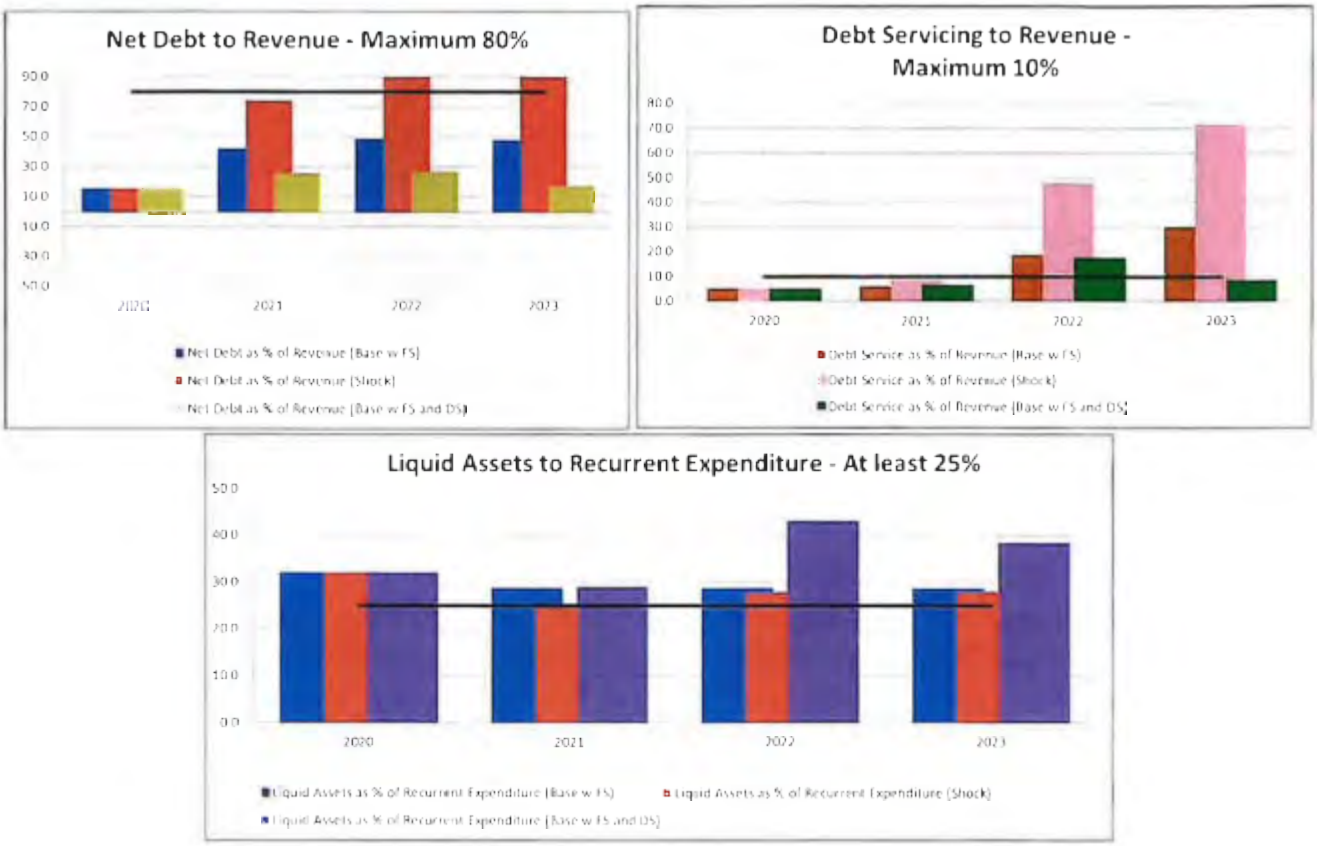


Table 8. Borrowing Ratios for the Base Case with Fiscal and Debt Strategies Scenario, 2019 – 2023[20]

BORROWING RATIOS	2019e	2020p	2021p	2022p	2023p
Total Debt of Parastatals	72.18	66.63	69.85	94.42	113.62
Total Risk-Weighted Debt of Parastatals	14.44	13.33	13.97	20.38	25.72
Capitalized Value of Public Private Partnerships	28.10	15.99	16.99	11.05	4.84
Total Public Borrowing	186.14	178.42	185.56	242.43	198.49
Reserve/Contingency Fund Balances - Liquid Assets	93.45	124.59	97.39	145.38	130.96
Parastatals' Interest payments	4.41	1.61	3.30	2.80	4.45
Parastatals' Principal repayments	8.37	5.55	5.78	7.43	7.80
Parastatals' Debt Service (Risk-Weighted)	2.56	1.43	1.82	2.09	2.60
Total Debt Service (Central Gov. and Parastatals Risk-Weighted)	23.48	17.32	22.93	64.63	32.90
Net Debt	92.68	53.83	88.18	97.05	67.53
Net Debt as % of Recurrent Revenue (max 80%)	25.4%	15.7%	26.0%	26.9%	17.8%
Debt Service as % of Recurrent Revenue (max 10%)	6.4%	5.1%	6.8%	17.9%	8.7%
Liquid Assets as % of Recurrent Expenditure (at least 25%)	29.6%	32.1%	29.0%	43.1%	38.5%

[20] The calculations for Liquid Assets and for Net Debt were revised in 2020. 2019 ratios reflect the old calculations.

Table 9. Additional Debt Sustainability Ratios Projections for Base Case with Fiscal and Debt Strategies Scenario, 2020-2023

ADDITIONAL DEBT SUSTAINABILITY RATIOS	2020p	2021p	2022p	2023p
General Government Debt to GDP	19.48	20.98	29.06	26.42
Change in General Government Debt to GDP	2.89	1.50	8.09	-2.65
General Government Interest as % of Revenue	2.30	3.51	3.94	2.82
Net Debt as % of GDP	4.86	8.24	9.24	6.34
Net Government Income (NGI)	-38.80	12.39	35.83	48.40
Total General Government Debt Servicing	23.05	30.20	72.78	42.55
Total General Government Interest Cost	7.89	11.92	14.19	10.67
NGI as % of Total General Government Debt Servicing	-1.68	0.41	0.49	1.14
NGI as % of Total General Government Interest Cost	-4.92	1.04	2.52	4.54

Net Government Income (NGI) is defined as Total Central Government revenue minus Total Central Government non-interest recurrent expenditure.

8. SENSITIVITY ANALYSIS

The objective of this section is to discuss possible gaps in the fiscal strategy scenarios when a shock to the economy occurs. The numbers used are based on preliminary estimates for 2020 and projections for 2021 to 2023.

As the Virgin Islands economy was making strides in turning the corner after the destruction from the 2017 weather related events, when the COVID-19 pandemic impacted the world. In addition to a world-wide health crisis, many economies plunged into recession due to the inability to grow their economies. The impact of this will not be lost on the economy and it forms part of the shock case consideration.

The domestic economy of the Virgin Islands was not exempt from the effects of this crisis which left many in the population unemployed with the lockdown of the borders for many months. Without tourism which permeates all industries, at least three hundred and sixty million dollars ($360 million) has been lost in revenues, the impact of which can been seen in Government collections and economic growth.

In addition to this new health crisis, with the implementation of requirements for economic substance in 2019, growth in new incorporations continue to spiral downwards which has affected not only our stock of companies, but the annual revenue realized. Additionally, the economy continues to be faced with other downside risks to financial services, possibly due to uncertainty about the final outcome of BREXIT, continued threats of blacklisting, and the requirement to implement a public beneficial ownership register by 2023. A further layer of risk we face annually is from the more intense and frequent hurricanes, storms and earthquakes. Other possible risks to the economy are presented in the **'Discussion of Fiscal Risks'** Section.

A combination of all our risks or any single risk primarily and directly impacts our economic growth and revenue collection. Consequently, in this sensitivity analysis, the impacts of macro-economic and other shocks to the economy and to our revenue were considered. It should be noted that the **'Discussion of Fiscal Risks'** Section demonstrates the details of the potential risks, risk assumptions employed in the shock case, and various mitigation measures that can be utilised.

Given downside risks to financial services and the resulting assumed levels of shock to the economy (as identified in the **'Discussion of Fiscal Risks'** Section), it has been anticipated that if this occurs there could be an average estimated negative 10.0% impact on revenue over the period 2021 to 2023 from the current projections under base case with fiscal strategy. An estimated average thirty-five million dollars loss in revenue ($35 million) over the period can be experienced by our economy, with the greatest impact of about a 11.0% loss being felt in 2021 from revenue projections under fiscal strategy scenario.

Table 10 demonstrates possible differences (in value and percentage) between anticipated GDP and revenue outcomes, when the fiscal strategy scenario with and without the debt strategy is compared with the shock case scenario.

Table 10. Sensitivity Assumptions for GDP and Revenue, 2021 – 2023

GROSS DOMESTIC PRODUCT	2019	2020	2021	2022	2023
Nominal GDP - Base with fiscal strategy	1,300,307,357	1,107,331,789	1,069,887,128	1,050,823,631	1,065,820,529
Nominal GDP - Shock	1,300,307,357	1,107,331,789	950,975,128	933,270,569	1,001,530,312
Difference $	0	0	-118,912,000	-117,553,062	-64,290,217
Difference %	**0.00%**	**0.00%**	**-11.11%**	**-11.19%**	**-6.03%**

REVENUE	2019	2020	2021	2022	2023
Revenue - Base with fiscal strategy	364,239,311	343,011,040	339,755,549	360,602,764	379,117,405
Revenue - Shock	364,239,311	343,011,040	303,755,549	330,102,764	341,082,608
Difference $	0	0	-36,000,000	-30,500,000	-38,034,797
Difference %	**0.00%**	**0.00%**	**-10.60%**	**-8.46%**	**-10.03%**

In addition to the direct downside risks to our financial services mentioned, the negative impact to our economic growth due to shocks to our main economic pillars (financial services and tourism) emerging from macro-economic risks and other risks, such as natural disasters and the current global pandemic were considered. This type of shock could potentially result in an average projected negative 9.0% impact ($100 million loss in output) on nominal GDP, over the period 2021 - 2023.

If a shock to the economy occurs, GoVI would need to make fiscal policy decisions beyond the core fiscal strategy as outlined in the '**Fiscal Strategy**' Section. The core objective of the fiscal policy options considered would be to increase revenue yield for GoVI by investing in development projects, in spite of the impact on the economy from the shock. A Revenue Collection Reform policy would be an important measure to consider to increase revenue collections. Currently, the lack of information communication technology across Government in the collection of revenue is hampering the efficiency of collections. Along, with increases in our revenue base, adjustments would have to be made to recurrent spending, to reduce the ripple effects of the shock, not only only our revenue but our economic output.

Given prevailing uncertainties, it is clear that GoVI will need to adopt a flexible fiscal policy which could respond to changing circumstances. Ongoing monitoring of our fiscal performance will allow for quick responses, to safeguard and support the positive direction of the projections provided. It should be noted that where performance outpaces our targeted expectations, implementation of any fiscal strategy may not be required, and similarly where performance fails to meet targets, consideration will need to be given to enhancing the fiscal strategy and expenditure efficiencies.

For more detailed assumptions for the various shocks, refer to the **'Discussion of Fiscal Risks'** Section.

9. FRAMEWORK FOR BUDGET

The MTFP sets the framework for the 2021-2023 Budget, and provides a narrative for the figures contained in the Medium-term Fiscal Frame. The Frame sets the upper limit and broad parameters for the Budget, which will be based approximately on the fiscal framework for 2021 in **Table 11** below.

Table 11. Framework for 2021 Budget

	US$ million
Revenue	339.76
Recurrent Expenditure	(335.99)
Contribution to Reserve	0.00
Capital Expenditure and Net Lending	
Capital Expenditure	62.37
Surplus/(Deficit)	(56.60)
Net Borrowng/Deficit Financing	
Loan Disbursement	68.89
Principal Repayments	(12.50)

10. APPENDICES

Appendix 1 *Parastatals Risk-Weighted Debt Schedule, 2017 – 2023*

Parastatals Risk-Weighted Debt Schedule (US$ millions)

Statutory Authority / Government Company	Risk Weight	2017	2018	2019	2020p	2021p	2022p	2023p
Tourist Board	100%	0	0	0	0	0	0	0
Health Services Authority	80%	0	0	0	0	0	0	0
HL Stoutt Community College	80%	0	0	0	0	0	0	0
Prospect Reef Management Company	80%	0	0	0	0	0	0	0
Airports Authority	50%	0	-	-	-	-	2.50	5.00
National Bank of the Virgin Islands[1]	20%	0.09	0.07	0.00	0.00	0.20	0.40	0.60
Electricity Corporation	20%	7.37	6.75	5.88	5.02	6.15	8.88	10.62
Financial Services Commission	20%	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Ports Authority	20%	8.94	9.36	8.55	8.31	7.62	7.60	7.51
Social Security Board	20%	0.00	0.00	0.00	0.00	0.00	1.00	2.00
Total Risk-Weighted Debt of Parastatals		**16.40**	**16.18**	**14.44**	**13.33**	**13.97**	**20.38**	**25.72**

[1] As of April 2019, the Student Loan Scheme V that was the balance being reflected under the National Bank of the Virgin Islands was reclassified from parastatal debt to central government debt.

Appendix 2 *Capital Investment Programme for 2021 - 2023, by Year, by Funding Source*

RDA Capital Expenditure					
Funding Source	2020 p	2021	2022	2023	Total CAPEX, 2021-2023
Local Capital	$ 2,659,330.00	$ 230,000.00	$ 1,633,000.00	$ 437,000.00	$ 2,300,000.00
CDB RRL	$ 13,148,676.52	$ 15,651,468.30	$ 8,071,727.00	$ 1,981,058.00	$ 25,704,253.30
New Loans		$ 7,740,500.00	$ 21,228,448.16	$ 37,697,153.00	$ 66,666,101.16
Total CAPEX	$ 15,808,006.52	$ 23,621,968.30	$ 30,933,175.16	$ 40,115,211.00	$ 94,670,354.46

LOCAL Capital Expenditure					
Funding Source	2020 p	2021	2022	2023	Total CAPEX, 2021-2023
Local Capital	$ 22,375,920.56	$ 21,374,555.34	$ 13,486,927.94	$ 3,572,015.00	$ 38,433,498.28
CDB RRL		$ 8,600,962.00	$ 8,176,029.00	$ 2,500,000.00	$ 19,276,991.00
CIBC/SSB	$ 186,130.19	$ 677,169.00			$ 677,169.00
Insurance/Grants		$ 5,000,000.00	$ 4,287,596.00		$ 9,287,596.00
Total CAPEX	$ 22,562,050.75	$ 35,652,686.34	$ 25,950,552.94	$ 6,072,015.00	$ 67,675,254.28

Appendix 3 *Average Earnings by Gender, 2015 - 2019*



	2015	2016	2017	2018	2019
Men	$28,056	$28,326	$27,702	$27,564	$26,911
Women	$25,453	$25,681	$25,515	$26,699	$25,626

Appendix 4 *Ranges for the Income Groups[21] of Employed Persons, 2017 – 2019*

Table 1 below outlines the ranges of the three income groups – low, mid and high for fulltime employees for 2017 - 2019.

Ranges for Income Groups	2017		2018		2019	
	Men	Women	Men	Women	Men	Women
Low Income	0 - $22,709	0 - $22,718	0 - $22,360	0 - $22,376	0 - $21,000	0 - $21,005
Mid Income	$22,710 - $36,765	$22,719 - $36,779	$22,360 - $36,200	$22,377 - $36,196	$21,001 - $35,963	$21,006 - $36,000
High Income	$36,766 - $941,666	$36,780 - $775,000	$36,201 - $900,000	$36,197 - $347,083	$35,964 - $900,000	$36,001 - $350,000

[21] The income groups were generated by dividing the annual incomes of fulltime employees in the BVI Social Security Board (SSB) database into three equal income groupings.

11. REFERENCES

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				Variance to Budget		Variance to Previous Year	
Revenue YTD Dec	**Budget**	**Actual 2020**	**Actual 2019**	**$**	**%**	**$**	**%**
Income/Payroll Tax	47,291,304	48,098,991	54,890,336	807,687	1.71	(6,791,345)	-12.37
Property Tax	2,830,233	3,228,822	3,041,911	398,589	14.08	186,911	6.14
Taxes on goods and services	190,921,034	205,892,301	229,674,071	14,971,267	7.84	(23,781,770)	-10.35
Financial Services	*174,873,497*	*190,015,970*	*205,005,407*	*15,142,473*	*8.66*	*(14,989,437)*	*-7.31*
Taxes on international trade	40,036,836	35,927,325	51,352,355	(4,109,511)	-10.26	(15,425,030)	-30.04
Other taxes	7,429,147	7,161,485	4,622,926	(267,662)	-3.60	2,538,559	54.91
Grants	40,126,177	42,030,191	1,210,214	1,904,014	4.75	40,819,977	3372.95
Other revenue	11,397,206	18,108,373	19,124,608	6,711,167	58.88	(1,016,235)	-5.31
Total	**340,031,937**	**360,447,489**	**363,916,421**	**20,415,552**	**6.00**	**(3,468,932)**	**-0.95**

NB: FSC Revenue based on FSC Reports, not JDEdwards System; All other Revenue based on JDE report as at Jan 21 2021

				Variance to Budget		Variance to Previous Year	
Revenue YTD Dec	**Budget**	**Actual 2020**	**Actual 2019**	**$**	**%**	**$**	**%**
Personal Income Tax	-	52,133	72,707	52,133	-	(20,574)	(28.30)
Corporate Income Tax	-	65,395	15,805	65,395	-	49,590	313.76
Payroll Tax	47,291,304	47,981,462	54,801,823	690,158	1.46	(6,820,361)	(12.45)
Non-belonger Land Holding Licenses	108,512	224,880	293,095	116,368	107.24	(68,215)	(23.27)
Property Tax	2,721,721	3,003,942	2,748,816	282,221	10.37	255,126	9.28
Hotel Accommodation Tax	2,202,462	2,081,657	2,622,486	(120,805)	(5.49)	(540,829)	(20.62)
Motor Vehicle Rental Tax	83,248	89,035	144,979	5,787	6.95	(55,944)	(38.59)
Vehicle Tax	1,345,360	1,854,075	2,087,594	508,715	37.81	(233,519)	(11.19)
Liquor and Still Licenses	90,149	83,668	81,613	(6,482)	(7.19)	2,055	2.52
Trade Licences	760,087	906,345	963,876	146,259	19.24	(57,531)	(5.97)
Cruising Permits	2,694,761	2,108,413	6,018,348	(586,348)	(21.76)	(3,909,935)	(64.97)
Fishing Licenses	43,646	44,064	98,383	418	0.96	(54,319)	(55.21)
Telecommunications Licenses	2,000,000	-	-	(2,000,000)	(100.00)	-	-
Marine Fees	-	-	-	-	-	-	-
Registry of Corporate Affairs	168,921,598	183,619,544	198,732,225	14,697,946	8.70	(15,112,681)	(7.60)
Banks and Fiduciary	3,591,170	3,603,130	3,132,714	11,960	0.33	470,415	15.02
Insolvency Business	73,456	83,946	73,783	10,490	14.28	10,163	13.77
Insurance Business	391,110	373,802	395,847	(17,308)	(4.43)	(22,045)	(5.57)
Investment Business	1,896,163	2,335,549	2,670,838	439,385	23.17	(335,289)	(12.55)
Registration - Ships only	769,767	397,873	552,051	(371,894)	(48.31)	(154,178)	(27.93)
Registration - Captains only	24,955	27,470	58,828	2,515	10.08	(31,358)	(53.30)
Work Permits	5,922,988	8,176,403	11,878,579	2,253,415	38.05	(3,702,177)	(31.17)
Seabed Development Licenses	95,261	94,619	135,768	(642)	(0.67)	(41,149)	(30.31)
Other Licenses	14,852	12,709	26,159	(2,143)	(14.43)	(13,450)	(51.42)
Import Duties - Non Alcoholic	34,945,284	32,278,333	44,078,217	(2,666,950)	(7.63)	(11,799,884)	(26.77)
Import Duties - Alcoholic	1,062,309	1,009,282	1,797,429	(53,027)	(4.99)	(788,147)	(43.85)
Import Duties - Commercial Licenses	328,022	10,136	426,978	(317,886)	(96.91)	(416,843)	(97.63)
Surcharge - Fossil Fuel	871,601	905,997	1,233,545	34,396	3.95	(327,547)	(26.55)
Wharfage - Port Purcell	11,251	13,736	72,571	2,485	22.08	(58,835)	(81.07)
Wharfage-Other Ports/Harbour	62,147	219,263	210,219	157,116	252.81	9,044	4.30
Boat Clearing	-	-	-	-	-	-	-
Other Import Duties	133,981	392,080	227,159	258,099	192.64	164,921	72.60
Passenger Tax (Air)	-	460	1,800	460	-	(1,340)	(74.44)
Security Tax (Air)	-	-	-	-	-	-	-
Passenger Tax (Sea)	1,709,690	406,929	617,676	(1,302,762)	(76.20)	(210,748)	(34.12)
Tourist Arrival Levy	912,551	691,110	2,686,763	(221,441)	(24.27)	(1,995,653)	(74.28)
Passenger Tax (Cruise)	-			-	-	-	-
Stamp Duty	7,212,712	6,937,065	4,590,040	(275,647)	(3.82)	2,347,025	51.13
Other Taxes		-	-	-	-	-	-
Other Taxes	216,435	224,420	32,886	7,985	3.69	191,534	582.41
Recurrent Grants	40,126,177	42,030,191	1,210,214	1,904,014	4.75	40,819,977	3,372.95
Capital Grants	-	-	-	-	-	-	-
Interest (Loans and Advances	40,873	57,117	52,837	16,245	39.75	4,281	8.10
Interest on Government Investments	61,549	74,370	31,921	12,821	20.83	42,448	132.98
Interest on Other Investments	53,155	61,611	90,705	8,456	15.91	(29,094)	(32.08)
Rent of Public Land	424,185	1,588,575	514,304	1,164,390	274.50	1,074,271	208.88
Other Royalties	-	-	-	-	-	-	-
Rental of Vehicles and Plant	-	-	-	-	-	-	-
Rental of Houses and Buildings	-	1,000	795	1,000	-	205	25.79
Other Rentals of Assets	-	-	-	-	-	-	-
Water Rates	2,305,530	3,013,728	4,148,365	708,197	30.72	(1,134,637)	(27.35)
Water to Ships	11,204	-	-	(11,204)	(100.00)	-	-
Water by Trucks	13,032	-	-	(13,032)	(100.00)	-	-
Sewerage Trucks	179	-	-	(179)	(100.00)	-	-
Sewerage Rates	68,412	-	-	(68,412)	(100.00)	-	-
Application Fees	1,833	-	-	(1,833)	(100.00)	-	-
Other Water and Sewerage Revenue	38,893	-	-	(38,893)	(100.00)	-	-
Sale of Apostille (Rev) Stamps	1,643,843	1,922,130	2,313,669	278,287	16.93	(391,539)	(16.92)
Sale of Postage	199,781	159,390	186,903	(40,391)	(20.22)	(27,513)	(14.72)
Philatelic Receipts	1,486	1,107	1,429	(379)	(25.50)	(322)	(22.54)
Ezone Postal Fees	-	-	-	-	-	-	-
Amerijet Postal Fees	43,870	26,555	30,365	(17,314)	(39.47)	(3,810)	(12.55)
Letter Box Rentals	7,511	6,575	20,285	(936)	(12.46)	(13,710)	(67.59)
Commission on Money Orders	976	1,015	884	39	3.99	131	14.76
Retail Sales	1,285	1,736	3,142	451	35.10	(1,405)	(44.73)
Terminal Dues Remittances	8,020	-	-	(8,020)	(100.00)	-	-
Top-Up Sales	-	-	-	-	-	-	-
Other Postal Revenue	1,737	125	1,803	(1,612)	(92.80)	(1,678)	(93.07)
	-			-	-	-	-
Mooring and Berthing Fees	-	46,211	74,153	46,211	-	(27,942)	(37.68)
Sale of Seafoods	-	-	1,606	-	-	(1,606)	(100.00)
Sale of Sand	-	-	-	-	-	-	-
Money Transfer Fee	2,000,000	2,130,205	-	130,205	6.51	2,130,205	-
Nationality Fees	855,000	506,991	3,421,206	(348,009)	(40.70)	(2,914,215)	(85.18)
Customs Fees	412,993	522,249	952,286	109,257	26.45	(430,036)	(45.16)
Immigration Fees	75,000	353,996	347,738	278,996	371.99	6,258	1.80
Registration Fees	705,435	712,353	880,356	6,917	0.98	(168,003)	(19.08)
Development Fees (Dev Cont)	109,119	152,643	167,751	43,524	39.89	(15,108)	(9.01)
Reprographic Fees	-	-	-	-	-	-	-
Ship Survey Fees - International	25,059	11,700	61,231	(13,359)	(53.31)	(49,531)	(80.89)
Ship Survey Fees - Domestic	36,929	48,876	46,508	11,948	32.35	2,368	5.09
Seafarer Doc (Certificates)	11,674	15,090	14,600	3,416	29.26	490	3.36
Forms and Publications	368,480	436,910	568,442	68,430	18.57	(131,533)	(23.14)
Entry Doc Card (ED)	11,000	240,610	135,324	229,610	2,087.37	105,286	77.80
Other Fees	1,241,508	4,315,216	3,649,310	3,073,709	247.58	665,906	18.25

				Variance to Budget		Variance to Previous Year	
Revenue YTD Dec	**Budget**	**Actual 2020**	**Actual 2019**	**$**	**%**	**$**	**%**
Abattoir Fees	5,559	8,387	9,829	2,827	50.86	(1,442)	(14.67)
Audit Fees	-	-	-	-	-	-	-
Driver's License Fees	135,318	-	500	(135,318)	(100.00)	(500)	(100.00)
Textbooks	-	-	-	-	-	-	-
Uniforms	-	-	-	-	-	-	-
Produce and Livestock	2,533	8,106	10,805	5,573	219.99	(2,699)	(24.98)
Livestock Marketing	-	-	-	-	-	-	-
Coin Royalties	15,609	4,518	-	(11,091)	(71.05)	4,518	-
Fuel Sales	-	-	-	-	-	-	-
Other Sales	3,646	7,619	14,313	3,973	108.96	(6,694)	(46.77)
Judiciary Fines	214,252	476,643	506,838	262,391	122.47	(30,195)	(5.96)
Dormant Accounts	-	-	-	-	-	-	-
Forfeitures	-	579,830	-	579,830	-	579,830	-
Other Fines	156,807	159,729	167,812	2,923	1.86	(8,083)	(4.82)
Rec Grants from Civic/Social	-	-	-	-	-	-	-
Other Recurrent Domestic Grants	-	1,680	308,700	1,680	-	(307,020)	(99.46)
Capital Grants Civic/Social	-	-	-	-	-	-	-
Other Capital Domestic Grant	-	-	-	-	-	-	-
Sale of Land	60,557	189,876	139,744	129,319	213.55	50,132	35.87
Capital claims	-	-	-	-	-	-	-
Refunds of cheques-former yrs	-	-	-	-	-	-	-
Revenue from Auctions	3,492	29,135	27,550	25,643	734.39	1,585	5.75
Commission for collecting revenue	18,282	-	13,453	(18,282)	(100.00)	(13,453)	(100.00)
Sundry Receipts	1,600	234,765	207,145	233,165	14,572.80	27,620	13.33
TOTAL REVENUE	**340,031,937**	**360,447,489**	**363,916,421**	**20,415,552**	**6.00**	**(3,468,932)**	**(0.95)**

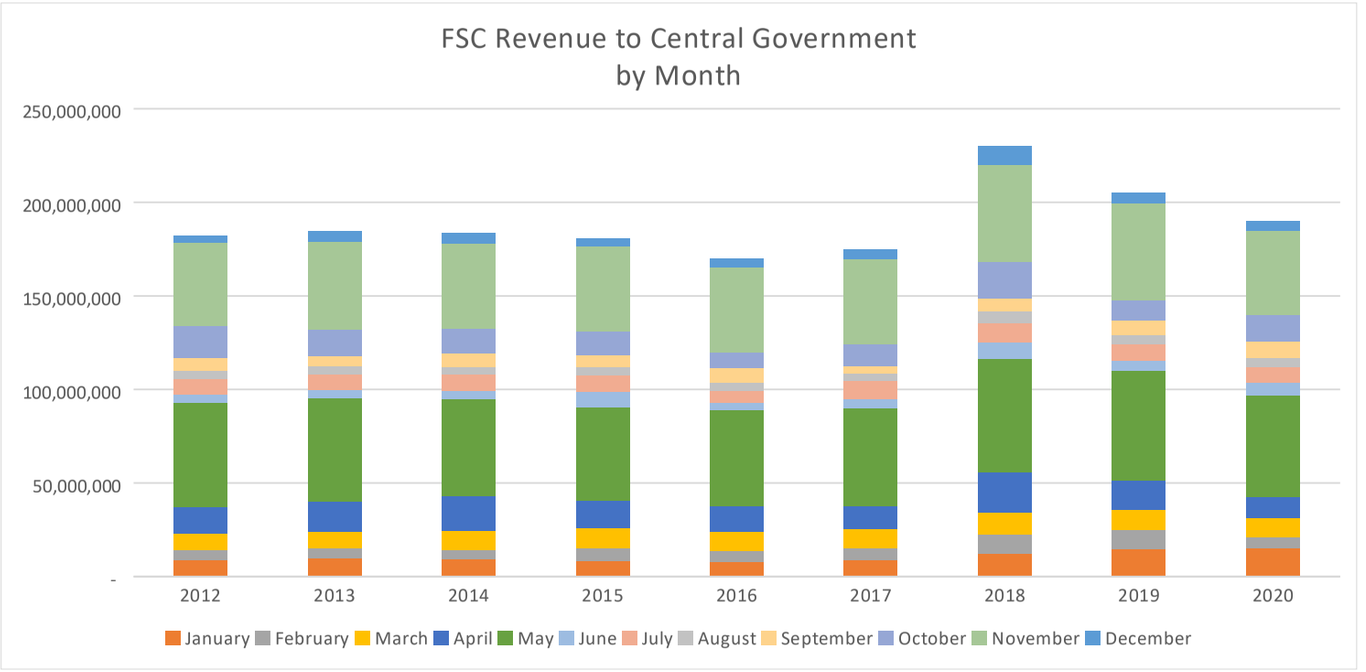
Source: Macro Fiscal Unit

NB: FSC Revenue based on FSC Reports, not JDEdwards System; All other Revenue based on JDE report as at Jan 21 2021

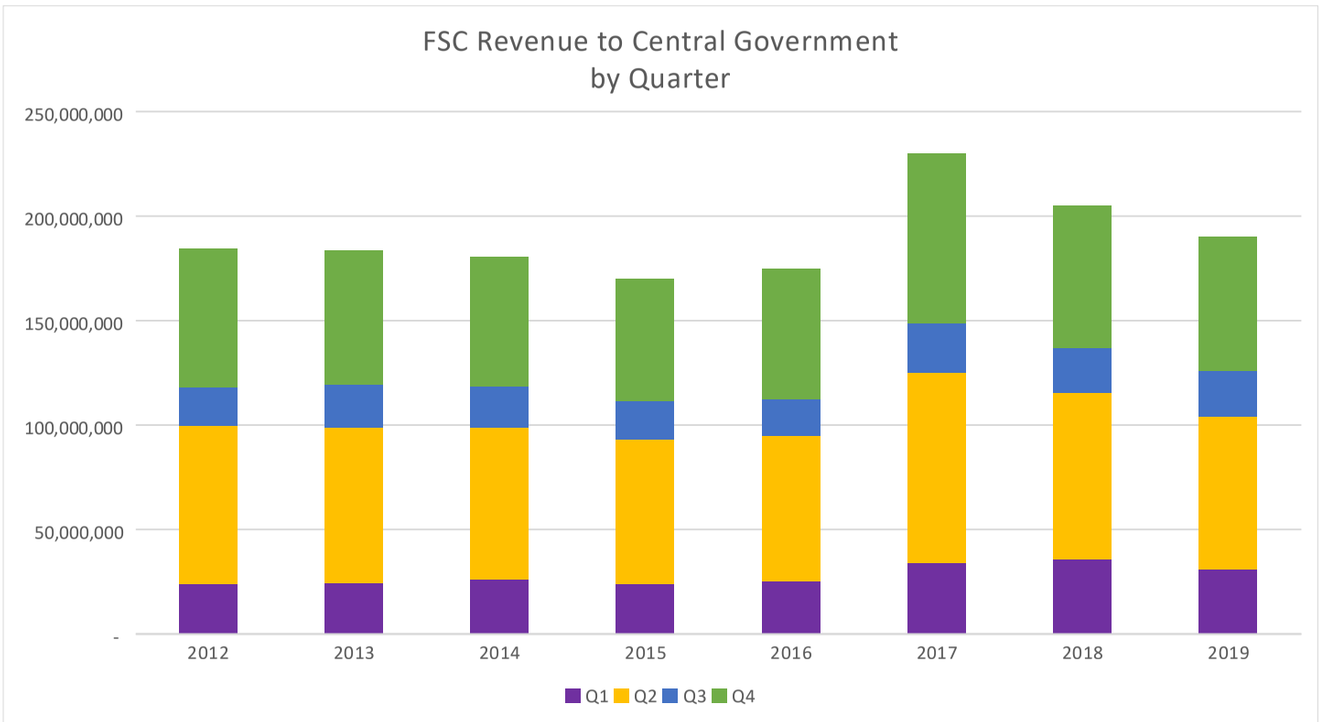
Monthly FSC Revenue to Government	January	February	March	April	May	June	July	August	September	October	November	December	TOTALS
2012	8,522,345	5,874,769	8,430,990	14,497,084	55,632,632	4,537,830	7,934,229	4,761,055	6,993,203	16,685,923	44,615,774	3,544,308	**182,030,142**
2013	9,749,381	5,714,486	8,404,745	16,414,003	54,939,012	4,704,849	8,303,808	4,055,301	5,812,159	13,946,676	46,842,791	5,725,593	**184,612,803**
2014	9,320,517	4,977,988	10,049,755	18,796,024	51,764,044	4,217,653	8,975,853	4,193,223	6,945,670	13,437,534	45,528,128	5,409,013	**183,615,403**
2015	8,514,102	6,609,137	11,124,569	14,306,591	50,015,889	8,443,525	8,427,144	4,502,965	6,428,938	12,797,793	45,357,402	4,005,424	**180,533,478**
2016	7,675,844	5,791,294	10,593,023	13,744,944	50,959,204	4,216,944	6,545,306	4,092,906	7,622,043	8,674,957	45,376,920	4,594,166	**169,887,551**
2017	8,744,974	6,472,137	10,163,776	12,140,258	52,258,998	5,220,583	9,409,525	4,437,058	3,677,893	11,911,038	45,277,611	5,284,458	**174,998,310**
2018	12,361,977	9,904,007	11,698,548	21,869,708	60,501,524	8,868,894	10,012,059	6,669,585	6,968,098	19,197,814	52,135,936	9,868,098	**230,056,249**
2019	14,794,535	10,227,782	10,765,786	15,298,713	59,076,192	5,166,571	8,833,655	4,693,584	8,233,047	10,669,261	51,532,879	5,713,403	**205,005,407**
2020	15,072,240	6,023,697	10,048,356	11,503,932	54,144,679	7,082,664	8,362,316	4,452,360	9,047,670	14,297,270	44,837,707	5,143,080	**190,015,970**

Source: Macro Fiscal Unit

NB: FSC Revenue based on FSC Reports, not JDEdwards System; All other Revenue based on JDE report as at Jan 21 2021



Revenue to Government	Q1	Q2	Q3	Q4	TOTALS
2012	22,828,104	74,667,546	19,688,487	64,846,005	**182,030,142**
2013	23,868,611	76,057,864	18,171,268	66,515,060	**184,612,803**
2014	24,348,261	74,777,721	20,114,746	64,374,675	**183,615,403**
2015	26,247,807	72,766,005	19,359,048	62,160,618	**180,533,478**
2016	24,060,161	68,921,092	18,260,255	58,646,043	**169,887,551**
2017	25,380,887	69,619,839	17,524,476	62,473,107	**174,998,310**
2018	33,964,533	91,240,126	23,649,742	81,201,848	**230,056,249**
2019	35,788,103	79,541,475	21,760,286	67,915,542	**205,005,407**
2020	31,144,292	72,731,275	21,862,345	64,278,058	**190,015,970**



Actual Monthly FSC Revenue to Government	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL
2013													
Registry of Corporate Affairs	8,465,414	4,616,495	7,813,405	14,726,132	54,656,708	4,536,056	8,105,798	3,988,207	5,722,653	13,873,004	46,729,893	5,503,311	**178,737,075**
Banks and Fiduciary	1,095,676	760,097	29,399	22,419	47,246	12,260	7,921	4,027	23,310	17,585	11,501	77,086	**2,108,528**
Insolvency Business	2,685	21,478	29,533	8,323	5,370	-	-	-	-	-	-	269	**67,658**
Insurance Business	130,574	66,670	17,452	236,805	29,356	5,325	18,840	3,669	1,387	1,029	43,901	116,044	**671,051**
Investment Business	54,548	249,142	514,508	1,419,487	199,470	150,748	171,167	59,065	63,667	53,605	59,341	29,223	**3,023,971**
Total 2013	**9,748,897**	**5,713,882**	**8,404,298**	**16,413,166**	**54,938,150**	**4,704,389**	**8,303,725**	**4,054,968**	**5,811,016**	**13,945,223**	**46,844,636**	**5,725,933**	**184,608,283**
2014													
Registry of Corporate Affairs	8,007,223	4,238,862	8,756,858	17,889,603	51,401,524	4,168,214	8,671,932	4,100,129	6,829,594	13,356,629	45,445,746	5,196,868	**178,063,181**
Banks and Fiduciary	1,165,454	621,960	37,080	4,539	7,832	13,085	11,792	6,319	3,293	4,606	222	16,420	**1,892,603**
Insolvency Business	8,010	16,019	34,712	2,670	-	267	-	534	2,670	5,340	-	-	**70,222**
Insurance Business	66,926	58,203	53,136	244,250	12,504	4,807	22,250	5,340	3,026	12,905	21,048	152,946	**657,341**
Investment Business	72,577	42,673	1,168,599	654,167	340,996	32,046	269,801	80,674	106,253	57,849	61,054	42,764	**2,929,453**
Total 2014	**9,320,190**	**4,977,717**	**10,050,385**	**18,795,229**	**51,762,856**	**4,218,419**	**8,975,775**	**4,192,995**	**6,944,835**	**13,437,328**	**45,528,071**	**5,408,998**	**183,612,799**
2015													
Registry of Corporate Affairs	7,267,172	6,099,400	9,557,520	13,340,663	49,792,659	8,261,480	8,266,113	4,473,182	6,324,729	12,677,661	45,231,994	3,712,103	**175,004,677**
Banks and Fiduciary	1,137,938	278,058	373,319	63,362	1,593	46,858	20,486	3,850	26,240	22,698	14,160	160,322	**2,148,885**
Insolvency Business	265	16,195	45,133	5,310	266	2,655	1,327	-	-	265	-	-	**71,416**
Insurance Business	66,019	50,134	19,336	228,538	41,732	14,425	28,671	885	1,726	31,725	54,249	56,272	**593,712**
Investment Business	42,479	165,136	1,128,718	667,916	184,407	117,654	109,685	24,779	76,243	64,378	55,753	75,737	**2,712,886**
Total 2015	**8,513,873**	**6,608,922**	**11,124,026**	**14,305,790**	**50,020,657**	**8,443,073**	**8,426,282**	**4,502,695**	**6,428,938**	**12,796,728**	**45,356,156**	**4,004,435**	**180,531,575**
2016													
Registry of Corporate Affairs	6,886,364	4,458,696	9,398,435	13,021,213	50,784,783	4,100,104	6,384,596	4,028,590	7,546,229	8,624,727	45,330,837	4,376,647	**164,941,224**
Banks and Fiduciary	608,814	1,022,301	28,192	26,804	24,078	21,412	69,533	26,010	10,220	5,354	14,646	150,484	**2,007,847**
Insolvency Business	-	18,581	29,466	10,619	5,663	265	-	1,327	1,327	-	-	796	**68,045**
Insurance Business	91,655	66,982	148,348	15,910	10,176	12,033	5,442	11,545	619	1,460	8,274	13,355	**385,800**
Investment Business	86,391	223,642	986,980	668,806	128,797	82,153	84,771	24,019	61,981	42,342	21,593	49,881	**2,461,355**
Total 2016	**7,673,223**	**5,790,202**	**10,591,421**	**13,743,352**	**50,953,499**	**4,215,968**	**6,544,341**	**4,091,492**	**7,620,376**	**8,673,883**	**45,375,351**	**4,591,164**	**169,864,272**
2017													
Registry of Corporate Affairs	7,173,485	5,650,871	9,021,156	11,401,206	52,174,664	5,113,937	9,340,698	4,364,902	3,649,630	11,779,488	45,216,069	5,152,047	170,038,152
Banks and Fiduciary	1,384,289	317,570	36,583	9,042	10,885	10,085	16,057	9,335	12,473	58,477	19,865	80,136	1,964,797
Insolvency Business	2,655	-	45,652	21,234	265	2,919	-	1,327	-	1,592	265	265	76,176
Insurance Business	33,051	429,724	8,007	29,595	5,265	7,962	14,376	2,256	-	885	664	20,211	551,995
Investment Business	151,494	73,973	1,052,379	679,181	67,919	85,680	38,395	59,238	15,790	70,597	40,748	31,798	2,367,190
Total 2017	**8,744,974**	**6,472,137**	**10,163,776**	**12,140,258**	**52,258,998**	**5,220,583**	**9,409,525**	**4,437,058**	**3,677,893**	**11,911,038**	**45,277,611**	**5,284,458**	**174,998,310**
2018													
Registry of Corporate Affairs	11,150,291	8,737,941	10,647,916	20,966,637	60,328,664	8,735,986	9,876,040	6,584,670	6,847,727	19,160,431	52,091,095	9,742,159	224,869,557
Banks and Fiduciary	1,077,052	1,046,002	44,772	13,759	8,672	13,127	40,195	33,258	19,944	16,015	3,075	25,064	2,340,935
Insolvency Business	531	10,613	26,799	21,501	2,920	-	4,510	265	4,245	1,327	4,247	2,652	79,612
Insurance Business	46,485	99,810	203,737	14,599	6,017	28,951	13,177	4,909	1,017	2,743	885	22,898	445,229
Investment Business	87,619	9,640	775,324	853,213	155,251	90,830	78,136	46,482	95,165	17,298	36,634	75,325	2,320,916
Total 2018	**12,361,977**	**9,904,007**	**11,698,548**	**21,869,708**	**60,501,524**	**8,868,894**	**10,012,059**	**6,669,585**	**6,968,098**	**19,197,814**	**52,135,936**	**9,868,098**	**230,056,249**
2019													
Registry of Corporate Affairs	12,557,886	9,165,231	10,237,483	14,080,322	58,806,574	5,052,306	8,465,918	4,644,646	8,159,203	10,543,314	51,410,370	5,608,972	198,732,225
Banks and Fiduciary	1,999,419	789,803	66,390	22,602	39,155	21,784	52,651	27,983	15,614	37,249	36,678	23,388	3,132,714
Insolvency Business	10,616	15,924	37,158	5,308	-	265	265	-	1,592	1,327	-	1,326	73,783
Insurance Business	21,940	122,396	60,427	99,343	8,097	2,209	56,099	1,503	-	-	3,761	20,073	395,847
Investment Business	204,674	134,428	364,329	1,091,138	222,366	90,007	258,722	19,451	56,638	87,370	82,071	59,643	2,670,838
Total 2019	**14,794,535**	**10,227,782**	**10,765,786**	**15,298,713**	**59,076,192**	**5,166,571**	**8,833,655**	**4,693,584**	**8,233,047**	**10,669,261**	**51,532,879**	**5,713,403**	**205,005,407**
2020													
Registry of Corporate Affairs	12,077,838	5,072,166	9,749,946	11,259,691	53,236,987	6,869,718	8,136,308	4,366,387	9,014,756	14,066,779	44,741,340	5,027,654	183,619,571
Banks and Fiduciary	2,915,479	184,524	29,058	17,822	242,679	74,266	22,145	19,938	11,531	16,489	28,570	40,622	3,603,122
Insolvency Business	2,654	31,839	29,456	2,653	2,654	-	-	-	-	530	1,327	12,833	83,946
Insurance Business	46,672	144,115	121,938	5,705	5,794	7,776	4,243	21,129	1,546	6,189	1,592	7,102	373,802
Investment Business	29,596	591,053	117,957	218,061	656,565	130,904	199,618	44,906	19,836	207,283	64,879	54,870	2,335,528
Total 2020	**15,072,240**	**6,023,697**	**10,048,356**	**11,503,932**	**54,144,679**	**7,082,664**	**8,362,316**	**4,452,360**	**9,047,670**	**14,297,270**	**44,837,707**	**5,143,080**	**190,015,970**

NB: FSC Revenue based on FSC Reports, not JDEdwards System; All other Revenue based on JDE report as at Jan 21 2021

				Variance to Budget		Variance to Previous Year	
Expenditure YTD Dec	**Budget**	**Actual 2020**	**Actual 2019**	**$**	**%**	**$**	**%**
Personal Emoluments	98,682,637	95,137,766	97,534,665	(3,544,871)	-3.59	(2,396,899)	-2.46
Social Contributions	17,312,907	15,096,319	17,419,941	(2,216,588)	-12.80	(2,323,622)	-13.34
Rent	9,589,849	9,124,752	7,308,282	(465,097)	-4.85	1,816,470	24.85
Utilities	30,020,258	28,744,202	29,326,930	(1,276,056)	-4.25	(582,728)	-1.99
Supplies	7,391,670	6,473,794	6,510,632	(917,876)	-12.42	(36,838)	-0.57
Repairs/Maintenance (Minor)	3,899,522	3,494,460	4,690,090	(405,062)	-10.39	(1,195,630)	-25.49
Travel	497,210	363,548	1,236,082	(133,662)	-26.88	(872,534)	-70.59
Training	242,268	191,865	309,120	(50,403)	-20.80	(117,255)	-37.93
Contributions to Prof Bodies	12,652	10,870	17,737	(1,782)	-14.09	(6,867)	-38.72
Services	85,278,839	73,290,900	15,737,194	(11,987,939)	-14.06	57,553,706	365.72
Entertainment	330,030	300,051	470,165	(29,979)	-9.08	(170,115)	-36.18
Domestic Interest	6,325,955	5,919,848	6,921,518	(406,107)	-6.42	(1,001,669)	-14.47
				-	0.00	-	0.00
Subsidies	648,200	540,355	124,546	(107,845)	-16.64	415,809	333.86
Grants	86,772,278	79,302,063	91,937,116	(7,470,215)	-8.61	(12,635,053)	-13.74
Social Assistance Benefits	780,705	700,488	680,586	(80,217)	-10.27	19,902	2.92
Employer Social Benefits	16,805,831	15,916,484	15,049,835	(889,347)	-5.29	866,649	5.76
Property Expenses	1,792,874	1,783,371	1,380,206	(9,503)	-0.53	403,165	29.21
Assistance Grants	12,752,556	12,352,673	11,070,604	(399,883)	-3.14	1,282,069	11.58
Miscellaneous Other Expense	8,777,614	8,510,566	1,053,795	(267,048)	-3.04	7,456,771	707.61
Prior Year Adjustment	-	-	-	-	0.00	-	0.00
TOTAL RECURRENT EXPENDITURE	**387,913,854**	**357,254,376**	**308,779,045**	**(30,659,478)**	**-7.90**	**48,475,330**	**15.70**

NB: Expenditure figures based on JDE report as at Jan 21 2021

TOTAL CAPITAL EXPENDITURE	**97,234,096**	**31,319,110**	**25,678,141**	**(65,914,986)**	**(67.79)**	**5,640,969**	**21.97**

NB: Expenditure figures based on JDE report as at Jan 21 2021

Monthly Debt Report, December 2020

Loan Purpose
CENTRAL GOVERNMENT
Domestic
Hospital Outfitting and Sewerage Works
New Peebes Hospital
New Peebes Hospital
New Peebes Hospital
Road improvement and maintenance
Road Construction and Reconstruction
TOTAL DOMESTIC
Foreign
Disaster Infrastructure Rehabilitation
Beef Island Airport
Beef Island Airport
Hurricane Rehabilitation (Sea Defense)
Virgin Gorda/Tortola Water Supply
Fort Hill Water Project
East End/Water Supply
Student Loan (DBVI - 11/SFR-OR-BVI)
Student Loan (DBVI - 11/SFR-OR-BVI)
Rehabilitation and Reconstruction Loan - Hurricane Irma - PART 1
Rehabilitation and Reconstruction Loan - Hurricane Irma - PART 2
Immediate Response Loans
Policy Based Loan (PBL)
Student Loan (Part 1)
Student Loan (Part 2)
TOTAL FOREIGN
RAL GOVERNMENT DEBT (Without Line of Cred
Line of Credit
TRAL GOVERNMENT DEBT (With Line of Credit
FEES - LOAN MANAGEMENT AND COMMISSIO
GUARANTEED
Loan Purpose
BVI Electricity Expansion Project
Phase V Expansion Project
Cruise Pier Development (MERGED)
BVI Ports - Senior Secured Non-Revolving Loan
TOTAL GUARANTEED DEBT
UBLIC SECTOR DEBT (Without Line of Credit Ba
PUBLIC SECTOR DEBT (With Line of Credit Bala

Note: Disbursed Outstanding Balances is DOD.

Total Debt Servicing = Principal repayments plus interest payments.

Monthly Debt Report, December 2020

Loan Source	Loan Amount (in US Dollars)	November 2020 Debt Balances						December 2020 Debt Balances						2020 Year-to-Date Debt Balances (Cumulative)					
		DOD - Opening Balances	Loan Disbursements	Principal Repayments	Interest Payments	DOD - Closing Balances	Total Debt Servicing	DOD - Opening Balances	Loan Disbursements	Principal Repayments	Interest Payments	DOD - Closing Balances	Total Debt Servicing	DOD - Opening Balances	Loan Disbursements	Principal Repayments	Interest Payments	DOD - Closing Balances	Total Debt Servicing
CENTRAL GOVERNMENT																			
FCIBC - Domestic	22,000,000.00	15,600,000.00		-		15,600,000.00	-	15,600,000.00				15,600,000.00	-	16,600,000.00	-	1,000,000.00	810,561.33	15,600,000.00	1,810,561.33
Banco Popular - Domestic	45,000,000.00	18,750,000.00		-	62,500.00	18,750,000.00	62,500.00	18,750,000.00			64,583.33	18,750,000.00	64,583.33	20,250,000.00	-	1,500,000.00	833,427.09	18,750,000.00	2,333,427.09
BVI Social Security Board - Domestic	15,000,000.00	-				-	-	-				-	-	375,000.00	-	375,000.00	5,625.00	-	380,625.00
BVI Social Security Board - Domestic	35,000,000.00	5,104,166.53				5,104,166.53	-	5,104,166.53			76,562.50	5,104,166.53	76,562.50	6,562,499.87	-	1,458,333.34	350,000.00	5,104,166.53	1,808,333.34
BVI Social Security Board - Domestic	7,290,449.13	-				-	-	-				-	-	455,652.93	-	455,652.93	8,681.67	(0.00)	464,334.60
BVI Social Security Board - Domestic	16,000,000.00	12,907,921.18				12,907,921.18	-	12,907,921.18			137,146.66	12,907,921.18	137,146.66	13,176,836.20	-	268,915.02	587,863.18	12,907,921.18	856,778.20
		52,362,087.71	-	-	**62,500.00**	**52,362,087.71**	**62,500.00**	**52,362,087.71**	-	-	**278,292.49**	**52,362,087.71**	**278,292.49**	**57,419,989.00**	-	**5,057,901.29**	**2,596,158.27**	**52,362,087.71**	**7,654,059.56**
CDB - Foreign	15,672,000.00	10,465,502.91				10,465,502.91	-	10,464,962.91				10,464,962.91	-	11,241,025.38	433,339.21	1,209,401.68	482,132.03	10,464,962.91	1,691,533.71
CDB - Foreign	19,600,358.13	-				-	-	-				-	-	-	-	-	-	-	-
CDB - Foreign	5,257,605.07	219,066.84				219,066.84	-	219,066.84				219,066.84	-	657,200.60	-	438,133.76	22,139.44	219,066.84	460,273.20
CDB - Foreign	1,677,000.00	558,991.21				558,991.21	-	558,991.21				558,991.21	-	614,890.37	-	55,899.16	11,878.57	558,991.21	67,777.73
EIB - Foreign	2,621,772.00	1,065,091.55		42,103.80	4,653.20	1,022,987.75	46,757.00	1,022,987.75				1,022,987.75	-	1,103,234.24	-	80,246.49	9,083.71	1,022,987.75	89,330.20
EIB - Foreign	393,266.00	-				-	-	-				-	-	-	-	-	-	-	-
EIB - Foreign	862,273.00	117,954.19		14,963.16	454.08	102,991.03	15,417.24	102,991.03				102,991.03	-	131,515.46	-	28,524.43	935.60	102,991.03	29,460.04
CDB - Foreign	4,700,000.00	2,629,509.90				2,629,509.90	-	2,629,509.90				2,629,509.90	-	3,067,761.55	-	438,251.65	127,996.69	2,629,509.90	566,248.34
CDB - Foreign	300,000.00	300,000.00				300,000.00	-	300,000.00				300,000.00	-	300,000.00	-	-	14,153.09	300,000.00	14,153.09
CDB - Foreign	60,291,000.00	31,695,796.29				31,695,796.29	-	31,695,796.29				31,695,796.29	-	16,585,750.26	15,110,046.03	-	779,938.16	31,695,796.29	779,938.16
CDB - Foreign	5,000,000.00	-				-	-	-				-	-	-	-	-	-	-	-
CDB - Foreign	2,250,000.00	1,968,750.00				1,968,750.00	-	1,968,750.00				1,968,750.00	-	2,250,000.00	-	281,250.00	21,445.31	1,968,750.00	302,695.31
CDB - Foreign	50,000,000.00	48,076,923.08				48,076,923.08	-	48,076,923.08				48,076,923.08	-	50,000,000.00	-	1,923,076.92	2,202,644.23	48,076,923.08	4,125,721.15
CDB - Foreign	749,684.38	(0.00)				0.00	-	(0.00)				0.00	-	46,855.48	-	46,855.48	1,083.54	0.00	47,939.02
CDB - Foreign	749,684.39	137,442.13				137,442.13	-	137,442.13				137,442.13	-	187,421.09	-	49,978.96	6,747.16	137,442.13	56,726.12
		97,235,028.09	-	**57,066.96**	**5,107.28**	**97,177,961.13**	**62,174.24**	**97,177,421.13**	-	-	-	**97,177,421.13**	-	**86,185,654.43**	**15,543,385.24**	**4,551,618.53**	**3,680,177.52**	**97,177,421.13**	**8,231,796.06**
IMENT DEBT (Without Line of Credit Balances)		**149,597,115.80**	-	**57,066.96**	**67,607.28**	**149,540,048.84**	**124,674.24**	**149,539,508.84**	-	-	**278,292.49**	**149,539,508.84**	**278,292.49**	**143,605,643.43**	**15,543,385.24**	**9,609,519.82**	**6,276,335.79**	**149,539,508.84**	**15,885,855.62**
FCIBC	25,000,000.00	-	-	0.00	0.00	-	-	-	-	-	0.00	0.00	-	-	-	-	-	-	-
RNMENT DEBT (With Line of Credit Balances)		**149,597,115.80**	-	**57,066.96**	**67,607.28**	**149,540,048.84**	**124,674.24**	**149,539,508.84**	-	-	**278,292.49**	**149,539,508.84**	**278,292.49**	**143,605,643.43**	**15,543,385.24**	**9,609,519.82**	**6,276,335.79**	**149,539,508.84**	**15,885,855.62**
MISSION		-				**90.00**	**N/A**	-				-	**N/A**	-		**N/A**		**482,834.00**	**N/A**
GUARANTEED																			
Banco Popular - Domestic	30,008,000.00	0.00				0.00	0.00	0.00				0.00	0.00	2,000,532.96	-	2,000,532.96	221,071.58	0.00	2,221,604.54
BVI Social Security Board - Domestic	35,000,000.00	25,083,334.10				25,083,334.10	0.00	25,083,334.10				25,083,334.10	0.00	27,416,667.50	-	2,333,333.40	928,958.36	25,083,334.10	3,262,291.76
FCIBC - Domestic	50,000,000.00	39,786,111.17				39,786,111.17	0.00	39,786,111.17				39,786,111.17	0.00	40,821,825.17	-	1,035,714.00	606,248.35	39,786,111.17	1,641,962.35
FCIBC - Domestic	2,100,000.00	1,758,750.00				1,758,750.00	0.00	1,758,750.00				1,758,750.00	0.00	1,942,500.00	-	183,750.00	18,168.46	1,758,750.00	201,918.46
TAL GUARANTEED DEBT		**66,628,195.27**	**0.00**	**0.00**	**0.00**	**66,628,195.27**	**0.00**	**66,628,195.27**	**0.00**	**0.00**	**0.00**	**66,628,195.27**	**0.00**	**72,181,525.63**	**0.00**	**5,553,330.36**	**1,774,446.75**	**66,628,195.27**	**7,327,777.11**
OR DEBT (Without Line of Credit Balances)		**216,225,311.07**	**0.00**	**57,066.96**	**67,607.28**	**216,168,244.11**	**124,674.24**	**216,167,704.11**	**0.00**	**0.00**	**278,292.49**	**216,167,704.11**	**278,292.49**	**215,787,169.06**	**15,543,385.24**	**15,162,850.18**	**8,050,782.54**	**216,167,704.11**	**23,213,632.73**
TOR DEBT (With Line of Credit Balances)		**216,225,311.07**	**0.00**	**57,066.96**	**67,607.28**	**216,168,244.11**	**124,674.24**	**216,167,704.11**	**0.00**	**0.00**	**278,292.49**	**216,167,704.11**	**278,292.49**	**215,787,169.06**	**15,543,385.24**	**15,162,850.18**	**8,050,782.54**	**216,167,704.11**	**23,213,632.73**

House of Commons

Foreign Affairs Committee

Global Britain and the British Overseas Territories: Resetting the relationship

Fifteenth Report of Session 2017–19

HC 1464

House of Commons

Foreign Affairs Committee

Global Britain and the British Overseas Territories: Resetting the relationship

Fifteenth Report of Session 2017–19

Report, together with formal minutes relating to the report

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The Foreign Affairs Committee

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Summary

The British Overseas Territories (OTs) are a set of largely self-governing territories spanning nine time zones, from the Atlantic to the Pacific, the Antarctic to the Caribbean. These territories are not part of the UK and each has its own constitution, but all share a bond with the UK and a pride in their deeply-rooted British identities. For the Overseas Territories, Global Britain is a living reality and they have a valuable part to play in it.

On the whole, OT-UK relations are stable but there is some appetite for reform in a number of areas. The FCO's role as the lead department for the OTs is one such area. Some OTs feel that it is inappropriate for a department responsible for foreign relations to also have responsibility for governing British territories and many OT governments feel that they are being managed by FCO officials rather than treated as partners, and that their voices are not being heard elsewhere in Whitehall. That is why we are recommending that the Government commission an independent review into cross-government engagement with the OTs and the FCO's management of its responsibilities towards the OTs and to consider the costs, benefits and risks of moving primary responsibility for the OTs away from the FCO.

The UK's relationships with the OTs were placed under strain in May 2018 by the passage of the Sanctions and Anti-Money Laundering Act (SAMLA), which requires the OTs to publish registers of beneficial ownership. Some OTs say that this will impact their financial services sectors and make them less competitive. We believe it is a matter of national security, because there is evidence to suggest that money tied to autocratic regimes has been connected to OT-registered companies, and that considerations of competitiveness cannot prevent action. The public in the UK and elsewhere have a right to see beneficial ownership information and we are calling on the Foreign Secretary to lay out plans for achieving this.

Beyond the specifics of SAMLA, some OTs say that its consideration and passage raised wider questions about Parliament's relationship with the OTs. There is little appetite in the OTs for major change, such as the OTs sending MPs to Westminster, but most agree that there needs to be greater scope for Parliament to examine OT issues, particularly given the cross-departmental nature of the Government's engagement with the OTs. We therefore think the time is right to consider establishing a new formal mechanism by which the members of relevant select committees can scrutinise the UK Government's administration of, expenditure on and policy towards the OTs.

In the long term, rethinking how the Government and Parliament interact with the OTs will help to ensure that the UK's bonds with the OTs remain strong. There are also steps both sides can take in the short-term. On the one hand, the UK Government needs to ensure that those who should be able to claim British Overseas Territories citizenship can do so and that OT citizens can access NHS treatment in the UK when they need to. On the other hand, belongership and its equivalents are wrong: we do not accept that there is any justification to deny legally-resident British Overseas Territory and UK citizens the right to vote and to hold elected office. The UK Government should initiate a consultation with the elected governments of the OTs and agree a plan to ensure that there is a pathway for all resident UK and British Overseas Territory citizens to be able

to vote and hold elected office. Moreover, those OTs that have not yet legalised same-sex marriage should move towards doing so. These steps can ensure that the concept of Global Britain can be underpinned by shared values and commitments.

Streamlining funding for the OTs is another way in which their relationships with the UK can be strengthened. For some, this means having certainty about the long-term outlook for funding large-scale infrastructure developments, for others it means helping to tackle climate change and continuing and expanding the Government's Blue Belt programme, which helps to conserve the OTs' globally significant environments. That is why we are recommending that the UK Government set up a dedicated development and stimulus fund for the OTs.

Introduction

1. The British Overseas Territories (the OTs) are spread across four oceans and nine time zones, from Bermuda in the Atlantic to Pitcairn in the Pacific.[1] Most of the OTs are permanently inhabited and largely self-governing. They are not part of the United Kingdom, but the UK has an obligation under article 73 of the United Nations Charter to provide for the wellbeing of their inhabitants.[2] The total population of the UK Overseas Territories is only about 250,000, but they encompass some of the greatest biodiversity in the world. The largest continuous marine protected area in the world surrounds the Chagos Islands and the UK has plans to develop two further marine protection zones around Pitcairn and Ascension. Henderson Island and parts of Tristan da Cunha are UNESCO World Heritage Sites.

2. Numerous UK government departments work in or on the OTs, notably the Department for International Development (DFID), which spends more than any other department on the OTs. It is the FCO, however, that is ultimately responsible for managing the UK's international obligations towards the OTs and its relationships with their elected governments.[3] It is the FCO that appoints the UK civil servants who serve as governors of the OTs, acting as liaison between the UK and the territory and bearing responsibility for its good governance and security.[4] It is also the FCO that convenes the OTs Joint Ministerial Council, a forum that brings together UK Ministers and the elected leaders and representatives of the OTs and which meets in full once a year.

3. The UK's relationships with the OTs have been under the spotlight in recent years for several reasons: the Brexit vote in 2016 and its potentially seismic impact for several OTs; Hurricanes Irma and Maria in 2017, which had a devastating impact on several OTs in the Caribbean; and the consideration in and approval by Parliament in 2018 of the Sanctions and Anti-Money Laundering Act, requiring registers of beneficial ownership to be published in the OTs, which some OTs describe as unconstitutional. In the light of these developments and the questions they have raised about the UK's relationships with the OTs, we launched an inquiry into the future of the OTs in July 2018, the first major OTs inquiry by the Foreign Affairs Committee since 2008.[5]

4. There has been significant interest in this inquiry from across the OTs. The scale of engagement in the inquiry reflects something that was reiterated to us on numerous occasions by OT leaders and representatives: they are proud to be British Overseas

1 They are: Anguilla, Bermuda, the British Antarctic Territory, the British Indian Ocean Territory, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, St Helena (with Ascension Island and Tristan da Cunha), South Georgia & the South Sandwich Islands, the Sovereign Base Areas, and the Turks & Caicos. For a summary of each territory's constitutional relationship with the UK, see the Island Rights Initiative's report and factsheets on mapping the UK's responsibilities for human rights in the OTs and Crown Dependencies (December 2018).

2 United Nations Charter, Chapter XI, Article 73.

3 This applies to the permanently inhabited OTs (Anguilla, Bermuda, BVI, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, St Helena, Ascension Island and Tristan da Cunha, and the Turks & Caicos). The British Antarctic Territory, the British Indian Ocean Territory and South Georgia & the South Sandwich Islands do not have permanent populations. They are governed by an FCO official who serves as Commissioner. The Falkland Islands' governor fulfils this role for South Georgia. The exceptions are the Sovereign Base Areas, which have a permanent population but are administratively treated as Cypriot territory. They are managed by the Ministry of Defence.

4 For an overview of the role of a governor, see the FCO's response, dated 12 September 2018, to FOI request 0885–18, regarding the role of the Governor of the Cayman Islands.

5 Foreign Affairs Committee, Overseas Territories (7th report of session, 2007–2008).

Territories; they have a very strong sense of British identity (although this varies in depth and strength between the Overseas Territories); and they care greatly about maintaining their bonds with the UK and ensuring that their relationships with the UK Government and Parliament are resilient and fit for purpose. The evidence we received suggests that for many people in the OTs, Global Britain is a living reality. These territories are not part of the UK, but they see themselves as members of a global British family. The strength of this identity was summed up by Eric Bush, the Cayman Islands' government's representative in the UK, who told us: "We were settled by the British, and being British is in our DNA—it is who we are".[6]

5. Yet this is not a universal feeling. In oral evidence, former Governor of Bermuda George Fergusson told us that the UK's relationships with the OTs are "almost fated to be difficult" and that "there will always be a degree of confusion and pushing and pulling" between the UK and the OTs.[7] According to Fergusson, this is because the OTs differ in what they want from the UK. Some want more autonomy from the UK; some want to be closer to the UK; others are happy with the status quo. Mr Fergusson concluded that there "will always be something around, but I don't think the relationship is too bad".[8] Dr Peter Clegg from the University of the West of England echoed this view. He said that there is little appetite in the OTs for independence, suggesting a general satisfaction with the status quo, but, he added, there are occasional "difficult periods" in UK-OT relations.[9] The evidence we received suggests that we are in one of those periods and that the long-standing assumption that the UK can take a hands-off approach and bear little cost or liability is under strain. This tension has arisen not least because some OTs want the UK to do more, in terms of financial support, for example, but do not want the UK Government and Parliament to interfere in what they see as their internal affairs.

6. During the course of this inquiry we received evidence from numerous elected leaders and representatives and members of the public about issues of importance to individual territories. These territory-specific issues are beyond the scope of this report, but we are grateful to those who have brought them to our attention and we have reported the evidence we have received on these issues to the House. In the very final stages of the inquiry we were alerted to a recent influx of irregular migrants from Haiti into the Turks and Caicos' territorial waters. We intend to pursue this issue with FCO Ministers.

7. We would like to thank those who participated in this inquiry and provided invaluable oral and written evidence, including the elected leaders and representatives of Anguilla, Ascension Island, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Montserrat, Pitcairn, St Helena, Tristan da Cunha and Turks and Caicos.

6 Q43
7 Q9 Mr Fergusson was also non-resident Governor of Pitcairn between 2006 and 2010.
8 Q9
9 Q72

1 The OTs and the FCO

8. The FCO inherited responsibility for the OTs from the Colonial Office in 1968, via the short-lived Commonwealth Office. The OTs' relationships with the UK have changed significantly since then. Most notably, in 2002 these territories, which had been colonies and later dependencies, were recategorised as Overseas Territories. This was intended to reflect a more modern relationship with the UK, based on partnership rather than dependency. Reflecting this modern partnership, 2002 also saw the creation of British Overseas Territories Citizenship, which placed OTs citizenship on an equal footing with British citizenship. Despite these and numerous other attempts to modernise the relationship, George Fergusson told us that the FCO's role "has not been seriously reviewed" since it inherited it from the Colonial Office.[10] The evidence we received suggests that many in the OTs believe it is now time to reconsider that role.

Whether the FCO is the right fit for the OTs

9. Several of the written submissions we received from members of the public suggested that they consider it disrespectful for a department responsible for foreign relations to also have responsibility for the OTs. For example, the submission we received from Andrew Fahie, the then-Leader of the Opposition in the British Virgin Islands (BVI), was based on feedback from public forums. In it he said that many people had "expressed the view that administering the OTs by lumping them with all other foreign interests is axiomatic to a modern relationship" and that "moving the administration of the OTs from the FCO should be a serious first step in modernising the relationship".[11] The submission we received from Shirley Osborne, Speaker of the Montserrat Legislative Assembly, was similarly based on feedback collected in public forums. It said: "Participants universally agreed that the FCO is not the appropriate body to be administering the affairs of the Overseas Territories".[12] This view was echoed in written submissions and oral evidence by several OT governments. Donaldson Romeo, Premier of Montserrat, said:

> Many people question the very fact that the FCO is the primary interface between the UK and its Territories. This stems from the fact that Montserrat and the other Territories are legally British Territories and populated for the most part by British citizens. As such, Montserrat is neither foreign nor Commonwealth.[13]

10. Similarly, the Chief Minister of Anguilla, Victor Banks, said: "We are not foreign; neither are we members of the Commonwealth, so we should have a different interface with the UK that is based on mutual respect".[14] Derek Thomas, a member of St Helena's Legislative Assembly, said: "We would like to be not treated as foreigners, but recognised

10 George Fergusson (OTS0110)
11 Virgin Islands Public Meetings (OTS0047). This submission was made in September 2018. Mr Fahie was succeeded as Leader of the Opposition by Ronnie Skelton in December 2018.
12 The Office of the Montserrat Legislative Assembly (OTS0093). See also: Mr Kedrick Malone (OTS0100).
13 Office of the Premier of Montserrat (OTS0082)
14 Q162

and acknowledged as British citizens".[15] Eric Bush, speaking on behalf of the Cayman Islands' government, also said: "The Cayman Islands and, indeed, other OTs are not foreign".[16]

11. Not all OT governments agreed that the FCO was an unsuitable department for the OTs. In its written submission, the Falkland Islands' government said that the people of the territory do not see themselves as foreign but that, "whilst it may seem strange for our constitutional relationship with the UK to be managed by the Foreign and Commonwealth Office, on reflection it is a logical home given the unique status of the Overseas Territories".[17] Teslyn Barkman, a member of the Islands' Legislative Assembly, expanded upon this in oral evidence: "Certainly we don't feel like a foreign entity. We are British and we are a part of the UK British family". But, she said, "there is great strategy in having the Foreign Office. It has a base globally around the world that is useful to someone as logistically and geographically distinct as the Falkland Islands". She added: "Certainly we cannot think of where we would fit better".[18]

12. Some OT governments told us that they are not only concerned about the principle of being managed by a foreign ministry, but also by the practice of engaging with the FCO through its Overseas Territories Directorate (OTD). Some suggested that, while an increasing number of UK departments are involved with the OTs, OT governments' access to Whitehall tends to be limited to the OTD rather than Ministers and their voices are not being heard. In its written submission, for example, the Cayman Islands' government said that its relationship with the OTD was of "questionable efficacy" and added: "We are often left with the impression there is a view the British Overseas Territories are to be administered, rather than treated with respect as self-governing representative democracies in their own right".[19] In her submission, Blondel Cluff, CEO of the West India Committee, wrote:

> The FCO acts as the lead department for the territories, although BOTs are entitled to access all HMG departments directly. A cross-Whitehall panel has been established to nurture direct access to all departments, but generally, enquiries tend to be referred back to OTD. Consequently, aside from short presentations made at Joint Ministerial Councils or politically led interaction, there is seldom any in-depth dialogue beyond OTD.[20]

13. Falkland Islands' Assembly Member Teslyn Barkman told us that "the Falkland Islands have repeatedly demonstrated that we are a reliable, responsible and valued member of the UK family" but, she said, this partnership is not reflected in the way they interact with the Government. "Rather than being seen as partners", she said, "we are in some ways more managed by officials in the FCO".[21] Ms Barkman concluded that "the relationship that the Falkland Islands wants to see is one that gives us greater ministerial contact".[22] Other OT governments told us that they want the way in which the FCO appoints officials in the OTs, such as governors, to be reformed. The Turks and Caicos

15 Q196
16 Q43
17 Falkland Islands Government (OTS0124)
18 Q185, Q186
19 Cayman Islands Government (OTS0109)
20 The West India Committee (OTS0053)
21 Q164
22 Q180

Premier, Sharlene Cartwright-Robinson, said that she wants "to see the involvement of UK Overseas Territories in the selection of Governors", while Anguilla's Chief Minister, Victor Banks, said that he wants to see candidates for these roles to be chosen "from a wider base of skills and experience, beyond that of the UK civil service".[23]

14. The situation is different for the governments of OTs that receive official development assistance (ODA). They told us that the problem is not that their relationship with the Government is dominated by FCO officials but that the FCO is not assertive enough. In practice, DFID is the dominant department. In his written submission, Donaldson Romeo, the Premier of Montserrat, said: "DFID officials are too involved in the decision-making process in Montserrat, and sometimes unfairly impose their will on the Government of Montserrat. This makes for an unhealthy relationship".[24] This was echoed by Janice Panton, Montserrat's representative in the UK, who told us: "It is rather difficult for us because the FCO should govern and DFID should provide aid, but what we see is that aid and governance come mainly from DFID".[25] Councillor Derek Thomas from St Helena, which is also ODA-eligible, said: "We are in receipt of foreign aid from the UK through DFID, but we are British, not a foreign country. Decisions are made by DFID on our future funding, yet we are not involved in that process".[26]

The FCO's view

15. In October 2018, we asked the Foreign Secretary if he thought the FCO was the right department for the OTs. He said that this is a time when "we are thinking big thoughts about how things happen going forward" and that he was happy to look at any proposals for constitutional change, so long as it was done with the consent of the OTs.[27] Two weeks later, the FCO's Permanent Secretary, Sir Simon McDonald, told us that he hoped that the OTs could "continue to be handled from the FCO" and that "our increasingly good performance will be part of making the case for that effectively".[28] When we asked Sir Simon if another department, such as the Cabinet Office, would better suit the cross-departmental nature of HMG's relationships with the OTs, he said: "I am sure the case could be made, but in the Cabinet Office there are even more distractions than there are in the Foreign Office".[29]

16. Sir Simon told us that the FCO had "underinvested" in the OTs in recent years but that that is changing. Building resilient OTs is now one of the department's top nine priorities, as outlined in its latest single departmental plan.[30] Moreover, the PUS told us, the OTs would be in "the first line" in extra work the FCO would be doing under its plans for a post-Brexit Global Britain agenda, for which it had secured extra funding in 2018. Sir Simon elaborated what this would mean in practice:

> We are doing it territory by territory, but in the first place we are reinforcing the offices of governors with extra staff. As you know, in many places they are very, very small staffs—one or two people—so getting an extra few

23 Q162, Q165
24 Office of the Premier of Montserrat (OTS0082)
25 Q90
26 Q196
27 Q383 [Oral evidence from the Foreign Secretary, 31 October 2018]
28 Q94 [FCO budget and capacity, and annual report 2017–2018, 13 November 2018]
29 Q95 [FCO budget and capacity, and annual report 2017–2018, 13 November 2018]
30 Foreign and Commonwealth Office single departmental plan, section 3.3 [accessed 21/01/2019]

> bodies from head office is an initial part. I want to look at the relationship in a more fundamental way because that is a part of fulfilling our global responsibilities.[31]

17. In December 2018, we also asked the FCO Minister responsible for the OTs, Lord Ahmad, if his department was the right fit for the OTs. He said that, "in terms of where ultimate responsibility should sit, I think that is less important than what the approach of Her Majesty's Government is". He added that "the overall approach of the Government should be cross-Government" and that "we have installed that mechanism and governance structure in our dealings with the Overseas Territories".[32] Lord Ahmad also referred to a particular advantage of managing the OTs from the FCO: the ability to plug them into the FCO's wider work, to integrate them into UK policy towards the Caribbean and to raise their profile in the Commonwealth, something some OT leaders and representatives told us was important to them. Lord Ahmad went on to say:

> I feel very strongly as a Minister—I include not just myself in this, but others too—that when we go and talk about the British family, that must be inclusive of the British Overseas Territories. Having geographical Ministers responsible for different parts of the world should complement representing the Overseas Territories' interests in respect of regions. That is the view I have.[33]

The way forward: Possible alternatives to the FCO

18. The OTs' struggle to be heard in Whitehall may stem from the fact that, while the officials in the OTD are dedicated and knowledgeable, their work is segregated from the FCO's core responsibilities. They may, in short, be ill-placed to access or influence other parts of Whitehall on the OTs' behalf. George Fergusson told us that it is "quite a difficult thing for a small part of the Foreign Office, which otherwise does not do domestic policy, to tap into other Whitehall departments". He suggested that "the Cabinet Office would find it slightly easier to get other Whitehall departments to pay attention to territories".[34] In his written submission, Mr Fergusson further argued that the Cabinet Office would be "better placed to engage with other specialist parts of Whitehall to make relevant expertise and support available to the OTs". He proposed that the Cabinet Office's UK Governance Group absorb the OTs Directorate and the Ministry of Justice's Crown Dependencies Team to "create a group big enough to allow for the development of a specialist career path with a core of expertise". He added:

> In organisational terms, carrying out the UK Government's constitutional roles for OTs and managing relationships with the Crown Dependencies fits more logically and coherently alongside the management of the UK Government's other constitutional relationships. This should also help clarify in Whitehall, and beyond, what the UK's responsibilities are towards OTs.[35]

31 Q89 [FCO budget and capacity, and annual report 2017–2018, 13 November 2018]
32 Q267
33 Q267
34 Q14
35 George Fergusson (OTS0110). Mr Fergusson suggests that responsibility for the Sovereign Base Areas in Cyprus should remain with the Ministry of Defence.

This suggestion was echoed by the Anguillan Chief Minister, Victor Banks, who said: "I would like us to consider a more appropriate department to interface with Anguilla, such as the Cabinet Office".[36] In its submission, the Cayman government proposed that "the Cabinet Office should designate one Minister to be regularly accountable to Parliament" for the OTs; that the Cabinet Office should assume responsibility for the annual OTs-UK Joint Ministerial Council; and that it should "work to integrate the British Overseas Territories requirements into the existing COBR Civil Contingencies frameworks".[37]

19. Some want to go a step further by setting up a department dedicated to the OTs. Feedback from public forums in Montserrat indicates that there is public demand there for a "dedicated Ministry, Minister or other comparable office" for the OTs.[38] Similarly, the Montserrat Premier suggested that thought be given "to whether the OTs should have their own department at the top level of the UK Government".[39] Others argued that this is not necessary. In its submission, the RSPB—which runs extensive programmes in the OTs—argued that it is more important to share knowledge and awareness of the OTs across Whitehall:

> Whilst there is relatively significant resource within the capable Overseas Territories Directorate of the FCO, most other Whitehall Departments have a chronic lack of Overseas Territory capacity. Whilst other Departments now at least have a named civil servant with part-time OT responsibility, their capacity is normally spread over many other policy areas as well. They also lack any detailed understanding of the Territories, with no visits to Territories to see situations on the ground. This makes providing any level of tailored and impactful support almost impossible to achieve.

20. The RSPB recommended that this "good governance challenge" be addressed through the establishment of "a 'One British Realm' Knowledge Exchange programme" to facilitate and fund "long-term (1–2 year) placements between the UK and the Overseas Territories, both in Government and in civil society". This, it argued, would benefit good governance in the OTs and address a knowledge deficit in the UK, and "it would be a practical means of bringing the important political sentiment that the UK and OTs are part of 'one family' to life". This would, according to the RSPB, mirror the practice in the French government relating to its OTs.[40]

21. **Some of the Overseas Territories feel that the Foreign and Commonwealth Office should not be the lead UK department for the OTs. Some believe that this arrangement reinforces the perception that the OTs are foreign and that it is not fit for purpose given the cross-government nature of the UK Government's modern relationship with the OTs. However, not all OTs agree and some feel that the FCO has long experience of working with the OTs, it has expertise in managing relationships with the countries that surround the OTs, and it deals on a daily basis with international treaty obligations relevant to the OTs. It is time for the UK Government to seriously engage with this issue and to do so in a fair and transparent manner. *Before the next full meeting of the OTs***

36 Q162
37 Cayman Islands Government (OTS0109)
38 The Office of the Montserrat Legislative Assembly (OTS0093)
39 Office of the Premier of Montserrat (OTS0082). This is the practice in France, which established a Ministry for Overseas France in 2012. In France's OTs, this Ministry exercises the powers exercised by the Ministry of the Interior in metropolitan France. See: Embassy of France (OTS0128)
40 RSPB (OTS0070)

Joint Ministerial Council the Government should therefore commission an independent review into cross-government engagement with the OTs and the FCO's management of its responsibilities towards them. Drawing on international comparisons, this review should consider alternatives to the FCO and assess the costs, benefits and risks associated with moving primary responsibility for the OTs away from the FCO. The findings of the review should be presented to the House and shared with the elected OT governments as soon as is feasible.

22. ***There is a widespread feeling in the OTs that the quality and quantity of their communications with UK Government departments needs to improve. The OTs' needs extend far beyond the FCO and their voices must be heard elsewhere in Whitehall. Towards this end, the FCO should draw up plans for a secondment programme between government departments in the UK and the OTs, including assessing the likely costs and level of interest in UK Government departments. The FCO should include specific proposals, costs and a timeline for this in its response to this report.***

23. ***The FCO must ensure that the officials it appoints in the Overseas Territories have the skills necessary both to build constructive relationships with the OT governments and to ensure that the territory's governance meets the highest standards. In its response to this report, the FCO should explain the processes it has in place for advertising and recruiting for positions in the OTs, such as governorships, and what it does to consult the OT governments on these appointments. The FCO should also outline the training it provides to the officials it appoints in the OTs, both in advance of and during their postings, and how it assesses their performance.***

24. **There is no single name that properly describes the UK, the Overseas Territories and the Crown Dependencies as a collective family of nations and territories.** ***In its response to this report the FCO should lay out plans for a consultation on whether there should be a name and what such a name should be.***

25. **The people of the Overseas Territories are deeply proud of their British heritage and continue to feel a strong sense of loyalty to the Crown and a close bond with the United Kingdom. The flying of the flags of all Overseas Territories and Crown Dependences in Parliament Square for the weekend of the Queen's Birthday Parade, "Trooping the Colour" and for all State Visits since 2012, has been a source of enormous pride in the OTs. To many in the OTs, this symbolised that they were fully part of the British family and gave them long overdue recognition. However, their request to lay a Poppy Wreath on Remembrance Sunday at the National Service of Remembrance at the Cenotaph in Whitehall has not been accepted, thus far. There is a unanimous wish amongst the governments of the OTs that as their citizens have fought and died in the service of the Crown in various conflicts over the centuries, that they too should be able to pay tribute in the same way as Commonwealth nations, whose representatives lay a wreath each year at the Cenotaph. Since 2014, the Ambassador of Ireland has also been invited to lay a wreath in memory of Irish citizens who have served in the British Armed Forces, yet the OTs and the Crown Dependencies are still denied that same right. The Committee believes that it is time for this anomaly to be rectified.** ***Before Remembrance Sunday 2019, the Foreign Secretary should explore the possibility of extending an invitation to each OT to send a representative to lay their own wreath, or at the very least one wreath laid by a different OT representative each year.***

2 The OTs and Parliament

26. As the FCO acknowledged in 2012, the UK Parliament has, as a matter of constitutional law, unlimited powers to legislate for the OTs.[41] In practice it tends only to legislate in areas that are reserved to the UK, such as foreign policy and national security, and not in areas devolved to the OTs without their consent. The passage of the Sanctions and Anti-Money Laundering Act 2018, however, is an indication of the complexity of separating reserved and devolved matters. Sanctions and anti-money laundering (AML) measures are a tool of foreign policy and national security, but they are largely implemented by the financial services industry, which is a devolved matter. This specific piece of legislation, which may impact the financial services sector in the OTs, has placed a strain on Parliament's relationships with the OTs, but the evidence we have received suggests that there are concerns within some OTs that go deeper than the material impact on financial services. This Act has raised questions about whether and how the OTs' voices can be heard in Parliament when they are not directly represented in either House.

The Sanctions and Anti-Money Laundering Act

27. The Sanctions and Anti-Money Laundering Act (SAMLA), which became law in May 2018, makes provision for an independent post-Brexit sanctions and AML regime. It requires the Foreign Secretary to assist the OTs to establish publicly-accessible beneficial ownership registers and allows for the Foreign Secretary to impose them by Order in Council if the OTs do not do so by 31 December 2020.[42] The need for this measure was highlighted to us by Transparency International and Global Witness, who told us that "there is a clear correlation between corruption cases and the use of the secretive corporate vehicles based in the [OTs]" and that "transparency about the beneficial owners of these companies has been identified as an important part of the solution to tackling the laundering of corrupt and illicit funds". They point to evidence uncovered in the UK of: a company registered in BVI providing financial services to North Korea's main arms dealer; the use of front companies in offshore locations including BVI to register North Korean ships; and the use of a BVI-registered company by the man once in charge of Muammar Gaddafi's long-range missiles programme to buy properties in the UK.[43]

28. This link between OT-registered companies and money tied to autocratic regimes echoes the evidence we received during our inquiry into Russian corruption in the UK. In that inquiry journalist Juliette Garside, who investigated the Panama papers and Paradise papers for the Guardian, told us that, "in Russia, one of the names for a shell company—one of the words people use—is BVI", while Tom Keatinge, from RUSI's Centre for Financial Crime and Security Studies, told us that "the OTs seemingly have a free rein to benefit from their association with the UK without adhering to the expectation and standards increasingly required of those operating within the UK itself".[44] This suggests that the lack of publicly available and transparent information on OT-registered companies has foreign policy and national security implications. The evidence we received from some OTs, however, suggests that they see it solely as a financial services matter, which is a devolved area.

41 FCO White Paper, the Overseas Territories: Security, Success and Sustainability (2012), p. 14.
42 Sanctions and Anti-Money Laundering Act (2018), section 51
43 Transparency International UK and Global Witness (OTS0016)
44 Moscow's Gold: Russian Corruption in the UK (15 May 2018), p. 22

29. For some OTs, SAMLA is not a problem. The Gibraltar government told us that it is already committed to publishing a register.[45] Anguilla's representative, Blondel Cluff, told us that Anguilla "has no problem with the beneficial ownership requirements stipulated by the UK" and is "working closely with HMG on a limited budget to upgrade its technology for recording and reporting beneficial ownership".[46] Other governments, notably Bermuda, BVI and the Cayman Islands, strongly oppose SAMLA. These territories' economies depend heavily on financial services, both in terms of jobs and tax revenue.[47] Some politicians in these territories have been heavily critical of the legislation. For example, on 24 May, the day after SAMLA was passed into law, the Deputy Premier of BVI, Kedrick Pickering, is reported to have told an audience at a public rally in the BVI capital, Road Town, that "we have declared open war against the UK". According to local media reports, he "then told members of the BVI public to prepare for battle and stay tuned for various strategies".[48]

30. Dr Elise Donovan, BVI's representative in the UK, told us that people who register companies in BVI are doing so because they want privacy not secrecy, that BVI has a strong reputation as a reputable financial services centre, and that it has Financial Action Task Force-compliant due diligence systems in place to verify ownership information and share it with law enforcement agencies in the UK and elsewhere when requested.[49] Dr Donovan added that publishing registers of beneficial ownership before it is a global norm would make BVI uncompetitive. She also indicated that the BVI government would "explore the options" in terms of publication of the registers before the end of 2020, as envisaged in SAMLA:

> The position has been clearly stated publicly by the British Virgin Islands Premier, Dr D. Orlando Smith OBE, who has said that the BVI will explore all opportunities and positions to protect the interests of our financial services industry, which, as I have pointed out, accounts for 33% of our GDP and 60% of our Government revenues. We respect the UK Parliament, but we will explore the options, including legal options, as the Premier has said, unless it becomes a global standard so that we do not feel that we are being put in a disadvantageous position. We do not feel that public registries are the solution for detecting and deterring financial crime.[50]

31. This echoes what Bermuda told us in writing. When we asked the Bermudan Premier David Burt if Bermuda intended to publish a register, we were told that: "Bermuda is committed to meeting any properly adopted, global standard for such matters and will work with the UK Government as necessary once such a standard is promulgated".[51] The Cayman Islands' government's UK representative, Eric Bush, told us that Cayman would only publish a register once it had become a global standard.[52]

45 HM Government of Gibraltar (OTS0107)
46 The West India Committee (OTS0053)
47 For background information on these territories' financial services sectors, see: International Financial Centres Forum (OTS0094)
48 BVI News, 'UK put on notice, BVI has 'declared war'—Pickering', 25 May 2018
49 Qq103–106
50 Q111
51 Government of Bermuda (OTS0130)
52 Q56

32. In 2016 the OTs committed to establishing central registers of beneficial ownership by June 2017 and by late 2017 the FCO said that all of them had either done so or were on track to do so.[53] This enables relevant law enforcement agencies in the UK and elsewhere to request beneficial ownership information from the OTs if they have grounds to do so, though Eric Bush indicated that this happens rarely.[54] Yet, when Lord Ahmad appeared before us in December 2018, he told us that it could be 2023 before registers were published.[55] The Minister said that the Government was providing the OT governments with any technical and other assistance they need to publish registers and that he and his officials had had constructive conversations with OT governments about this, including the BVI government. Lord Ahmad added that, "we have also been very clear that the law has been passed and there is a requirement now for public registers in all our Overseas Territories".[56] FCO Minister for Europe and the Americas Sir Alan Duncan subsequently confirmed to the House that 2023 was the goal for introducing registers but, he said, "a lot of work has already been done so that they could perhaps be in place before that date".[57]

33. **Parliament has judged public registers of beneficial ownership to be a matter of national security. Those who seek to undermine our security and that of our allies must not be able to use the OTs to launder their funds. We cannot wait until public registers are a global norm and we cannot let considerations of competitiveness prevent us from taking action now. The lowest common denominator is not enough. While law enforcement agencies in the UK appear to have made relatively little use of their powers to request company information from the OTs, it is vital that this information can be accessed by the public, both in the UK and in countries where public money has been stolen by kleptocrats whose actions harm the UK and its allies. We welcome the FCO's assurances that it is working with the OTs to help them implement the Sanctions and Anti-Money Laundering Act. We commend the constructive approach the FCO has taken on this, despite the language used by some OT politicians. We profoundly regret, however, that public registers may not be published before 2023. It is simply not acceptable that this will be long after the deadline set out in the Act. *The Foreign Secretary, in co-operation with the elected governments of the OTs, should lay out before the Summer recess a clear and detailed timetable for the publication of registers of beneficial ownership in each OT.***

How the OTs are represented in Parliament

34. Some OTs told us that SAMLA raised questions about the principles underpinning their relationships with Parliament. The Cayman Islands' government said that once the public registers issue is resolved, it wants a conversation with Parliament about how it engages with the OTs and that:

> We would particularly like this to include a conversation on sanctions against individual members, parliamentary committees, and [All Party Parliamentary Groups], who are found to have either failed to engage with

53 FCO response to FOI request 0896–17, 6 October 2017
54 Qq64–65
55 Q221
56 Q228
57 Oral answers to questions, 22 January 2019, Hansard vol 653, column 120

> the Government of the Cayman Islands in relation to reports or inquiries which directly affect our reputation, or who have misused parliamentary privilege to malign our Islands without a sufficient factual basis.[58]

Other OT leaders and representatives similarly said that SAMLA raised points of principle. Turks and Caicos Islands Premier Sharlene-Cartwright Robinson said: "Today, it is financial services; tomorrow, it is something else. That is our concern".[59] Montserrat Premier Donaldson Romeo said: "Montserrat is not as affected as other territories. However, we support their positions in principle, in that our main concern is that legislation without consultation is not right".[60] The Falkland Islands told us that "There is a growing concern amongst many UK Overseas Territories, including the Falkland Islands, with regard to the manner with which some legislation is imposed on us from Westminster".[61]

35. Some members of the public also told us in writing that it is time to rethink the principles of Parliament's relationships with the OTs. Benjamin Roberts from Turks and Caicos said that it reflected badly on the UK that "in this 21st century, a territory such as [TCI] and all its citizenry have no representation in their so called 'Mother of Parliaments'". Jerzy Kolodziej, also from TCI, said: "the UK apparently reserves power to make and unmake law for the Turks and Caicos despite there being no representation of the democratic interests of the islands themselves". Tari Trott from Bermuda said: "I, along with many people in Bermuda, believe it is time for the [OTs] to be represented in the House of Commons", while Sylvia Gabriel from Montserrat said: "The UK parliament is our ultimate parliament so we should have pro-active representation in that body".[62] The Montserrat Premier told us that it was "a commonly held view" on the island that "there ought to be some direct representation for the Territories either collectively or individually in the UK parliament".[63] The BVI Leader of the Opposition told us that the BVI public's view was similar:

> The Overseas Territories have no direct representation in Parliament which has ultimate authority over its affairs and can pass any law that can impact the Overseas Territories disproportionately as seen with the recent [SAMLA]. A modern relationship requires each OT with a representative government to have direct representation in a body that, until independence is obtained, can make any law it pleases. There was great support for the Overseas Territories legislatures to have a veto power over laws passed by the British Parliament affecting them directly in the same way that English MPs have a veto power over laws passed affecting England.[64]

This echoed former BVI representative Kedrick Malone, who wrote that "the ability of the UK Parliament to legislate for the OTs should be eliminated" and that in devolved areas, Parliament's "over-reach" should be restricted.[65]

36. The Danish and French overseas territories send members to their metropolitan parliaments. In Denmark's case, Greenland and the Faroe Islands each send two members

58 Cayman Islands Government (OTS0109)
59 Q173
60 Q173
61 Falkland Islands Government (OTS0106)
62 Benjamin Roberts (OTS0036); Mr Jerzy Kolodziej (OTS0080); Mr Tari Trott (OTS0058); Sylvia Gabriel (OTS0071).
63 Office of the Premier of Montserrat (OTS0082)
64 Virgin Islands Public Meetings (OTS0047)
65 Mr Kedrick Malone (OTS0100)

to the 179-seat parliament while French OTs send 27 members to the 577-seat lower house and 11 members to the 348-seat upper house, with the number depending on the size of the territory's population.[66] Referring to examples like this, Lawrence Sticca from Bermuda told us that he felt strongly that OTs should"be given a seat in the UK Parliament and House of Lords, just as the French and Dutch are, to give a voice to the mother country in the affairs of the [OTs]".[67]

37. The elected leaders and representatives of the OTs that appeared before us had mixed views on sending MPs to Parliament. Anguilla's Chief Minister Victor Banks said that he thought it should happen, that "we need to have a voice in the House of Commons so that we can be represented by a person or persons who understand us".[68] Sharlene Cartwright-Robinson said: "there is no appetite in Turks and Caicos for it".[69] Teslyn Barkman from the Falkland Islands said: "Currently we can appeal to 650 Members of Parliament, whereas we would be funnelling and bottlenecking our issues from a vast number of [OTs], or even a singular territory, through one".[70] The elected leaders and representatives of Anguilla, the Falkland Islands, Montserrat, St Helena and TCI did agree, however, that a Parliamentary committee dedicated to the OTs might be "a positive way forward", as St Helena's Councillor Thomas put it.[71]

38. **We are aware that many people in the Overseas Territories feel that they do not receive the attention in Parliament that they might expect and that the Foreign Affairs Committee has not carried out a major OTs inquiry since 2008. Given the competing pressure of other policy areas, and the requirement to scrutinise the whole gamut of the Foreign Office's work, it is difficult to envisage another major OTs inquiry in this Parliament. This fails to do justice to the range and complexities of the issues facing the OTs, individually and collectively. Mindful of this, we believe the time is right to give serious consideration to establishing a formal mechanism by which members of the Foreign Affairs, Justice, International Development, EFRA and other relevant Committees are able collectively to scrutinise the UK Government's administration of, spending on and policies towards the OTs.**

66 Royal Danish Embassy, UK (OTS0117); Embassy of France (OTS0128)
67 Mr Lawrence Sticca (OTS0084)
68 Q190
69 Q192
70 Q191. See also: Falkland Islands Government (OTS0124)
71 Q215

3 UK funding for the OTs

39. The UK bears contingent liability for all OTs but most of them do not receive direct financial assistance from the UK and, in theory, those that do are on a path to financial self-sufficiency. In practice, the situation is more complicated. Some OTs, such as the Cayman Islands and the Falkland Islands are self-sufficient and proud of it.[72] Many others, however, are self-sufficient but in a precarious economic position without UK aid. Anguilla's government is struggling to stimulate the economy without help; in BVI and Turks and Caicos catastrophes such as Hurricane Irma have severely impacted their economies and made them vulnerable.[73] Then there are the OTs—Montserrat, Pitcairn, St Helena and Tristan da Cunha—that do receive UK financial support, in the form of official development assistance, but struggle to see how they could move beyond aid without significant investment in infrastructure. Cutting across all of this is an issue that all OTs are vulnerable to and none can tackle alone: climate change. The UK is spending money to help the OTs prepare for and mitigate the effects of climate change but many of them feel that the situation is getting worse and their capacity to manage it could be even more difficult without EU environmental funding.

Current spending on the OTs

40. UK Government spending on the OTs is complicated. Denmark provides its overseas territories, Greenland and the Faroe Islands, with annual block grants.[74] The UK does not and UK spending on the OTs is spread across several government departments and cross-government funds. While the FCO does not provide a total figure and some spending is spread across several years, the evidence provided by the Department indicated that the Government will spend just over £152 million on the OTs in the financial year 2018–2019, not including a one-off figure of £70 million pledged to help territories impacted by Hurricanes Irma and Maria in 2017.[75]

41. In this financial year (2018–19), FCO spending on the OTs will amount to just over £23 million, not including programme spending under the cross-government Conflict, Stability and Security Fund (CSSF) in which the FCO is the sole or lead department.[76] Of this £23 million, £16.3 million is from the Global Britain Fund. The FCO did not provide a detailed breakdown of this spending but said it would support "key objectives", such as "de-mining in the Falkland Islands, operation costs for the British Indian Ocean Territory and the provision of additional disaster resilience equipment and infrastructure for vulnerable Caribbean territories". Of the remaining FCO spending on the OTs, the largest item is the cost of running and staffing governors' offices. In addition, Sir Simon MacDonald told us, additional funding is coming on stream to increase governors' offices' staffing. Lord Ahmad told us that this would amount to just under £800,000.[77]

72 Q76
73 The West India Committee (OTS0053); British Virgin Islands Government (OTS0079); Q165
74 Royal Danish Embassy, UK (OTS0117)
75 Foreign and Commonwealth Office (OTS0120)
76 Of the headline figure of £23 million, just under £1.8 million will be spent on the cost of running governors' offices, £500,000 on running the OTs Directorate in London, and £4.3 million on salaries, in territory and in London.
77 Q89 [FCO budget and capacity, and annual report 2017–2018, 13 November 2018]; Foreign and Commonwealth Office (OTS0132)

42. The FCO is not the only department that spends money on the OTs, nor the department that spends the most on them. Three other departments will spend £95 million between them on the OTs: the Department for International Development (DFID) will spend £75 million; the Department for the Environment, Food and Rural Affairs (DEFRA) will spend £2.75 million; and the Ministry of Defence (MOD) will spend just under £18 million.[78] In addition, £34.5 million of CSSF funding will go to the OTs, for specific programmes in Anguilla, Ascension Island and BVI (for which the FCO is solely responsible) and two cross-cutting programmes (involving the FCO as well as five other departments and arms-length bodies).

Official development assistance for the OTs

43. DFID will spend roughly £75 million in 2018–19 on programmes in Montserrat, Pitcairn, St Helena and Tristan da Cunha, which qualify for official development assistance (ODA). According to the OTs legal expert Susie Alegre, the OTs are ill-placed to engage with DFID on this because the department's core work—eradicating poverty in aid-eligible countries—does not sit easily with the bespoke long-term needs of small OTs, which may need the kind of significant capital investment that DFID is not well-placed to deliver. She said:

> On the international development question, there is a real need for clarification about what it means to be supporting the Overseas Territories that need development support, because it is not at all the same as development for developing countries and never will be. They are British territories: many of them are not going to be in the position to be standing on their own two feet with a wonderful, sustainable economy because of their size and remoteness. That is quite a difficult thing for DFID to deal with.[79]

44. This view appeared to be borne out in the evidence we received from Montserrat. It will receive £65 million in ODA between 2016 and 2019, making it the largest ODA recipient of the OTs. It was on a path to self-sufficiency until a series of natural disasters in the 1990s, including eruptions from the Soufrière Hills volcano, which rendered two-thirds of the island uninhabitable and decimated its economy. It has since received an estimated £450 million from the UK but there appears to be no end in sight for UK aid spending on the island. Its representative, Janice Panton, told us that the island still lacks a hospital and a year-round port and its government depends on UK aid for 60% of current expenditure. She described this as a "hand to mouth" existence, adding: "It would seem that we have been receiving funds, but we are ticking over; we are not really developing".[80] The Premier, Donaldson Romeo, also told us that "we still struggle to put in place 'catalytic' initiatives to spark self-sustaining, inclusive growth".[81] Joseph Eaton Farrell, a member of the opposition in the island's Legislative Assembly, told us that there is a desire to "advance to a more financially sustainable regime as soon as possible" but, he said, this will require what he called a "development stimulus package".[82]

78 The MOD will spend just under £18 million on the costs of running the military facilities in the British Indian Ocean Territory and the Sovereign Base Areas in Cyprus.
79 Q13
80 Q92
81 Donaldson Romeo (OTS0111)
82 Hon Joseph Easton Farrell (OTS0024)

45. St Helena, Tristan da Cunha and Pitcairn similarly need significant UK aid. In St Helena the UK recently spent nearly £300 million on an airport but the St Helena government told us that the island still has critical infrastructure gaps.[83] Moreover, in its submission, the St Helena Chamber of Commerce said that local businesses invested heavily in anticipation of the airport leading to an economic boost, but this never materialised, making the situation even worse:

> Raised expectations and a willingness on the part of many local enterprises to undertake significant investment in order to make a difference and be 'air access ready'–in an attempt to grow St Helena's economy and reduce our reliance upon aid–have turned to ashes, leaving many businesses in debt, or facing severe cash flow problems and, in some instances, both.[84]

Councillor Derek Thomas told us that the St Helena government's capacity to achieve the goal of financial self-sufficiency is limited because it is not offered sufficient input into funding decisions taken by DFID officials. In the longer-term, he said, if St Helena's economy does grow, there is a worry that it will no longer qualify for ODA but will be too poor to manage without it. He said that people on the island, "fear a future where the people of St Helena are plunged back into severe poverty, but we lack the means to safeguard against that".[85]

46. Tristan da Cunha is also in a precarious financial position. Ian Lavarello, the Chief Islander, told us that its only harbour, which is its sole link to the outside world for 51 weeks a year, is not sufficiently robust to cope with Atlantic storms. He said that DFID's policy is to "patch and mend" but that, what is needed is a new harbour, at a cost of between £80 and £90 million.[86]

47. Ascension Island does not receive ODA because there is no right of permanent abode. It too, however, appears to need the UK's help. According to Councillor Kitty George, a member of the Island Council, its government "will become bankrupt in the next few years". It has reserves of £10 million but it is spending £1.5 million of this a year due to the deteriorating economy.[87] There are two reasons for this. The first is connectivity. The island has been largely cut off because its main military runway was shut for repairs in 2017 and may not be operational for several years. As a result, the Falkland Islands' airbridge to the UK, which used to transit via Ascension, now transits via Cape Verde, leaving Ascension reliant on a monthly flight to St Helena. This has, according to Councillor George, strangled the tourism industry. Ascension's other problem is the potential cost of enforcing a marine protected area in its exclusive economic zone, which could cost its government up to £360,000 a year.[88]

48. **The Committee notes that the Overseas Territory of St. Helena includes the separate and distinct territories of Ascension Island and Tristan da Cunha. These are both inhabited territories with a population that is not directly connected to St. Helena and have their own identities, elected governments and flags. Therefore, Ascension Island**

83 Q213
84 St Helena Chamber of Commerce (OTS0028)
85 Q196
86 Qq208–212
87 Q196
88 Ascension Island Council (OTS0119). The BBC World Service has a relay station on the island, which also supplies water and electricity. Its manager told us that the island's connectivity issues are making it increasingly difficult for the company contracted to operate it to manage. See: Paul Mildon (OTS0121)

and Tristan da Cunha should be treated with equality as British Overseas Territories in their own right and the FCO should change their status to this effect. However, this change should not necessarily imply that the practice of St. Helena, Ascension Island and Tristan da Cunha sharing the same Governor should come to an end.

Spending on the environment

49. The UK Government has devoted increased resources to OTs' environment management in recent years, reflecting their globally-significant ecological richness.[89] The RSPB told us that many OTs' economies are "heavily dependent on natural resources", both in terms of fishing and mineral extraction, adding that eco-tourism "is likely to be an ever-increasing component of OT livelihoods" and that "sustainable use of their natural resources is a near existential question for many of these communities". The RSPB also argued that ecosystem-based approaches to building resilience can be cost-effective, durable and sustainable in the face of increasingly damaging hurricane seasons, but that OT governments' capacity is limited, and they need technical and funding support from the UK Government and from NGOs in the UK.[90]

50. The UK Government supports environmental management and climate change mitigation in the OTs through the Darwin Plus Fund—which funds projects working on environment and climate change issues in the OTs between £100,000 and £300,000—and Blue Belt—a £20 million programme running between 2016 and 2020 aimed at implemented tailored marine management strategies.[91] In its submission, the RSPB commented that there is a need for larger-scale funding.[92]

Brexit and EU funding for the OTs

51. Some of the evidence we received suggests that the OTs' ability to manage their environments and mitigate the impact of climate change may be hampered by the loss of EU funding, particularly the roughly £1 million a year the OTs receive from the EU's BEST (Biodiversity and Ecosystem Services in Territories) Initiative. The government of St Helena, for example, told us that "Protecting the environment is a key consideration for St Helena, and the EU has been instrumental in assisting in the many projects designed to do just that". It adds that "this crucial funding must continue".[93] The government of Gibraltar told us that the UK Government "has so far failed to identify a source of funding that would fill this gap". The BVI government said that "the EU has been critical in the provision of funding for projects focusing on climate change, disaster preparedness and

89 The UK Overseas Territories Conservation Forum told us that the OTs account for 94% of the biodiversity for which the UK is internationally responsible and while there are 90 endemic species in Great Britain, there are 3,300 in the OTs. The South Georgia Heritage Trust told us that the OTs in the South Atlantic are "home to the greatest density of seabirds on the planet". See: UK Overseas Territories Conservation Forum (OTS0114); South Georgia Heritage Trust (OTS0050)

90 RSPB (OTS0070)

91 Foreign and Commonwealth Office (OTS0103)

92 RSPB (OTS0070)

93 St Helena Government (OTS0061). The importance of EU funding was echoed by a joint written submission the geographers Dr Alasdair Pinkerton from the University of London and Dr Matthew Benwell from Newcastle University. See: Dr Alasdair Pinkerton & Dr Matthew C. Benwell (OTS0069)

the conservation of its biodiversity" and added that "the UK Government should prepare for how this unfunded liability will be met".[94] The Falkland Islands government said that it hopes to be able to continue accessing these EU funds.[95]

52. As well as BEST, some OTs receive aid from the EU's European Development Fund. Dr Peter Clegg told us that they will likely incur significant losses if they are cut off from it. He said that this is true both for "relatively poor Territories such as Pitcairn and Anguilla" and for others, including BVI and the Cayman Islands, that do not qualify for ODA from the UK.[96] Susie Alegre told us that OTs such as Turks and Caicos receive "significant funding from the EU for things like infrastructure and education that, at present, the UK Government would not fund".[97]

The FCO's vision for funding the OTs

53. The Government has pledged to match EU funding for the OTs up until 2020, including in the event of a no-deal.[98] In terms of environmental funding, the FCO acknowledges the significance of EU funds and says it is "considering how environmental funding for OTs can best be provided following our departure". Beyond this, the FCO told us that it plans to "review objectively the way in which the UK Government's commitments to the OTs is most effectively discharged, taking account of the costs and benefits of the current arrangements".[99] When we asked Lord Ahmad if the UK would fund the harbour that Tristan da Cunha says is essential for the island's survival he said:

> There are various capital programmes that we receive quite regularly from various Overseas Territories, including Tristan, as you pointed out. Previously and historically, it would be fair to say that we have not perhaps looked at it as a complete overall Government approach. Most recently, I have had constructive discussions with the Secretary of State for International Development to look at the whole issue of ODA funding for our Overseas Territories, and to look at longer-term capital programmes and support.[100]

Following up on this, the FCO's OTs Director, Ben Merrick, acknowledged that the cost of a harbour would be significant and that, "in the context of a business case, we look at these things very carefully from an economic point of view, and obviously a developmental point of view".[101] Lord Ahmad concluded: "if one were to say, 'What do I aspire to as the Minister responsible for Overseas Territories?' it is to create economies that are self-sustaining and growing".[102]

54. **The UK has a duty under international law to provide for the development of the OTs, but it also has a responsibility to UK taxpayers to ensure that the considerable amount of money it spends on the OTs is not wasted. This means not only transparency and accountability in day-to-day spending, but also ensuring that capital investment is genuinely capable of delivering the Government's long-term objective to ensure**

94 HM Government of Gibraltar (OTS0107); British Virgin Islands Government (OTS0079)
95 Falkland Islands Government (OTS0106)
96 Dr Peter Clegg (OTS0020)
97 Ms Susie Alegre (OTS0052)
98 Foreign and Commonwealth Office (OTS0132)
99 Foreign and Commonwealth Office (OTS0103)
100 Q260
101 Q261
102 Q262

that the OTs are financially self-sufficient. We are seriously concerned by evidence suggesting that, despite significant capital investment in some OTs in recent years, much more remains to be done to provide infrastructure in OTs such as Montserrat, Tristan da Cunha and St Helena, with no clear end in sight.

55. ***The Government must offer clarity on its long-term vision for the funding of the OTs, including replacing any lost EU funding, and continuing and expanding Blue Belt funding after 2020. Towards this end, the Government should explore options for a dedicated development and stimulus fund for the OTs, which would allow for the long-term, sustainable development of aid-dependent territories; help to stimulate the economies of those who need a stimulus but do not qualify for official development assistance; and help territories that are otherwise financially self-sufficient respond to crises such as hurricanes. This long-term vision must be based on a clear-eyed assessment of how the UK will balance the needs of individual OTs against value for money for UK taxpayers. There must be scope to ask hard questions about the long-term sustainability and viability of individual OTs without further significant levels of UK capital investment. If the Government does not think significant capital investment is possible, then it must be frank about what it will spend and towards what end.***

56. **The UK Government must clarify the UK's future relationship with the European Union as soon as possible and analyse the impact on the OTs, what funding will be required to ensure the OTs are not losing out, and what input the OTs will have on the replacement of EU funding in the future.**

4 Points of friction in UK/OT relations

57. Many of the issues that elected leaders, representatives and members of the public in the OTs brought to our attention are structural, from the OTs' struggle to be heard in Whitehall, to the difficulties associated with being understood in Parliament when they are not directly represented in either House, and the challenge of securing long-term funding. The solutions to these problems need to be considered carefully and in good time. There are, however, more immediate problems that must be addressed soon. From the OTs' perspective, two such problems are: anomalies in the rules around claiming citizenship by descent and access to NHS services in the UK. From the UK perspective, two prominent points of divergence that are causing friction in its relationships with some OTs are: same-sex marriage and belongership.

OT grievances with the UK: citizenship and the NHS

58. The issue of citizenship by descent stems from an anomaly in the British Nationality Act, which means that fathers with British Overseas Territories Citizenship cannot pass it on to children born outside the OTs between 1948 and 2006, if they were not married to the child's mother at the time of birth.[103] In May 2018, the Joint Committee on Human Rights described this anomaly as an unacceptable form of discrimination, while Montserrat's representative, Janice Panton, said it "has caused a lot of anguish among some parents".[104] Lord Ahmad was not able to indicate when the matter would be resolved. He said that "discussions are ongoing across Government on this".[105]

59. In terms of access to NHS services, Blondel Cluff, Anguilla's representative in the UK, told us that no more than four patients in Anguilla can receive NHS treatment in the UK each year, even though the island's population has increased 125%, from under 7,000 to 15,000, since the quota began in 1985. As a result, she said, "a British citizen's life chances are diminished simply by residing in a BOT".[106] In his written submission, former BVI representative in the UK Benito Wheatley described the quota, which also applies to BVI, as "inexplicable", especially because "the overall number of persons in the OTs who require such attention is miniscule".[107] The Chief Islander of Tristan da Cunha, Ian Lavarello, told us that it is in an even worse position because it is "one of a handful of OTs currently excluded from participation in the scheme that allows referral of complex medical cases to the NHS".[108]

60. **The Government should urgently address concerns in the OTs about the issue of citizenship by descent and anomalies in the British Nationality Act that have taken too long to resolve. It should also consider options for removing quotas on the number of people in the OTs that can access NHS services in the UK when their own health systems cannot provide the care and treatment they need. This may be difficult from a bureaucratic point of view but it is an important test of the FCO's ability to fight the OTs' corner in the UK.**

103 See: Campaign for British Citizenship (OTS0011)
104 Q87; Joint Committee on Human Rights, Proposal for a draft British Nationality Act 1981 (Remedial) Order 2018, 23 May 2018, para 79
105 Foreign and Commonwealth Office (OTS0132)
106 The West India Committee (OTS0053)
107 Benito Wheatley (OTS0095)
108 Chief Islander of Tristan da Cunha (OTS0026)

OT divergence from the UK: same-sex marriage and belongership

61. From a UK perspective, a notable point of divergence and friction is same-sex marriage, which has been legalised in all but the five OTs in the Caribbean (Anguilla, BVI, the Cayman Islands, Montserrat, and Turks and Caicos), though this bar is currently being challenged in the courts in the Cayman Islands.[109] This means not only that same-sex couples cannot marry, it can also lead to restrictions on the ability of OT citizens to bring their same-sex spouse to live permanently in the territory, even if the couple was legally married outside the territory. The implications of this were outlined to us in a submission from Dr James Reeve, while the NGO Colours Cayman told us in its written submission that this puts OTs like the Cayman Islands in breach of international law.[110] Despite this, Dr Peter Clegg told us, opposition to legalising same-sex marriage in the Caribbean OTs is strong:

> It is certainly a problematic issue across the Caribbean, including within the Overseas Territories. It is divergent from the UK policy and approach in general. There are heated discussions, but there are certain actors within Overseas Territory societies and the Caribbean more generally, including church groups, who have fought and are fighting very strongly against any change to legislation.[111]

We asked the elected leaders of Anguilla, Montserrat and TCI if they intended to legalise same-sex marriage. The TCI Premier said: "We consult our people when we make major changes—that is what I will say". The Montserrat Premier said that it was important for the UK to recognise that "as separate territories, with ethnic diversity from your territory and cultural differences, we ought to be allowed to make decisions on matters such as same-sex marriages". Anguilla's Chief Minister said: "This is a cultural issue in our part of the world, and it is necessary to have consultation".[112] We asked the BVI and Cayman Islands governments in writing to tell us if they would legalise same-sex marriage. BVI told us that its constitution defines marriage as between a man and a woman.[113] The Cayman government did not respond.

62. In its submission, the FCO notes that progress towards same-sex marriage is "notably slower" in the Caribbean OTs than elsewhere and that "rights to same sex marriage are being contested". It adds that the Government "has been clear that the OTs must fulfil their international obligations on the issue of LGBT equality. Encouraging legislative change continues to be a priority".[114]

63. **It is time for all OTs to legalise same-sex marriage and for the UK Government to do more than simply support it in principle. It must be prepared to step in, as it did in 2001 when an Order in Council decriminalised homosexuality in OTs that had refused to do so.** ***The Government should set a date by which it expects all OTs to have legalised same-sex marriage. If that deadline is not met, the Government should intervene through legislation or an Order in Council.***

109 Pink News, 'The UK has neglected LGBT+ people in British Overseas Territories in their hour of need', (12 February 2018)
110 Colours Cayman (OTS0022); Dr James Reeve (OTS0083)
111 Q54
112 Q181
113 British Virgin Islands Government (OTS0127)
114 Foreign and Commonwealth Office (OTS0103)

64. The other point of divergence between the UK and many OTs is belongership. This status, or some variant of it, is enshrined in the constitutions of Anguilla, Bermuda, BVI, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat and Turks and Caicos. The term used to describe it varies; in the Falkland Islands, it is called Falkland Islands status, and Gibraltar and TCI have equivalents. In general, those who do not have belonger status, or the equivalent, cannot vote or hold elected office, even if they are permanently resident British Overseas Territories or UK citizens. In the case of the Turks and Caicos Islands, for example, its government says a belonger is "an individual who is free from immigration restrictions in relation to the amount of time they may remain in the islands". According to the TCI government, "only belongers have all the rights normally associated with citizenship, such as voting".[115]

65. We asked some OT leaders and representatives about belongership when they appeared before us. The Anguillan, Falkland and TCI leaders and representatives said it was possible to obtain but they did not say that they planned to repeal it. Teslyn Barkman from the Falkland Islands said: "There is a certain importance in enshrining what it is to be a Falkland Islander, so we have to put these gates up somewhere in terms of voting or being able to buy land or sell it on".[116] We asked the Bermuda, BVI and Cayman governments the same in writing. Bermuda said it was a devolved matter; the BVI government said that its constitution "recognizes the distinctive character and culture of the BVI and seeks to ensure its protection".[117] Cayman did not respond.

66. In its written submission, the FCO points to its 2012 OTs White Paper, which expressed the hope that the OTs would extend the franchise to non-belongers:

> In some OTs, the size of the electorate is small compared with the overall population, with 'belongership' a constitutional prerequisite to qualify as an elector and to stand for election. The 2012 White Paper stated the UK Government's belief that people who have made their permanent home in the OTs should be able to vote, but recognises the desire of island communities to maintain their cohesion and hence the need for a reasonable qualifying process. We hope for progress on this point in the future.[118]

Lord Ahmad told us that "The principle of the White Paper remains the case" but that the OTs "feel very strongly about the issue" and that it is "an issue that they should be ruling on". He added that he did not intend to intervene.[119]

67. **Belongership and its equivalents are wrong. While we recognise that the OTs are small communities with unique cultural identities, we do not accept that there is any justification to deny legally-resident British Overseas Territory and UK citizens the right to vote and to hold elected office. This elevates one group of British people over another and risks undermining the ties that bind the UK and the OTs together in one global British family. *The UK Government should initiate a consultation with the elected governments of the OTs and work with them to agree a plan to ensure that there is a pathway for all resident UK and British Overseas Territory citizens to be able to vote***

115 Turks and Caicos' government: Essential dimensions of immigration [accessed 21/01/2019]. For individual perspectives see: Russell David (OTS0006); Mr Christopher Marshall (OTS0034)
116 Q183
117 Government of Bermuda (OTS0130); British Virgin Islands Government (OTS0127)
118 Foreign and Commonwealth Office (OTS0103)
119 Q242, Q246

and hold elected office in territory. In its response to this report the FCO should lay out a timetable for this consultation process and set a deadline for phasing out discriminatory elements of belongership, or its territory-specific equivalents.

5 Conclusion

68. Since the start of our Global Britain inquiry, we have repeatedly argued that the FCO needs to move forward by looking back. We have said that the FCO should resume responsibility for the UK's international trade and its relations with the EU and set the strategic direction of the UK's foreign policy as it did before so many other departments became involved in international relations. When it comes to the Overseas Territories, however, the FCO needs to do the opposite; it needs to give up rather than reclaim responsibility. In other policy areas the FCO must return to form but with the OTs it is stuck in the past. This is reinforcing the sense that many in the OTs have that they are not just far away from Britain but foreign. That is why we are calling on the UK Government to commission an independent review into cross-government engagement with the OTs and the FCO's management of its responsibilities towards them.

69. Parliament has a role to play too. It must ensure that, while the people of the OTs are not directly represented in Parliament, there is a forum for the effective scrutiny of the decisions taken in London that impact them directly. That is why we think the time is right to consider establishing a new formal mechanism by which the members of relevant select committees can scrutinise Government administration, expenditure and policy in relation to the OTs. Taken together, these and the other recommendations in this report can help to ensure that the bonds between the UK and the British Overseas Territories are strengthened and that together we can truly be a Global Britain.

Conclusions and recommendations

The OTs and the FCO

1. Some of the Overseas Territories feel that the Foreign and Commonwealth Office should not be the lead UK department for the OTs. Some believe that this arrangement reinforces the perception that the OTs are foreign and that it is not fit for purpose given the cross-government nature of the UK Government's modern relationship with the OTs. However, not all OTs agree and some feel that the FCO has long experience of working with the OTs, it has expertise in managing relationships with the countries that surround the OTs, and it deals on a daily basis with international treaty obligations relevant to the OTs. It is time for the UK Government to seriously engage with this issue and to do so in a fair and transparent manner. *Before the next full meeting of the OTs Joint Ministerial Council the Government should therefore commission an independent review into cross-government engagement with the OTs and the FCO's management of its responsibilities towards them. Drawing on international comparisons, this review should consider alternatives to the FCO and assess the costs, benefits and risks associated with moving primary responsibility for the OTs away from the FCO. The findings of the review should be presented to the House and shared with the elected OT governments as soon as is feasible* (Paragraph 21)

2. *There is a widespread feeling in the OTs that the quality and quantity of their communications with UK Government departments needs to improve. The OTs' needs extend far beyond the FCO and their voices must be heard elsewhere in Whitehall. Towards this end, the FCO should draw up plans for a secondment programme between government departments in the UK and the OTs, including assessing the likely costs and level of interest in UK Government departments. The FCO should include specific proposals, costs and a timeline for this in its response to this report.* (Paragraph 22)

3. *The FCO must ensure that the officials it appoints in the Overseas Territories have the skills necessary both to build constructive relationships with the OT governments and to ensure that the territory's governance meets the highest standards. In its response to this report, the FCO should explain the processes it has in place for advertising and recruiting for positions in the OTs, such as governorships, and what it does to consult the OT governments on these appointments. The FCO should also outline the training it provides to the officials it appoints in the OTs, both in advance of and during their postings, and how it assesses their performance.* (Paragraph 23)

4. There is no single name that properly describes the UK, the Overseas Territories and the Crown Dependencies as a collective family of nations and territories. *In its response to this report the FCO should lay out plans for a consultation on whether there should be a name and what such a name should be.* (Paragraph 24)

5. The people of the Overseas Territories are deeply proud of their British heritage and continue to feel a strong sense of loyalty to the Crown and a close bond with the United Kingdom. The flying of the flags of all Overseas Territories and Crown Dependences in Parliament Square for the weekend of the Queen's Birthday Parade, "Trooping the Colour" and for all State Visits since 2012, has been a source of enormous pride in the OTs. To many in the OTs, this symbolised that they were fully

part of the British family and gave them long overdue recognition. However, their request to lay a Poppy Wreath on Remembrance Sunday at the National Service of Remembrance at the Cenotaph in Whitehall has not been accepted, thus far. There is a unanimous wish amongst the governments of the OTs that as their citizens have fought and died in the service of the Crown in various conflicts over the centuries, that they too should be able to pay tribute in the same way as Commonwealth nations, whose representatives lay a wreath each year at the Cenotaph. Since 2014, the Ambassador of Ireland has also been invited to lay a wreath in memory of Irish citizens who have served in the British Armed Forces, yet the OTs and the Crown Dependencies are still denied that same right. The Committee believes that it is time for this anomaly to be rectified. *Before Remembrance Sunday 2019, the Foreign Secretary should explore the possibility of extending an invitation to each OT to send a representative to lay their own wreath, or at the very least one wreath laid by a different OT representative each year.* (Paragraph 25)

The OTs and Parliament

6. Parliament has judged public registers of beneficial ownership to be a matter of national security. Those who seek to undermine our security and that of our allies must not be able to use the OTs to launder their funds. We cannot wait until public registers are a global norm and we cannot let considerations of competitiveness prevent us from taking action now. The lowest common denominator is not enough. While law enforcement agencies in the UK appear to have made relatively little use of their powers to request company information from the OTs, it is vital that this information can be accessed by the public, both in the UK and in countries where public money has been stolen by kleptocrats whose actions harm the UK and its allies. We welcome the FCO's assurances that it is working with the OTs to help them implement the Sanctions and Anti-Money Laundering Act. We commend the constructive approach the FCO has taken on this, despite the language used by some OT politicians. We profoundly regret, however, that public registers may not be published before 2023. It is simply not acceptable that this will be long after the deadline set out in the Act. *The Foreign Secretary, in co-operation with the elected governments of the OTs, should lay out before the Summer recess a clear and detailed timetable for the publication of registers of beneficial ownership in each OT.* (Paragraph 33)

7. We are aware that many people in the Overseas Territories feel that they do not receive the attention in Parliament that they might expect and that the Foreign Affairs Committee has not carried out a major OTs inquiry since 2008. Given the competing pressure of other policy areas, and the requirement to scrutinise the whole gamut of the Foreign Office's work, it is difficult to envisage another major OTs inquiry in this Parliament. This fails to do justice to the range and complexities of the issues facing the OTs, individually and collectively. Mindful of this, we believe the time is right to give serious consideration to establishing a formal mechanism by which members of the Foreign Affairs, Justice, International Development, EFRA and other relevant Committees are able collectively to scrutinise the UK Government's administration of, spending on and policies towards the OTs. (Paragraph 38)

UK funding for the OTs

8. The Committee notes that the Overseas Territory of St. Helena includes the separate and distinct territories of Ascension Island and Tristan da Cunha. These are both inhabited territories with a population that is not directly connected to St. Helena and have their own identities, elected governments and flags. Therefore, Ascension Island and Tristan da Cunha should be treated with equality as British Overseas Territories in their own right and the FCO should change their status to this effect. However, this change should not necessarily imply that the practice of St. Helena, Ascension Island and Tristan da Cunha sharing the same Governor should come to an end. (Paragraph 48)

9. The UK has a duty under international law to provide for the development of the OTs, but it also has a responsibility to UK taxpayers to ensure that the considerable amount of money it spends on the OTs is not wasted. This means not only transparency and accountability in day-to-day spending, but also ensuring that capital investment is genuinely capable of delivering the Government's long-term objective to ensure that the OTs are financially self-sufficient. We are seriously concerned by evidence suggesting that, despite significant capital investment in some OTs in recent years, much more remains to be done to provide infrastructure in OTs such as Montserrat, Tristan da Cunha and St Helena, with no clear end in sight. (Paragraph 54)

10. *The Government must offer clarity on its long-term vision for the funding of the OTs, including replacing any lost EU funding, and continuing and expanding Blue Belt funding after 2020. Towards this end, the Government should explore options for a dedicated development and stimulus fund for the OTs, which would allow for the long-term, sustainable development of aid-dependent territories; help to stimulate the economies of those who need a stimulus but do not qualify for official development assistance; and help territories that are otherwise financially self-sufficient respond to crises such as hurricanes. This long-term vision must be based on a clear-eyed assessment of how the UK will balance the needs of individual OTs against value for money for UK taxpayers. There must be scope to ask hard questions about the long-term sustainability and viability of individual OTs without further significant levels of UK capital investment. If the Government does not think significant capital investment is possible, then it must be frank about what it will spend and towards what end.* (Paragraph 55)

11. The UK Government must clarify the UK's future relationship with the European Union as soon as possible and analyse the impact on the OTs, what funding will be required to ensure the OTs are not losing out, and what input the OTs will have on the replacement of EU funding in the future. (Paragraph 56)

Points of friction in UK / OT relations

12. The Government should urgently address concerns in the OTs about the issue of citizenship by descent and anomalies in the British Nationality Act that have taken too long to resolve. It should also consider options for removing quotas on the number of people in the OTs that can access NHS services in the UK when their

own health systems cannot provide the care and treatment they need. This may be difficult from a bureaucratic point of view but it is an important test of the FCO's ability to fight the OTs' corner in the UK. (Paragraph 60)

13. It is time for all OTs to legalise same-sex marriage and for the UK Government to do more than simply support it in principle. It must be prepared to step in, as it did in 2001 when an Order in Council decriminalised homosexuality in OTs that had refused to do so. *The Government should set a date by which it expects all OTs to have legalised same-sex marriage. If that deadline is not met, the Government should intervene through legislation or an Order in Council.* (Paragraph 63)

14. Belongership and its equivalents are wrong. While we recognise that the OTs are small communities with unique cultural identities, we do not accept that there is any justification to deny legally-resident British Overseas Territory and UK citizens the right to vote and to hold elected office. This elevates one group of British people over another and risks undermining the ties that bind the UK and the OTs together in one global British family. *The UK Government should initiate a consultation with the elected governments of the OTs and work with them to agree a plan to ensure that there is a pathway for all resident UK and British Overseas Territory citizens to be able to vote and hold elected office in territory. In its response to this report the FCO should lay out a timetable for this consultation process and set a deadline for phasing out discriminatory elements of belongership, or its territory-specific equivalents.* (Paragraph 67)

Formal minutes

Wednesday 13 February 2019

Members present:

Tom Tugendhat, in the Chair

Chris Bryant	Priti Patel
Ann Clwyd	Andrew Rosindell
Mike Gapes	Mr Bob Seely
Stephen Gethins	Royston Smith
Ian Murray	

The following declarations of interest relating to the inquiry were made:

Tuesday 16 October 2018

Andrew Rosindell declared a non-pecuniary interest as a participant of the following groups:

Chairman of the All-Party Parliamentary Group for the Caribbean

Chairman of the British-Pacific Islands All-Party Parliamentary Group

Chairman of the United Kingdom Overseas Territories All-Party Parliamentary Group

Chairman of the British-Montserrat All-Party Parliamentary Group

Chairman of the Pitcairn Islands All-Party Parliamentary Group

Chairman of the British-Switzerland All-Party Parliamentary Group

Chairman of the Central America All-Party Parliamentary Group

Chairman of the Liechtenstein All-Party Parliamentary Group

Chairman of the Isle of Man All-Party Parliamentary Group

Chairman of the Channel Islands All-Party Parliamentary Group

Chairman of the Commonwealth All-Party Parliamentary Group

Chairman of the Canada All-Party Parliamentary Group

Chairman of the Conservative Friends of Gibraltar

Chairman of the Chagos Islands (British Indian Ocean Territory) All-Party Parliamentary Group

Parliamentary Advisor of the Friends of the British Overseas Territories

Vice Chairman of the All-Party Parliamentary Group for the Cayman Islands

Vice Chairman of the All-Party Parliamentary Group for Denmark

Vice Chairman of the All-Party Parliamentary Group for Bermuda

Co-Chairman of the British-Irish Parliamentary Assembly

Governor of the Westminster Foundation for Democracy

Chairman of the UK-Norfolk Island Friendship Group

Secretary of St Helena All-Party Parliamentary Group

Secretary of Falkland Islands All-Party Parliamentary Group

He also declared an interest as a participant in two trips in 2018 to the Cayman Islands and Gibraltar funded by the governments of the Cayman Islands and Gibraltar respectively.

Mike Gapes declared a non-pecuniary interest in relation to the Committee's inquiry into the future of the Overseas Territories as Chairman of the All-Party Parliamentary Group on Anguilla. He also declared an interest as a participant in a trip to Gibraltar in 2018 funded by the government of Gibraltar.

Ian Murray declared an interest in relation to the Committee's inquiry into the future of the Overseas Territories as a participant on a visit to the Falkland Islands in 2013 funded by the government of the Falkland Islands.

Declarations of interest were also repeated on 5 December 2018 and 18 December 2018.

Draft Report (*Global Britain and the British Overseas Territories: Resetting the relationship*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 32 read and agreed to.

Paragraph 33 read.

Amendment proposed, to leave out from "funds" in line 3 to "while" in line 5.—(*Andrew Rosindell.)*

Question put, That the amendment be made.

The Committee divided.

Ayes, 1	Noes, 8
Andrew Rosindell	Chris Bryant
	Ann Clwyd
	Mike Gapes
	Stephen Gethins
	Ian Murray
	Priti Patel
	Mr Bob Seely
	Royston Smith

Question accordingly negatived.

Amendment proposed, in line 8, to leave out first "public" and insert "law enforcement authorities".—(*Andrew Rosindell.*)

Question put, That the amendment be made.

The Committee divided.

Ayes, 1	Noes, 8
Andrew Rosindell	Chris Bryant
	Ann Clwyd
	Mike Gapes
	Stephen Gethins
	Ian Murray
	Priti Patel
	Mr Bob Seely
	Royston Smith

Question accordingly negatived.

Paragraph agreed to.

Paragraphs 34 to 37 read and agreed to.

Paragraph 38 read, amended and agreed to.

Paragraphs 39 to 62 read and agreed to.

Motion made, to leave out paragraph 63 and insert the following new paragraph:

"The UK Government should work in close co-operation and mutual respect with the elected governments of all OTs, to ensure that the rights and freedoms of all British citizens are equal across all jurisdictions within the "UK family", including marriage, and encourage the OTs to bring about legislative change that may be necessary to achieve this."—(*Andrew Rosindell.*)

Question put, That the new paragraph be read a second time.

The Committee divided.

Ayes, 4	Noes, 5
Priti Patel	Chris Bryant
Andrew Rosindell	Ann Clwyd
Mr Bob Seely	Mike Gapes
Royston Smith	Stephen Gethins
	Ian Murray

Question accordingly negatived.

Motion made, to leave out paragraph 63 and insert the following new paragraph:

"It is time for those Overseas Territories that have not yet legalised same-sex marriage to do so, to help ensure that the UK and the OTs are bound together by a common set of values. The UK Government must do more than simply support same-sex marriage in

principle and should be ready to intervene if necessary, as it did in 2001 when an Order in Council decriminalised homosexuality in those OTs that had not done so already. Working co-operatively with the OT governments and civil society groups in the OTs, the Government should set a deadline by which it expects all OTs to have legalised same-sex marriage. The Government should lay out a timetable for this in its response to this report."—(*The Chair.*)

Question put, That the new paragraph be read a second time.

The Committee divided.

Ayes, 1	Noes, 8
Mr Bob Seely	Chris Bryant
	Ann Clwyd
	Mike Gapes
	Stephen Gethins
	Ian Murray
	Priti Patel
	Andrew Rosindell
	Royston Smith

Question accordingly negatived.

Question put, That paragraph 63 stand part of the Report.

The Committee divided.

Ayes, 7	Noes, 2
Chris Bryant	Andrew Rosindell
Ann Clwyd	Royston Smith
Mike Gapes	
Stephen Gethins	
Ian Murray	
Priti Patel	
Mr Bob Seely	

Paragraph accordingly agreed to.

Paragraphs 64 to 66 read and agreed to.

Paragraph 67 read, as follows:

"Belongership and its equivalents are wrong. There can be no excuse for denying any British Overseas Territories or UK citizen the right to vote and run for office if they are legally resident in a territory. It is time to phase out belongership and its equivalents. If individual OTs are not willing to do so, the UK should intervene. The FCO should carry out an audit of each territory with a belongership system and what limitations this places on those that are resident and hold UK or BOT citizenship but do not hold belonger status. This should include territory-specific equivalents to belongership, such as Bermudian Status and Falkland Islands Status."

Motion made, to leave out paragraph 67 and insert the following new paragraph:

"The status of a belonger or its equivalent is seen by many as giving a permanent special status to one group of British people against another, who may also be British, but who were not born in the territory. The Committee accepts that small communities such as OTs need different rules to protect them from a possible large influx of people who do not have roots from the territory gaining disproportionate influence, before they have shown a long-term commitment to the well-being of that territory. However, all British citizens must eventually be entitled to qualify for equal citizenship of an OT, following a reasonable period. The UK Government should initiate a consultation with the elected governments of the OTs and work with them to agree a plan to ensure that there is pathway for all British citizens to be able to vote and stand for office in a British Overseas Territory, with the aim of ensuring equal rights for all British people whichever part of the "UK family" they may originate from. Any legislative change to existing laws should only happen through persuasion and via the elected parliaments and assemblies of each OT. It would be wrong of the UK to impose radical changes against the wishes of the people of the territories and their elected governments."—(*Andrew Rosindell.*)

Question put, That the new paragraph be read a second time.

The Committee divided.

Ayes, 1	Noes, 8
Andrew Rosindell	Chris Bryant
	Ann Clwyd
	Mike Gapes
	Stephen Gethins
	Ian Murray
	Priti Patel
	Mr Bob Seely
	Royston Smith

Question accordingly negatived.

Amendment proposed, to leave out from "wrong" in line 1 to end and insert:

"While we recognise that the OTs are small communities with unique cultural identities, we do not accept that there is any justification to deny legally-resident British Overseas Territory and UK citizens the right to vote and to hold elected office. This elevates one group of British people over another and risks undermining the ties that bind the UK and the OTs together in one global British family. The UK Government should initiate a consultation with the elected governments of the OTs and work with them to agree a plan to ensure that there is a pathway for all resident UK and British Overseas Territory citizens to be able to vote and hold elected office in territory. In its response to this report the FCO should lay out a timetable for this consultation process and set a deadline for phasing out discriminatory elements of belongership, or its territory-specific equivalents."—(*The Chair.*)

The Committee divided.

Ayes, 5	Noes, 3
Ann Clwyd	Chris Bryant
Mike Gapes	Stephen Gethins
Priti Patel	Andrew Rosindell
Mr Bob Seely	
Royston Smith	

Question accordingly agreed to.

Question put, That the paragraph, as amended, stand part of the Report.

The Committee divided.

Ayes, 5	Noes, 3
Ann Clwyd	Chris Bryant
Mike Gapes	Stephen Gethins
Priti Patel	Andrew Rosindell
Mr Bob Seely	
Royston Smith	

Paragraph, as amended, accordingly agreed to.

Paragraphs 68 and 69 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fifteenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 26 February at 2.15pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Tuesday 16 October 2018	*Question number*
Susie Alegre, Director, Island Rights Initiative, and **George Fergusson**, former Governor of Bermuda and (non-resident) Governor of Pitcairn	Q1–38
Dr Peter Clegg, Associate Professor in Politics and International Relations, University of the West of England, and **Eric Bush**, Cayman Islands Representative to the UK and EU, and Chair, UK Overseas Territories Association	Q39–86

Tuesday 6 November 2018	
Elise Donovan, British Virgin Islands Government representative in the UK and the EU, and **Janice Panton**, Montserrat Government representative in the UK	Q87–140
Jonathan Hall, Head, UK Overseas Territories Unit, Royal Society for the Protection of Birds, and **Dr Mike Pienkowski**, Chair, UK Overseas Territories Conservation Forum	Q141–161

Wednesday 5 December 2018	
Hon. Victor F. Banks, Chief Minister of Anguilla, **Hon. Donaldson Romeo**, Premier of Montserrat, **Hon. Sharlene Cartwright-Robinson**, Premier of the Turks and Caicos Islands, and **Hon. Ms. Teslyn Barkman**, Member of the Falkland Islands Legislative Assembly	Q162–195
Councillor Leslie Jaques OBE, Government of Pitcairn Islands, **Councillor Derek Thomas**, Member of the St Helena Legislative Assembly, **Mr Ian Lavarello**, Chief Islander of Tristan da Cunha, and **Councillor Keturah George**, Ascension Island Council	Q196–220

Tuesday 18 December 2018	
Lord Ahmad of Wimbledon, Minister of State for the Commonwealth and the UN, and **Ben Merrick**, Director, Overseas Territories, Foreign and Commonwealth Office	Q221–298

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

OTS numbers are generated by the evidence processing system and so may not be complete.

1 Alquimi Renewables, LLC and Thermal Energy Partners LLC (OTS0009)
2 Anguilla Christian Council (ACC) (OTS0104)
3 Anguilla Finance (OTS0048)
4 Anne Casssell (OTS0029)
5 Ascension Island Council (OTS0119)
6 Avaline Potter (OTS0059)
7 Benito Wheatley (OTS0095)
8 Benjamin Roberts (OTS0036)
9 British Virgin Islands Government (OTS0079)
10 British Virgin Islands Government (OTS0127)
11 Campaign for British Citizenship (OTS0011)
12 Cane Garden Bay Baptist Church (OTS0054)
13 Capt. Colin Fergus (OTS0064)
14 Caribbean Conservation Network (OTS0078)
15 Cayman Finance (OTS0074)
16 Cayman Islands Government (OTS0109)
17 Chief Islander of Tristan da Cunha (OTS0026)
18 Colours Cayman (OTS0022)
19 Colours Cayman (OTS0031)
20 David Brandt (OTS0097)
21 Denzil West (OTS0075)
22 Dominic Thomas-James (OTS0018)
23 Donaldson Romeo (OTS0111)
24 Dr Alasdair Pinkerton & Dr Matthew C. Benwell (OTS0069)
25 Dr James Reeve (OTS0083)
26 Dr Leonardo Raznovich (OTS0122)
27 Dr Peter Clegg (OTS0020)
28 Elected Members of the St Helena Legislative Council (OTS0049)
29 Embassy of France (OTS0128)
30 Equality & Human Rights Commission, St Helena (OTS0013)
31 Falkland Islands Government (OTS0106)
32 Falkland Islands Government (OTS0124)
33 Foreign and Commonwealth Office (OTS0103)

34 Foreign and Commonwealth Office (OTS0120)
35 Foreign and Commonwealth Office (OTS0123)
36 Foreign and Commonwealth Office (OTS0132)
37 Friends of the British Overseas Territories (FOTBOT) (OTS0089)
38 George Fergusson (OTS0110)
39 Government of Bermuda (OTS0130)
40 Government of the British Virgin Islands (OTS0115)
41 Harv Edge (OTS0108)
42 HM Government of Gibraltar (OTS0107)
43 Hon Joseph Easton Farrell (OTS0024)
44 International Financial Centres Forum (OTS0094)
45 Jean Kelsick (OTS0055)
46 John Knox (OTS0002)
47 Kattina Anglin (OTS0096)
48 Montserrat Association for Persons with Disabilities (OTS0012)
49 Mr Christopher Marshall (OTS0034)
50 Mr Jamal Smith (OTS0027)
51 Mr Jerzy Kolodziej (OTS0080)
52 Mr John Turner (OTS0005)
53 Mr Kedrick Malone (OTS0100)
54 Mr Lawrence Sticca (OTS0084)
55 Mr Lee Ingham (OTS0060)
56 Mr Michael Jarvis (OTS0008)
57 Mr Peter Moll (OTS0035)
58 Mr Peter Sanderson (OTS0081)
59 Mr Tari Trott (OTS0058)
60 Mr Timothy Adam (OTS0101)
61 Mrs Dancia Penn (OTS0085)
62 Mrs Medita Wheatley (OTS0086)
63 Mrs Tecla Henry-Benjamin (OTS0091)
64 Ms Dorothea Hodge (OTS0090)
65 Ms Kavita Frary (OTS0062)
66 Ms Shelley Harris (OTS0056)
67 Ms Shirley Osborne (OTS0092)
68 Ms Susie Alegre (OTS0052)
69 New Zealand High Commission, UK (OTS0116)
70 Office of the Premier of Montserrat (OTS0082)
71 Oxfam GB (OTS0072)

72 Paul Mildon (OTS0121)
73 Poiesis Techne Ltd & Archer's Mark International Ltd (OTS0125)
74 Professor Nicola Barker (OTS0015)
75 Professor Robert Marsh, Professor Emma Tompkins and Dr Yue Zhang (OTS0112)
76 Rodney Smith (OTS0038)
77 Royal Danish Embassy, UK (OTS0117)
78 RSPB (OTS0070)
79 Rt Hon Dr Lowell Lewis (OTS0017)
80 Russell David (OTS0006)
81 South Georgia Heritage Trust (OTS0050)
82 St Helena Chamber of Commerce (OTS0028)
83 St Helena Government (OTS0061)
84 St Helena Government (OTS0129)
85 St Helena Tourism Association (OTS0025)
86 Sylvia Gabriel (OTS0071)
87 Tabitha Sprague (OTS0066)
88 Terence Silcott (OTS0021)
89 The Honourable Everard Trenton Richards (OTS0040)
90 The Office of the Montserrat Legislative Assembly (OTS0093)
91 The West India Committee (OTS0053)
92 Tom Keatinge (OTS0118)
93 Transparency International UK (OTS0126)
94 Transparency International UK and Global Witness (OTS0016)
95 Turks and Caicos Forum (OTS0037)
96 Turks and Caicos Islands Human Rights Commission (OTS0041)
97 UK Chagos Support Association (OTS0073)
98 UK Overseas Territories Conservation Forum (OTS0114)
99 UK Overseas Territories Conservation Forum (OTS0067)
100 United Kingdom Overseas Territories Association (OTS0113)
101 Vernon Jeffers (OTS0042)
102 Virgin Islands Public Meetings (OTS0047)
103 Youth Alliance (OTS0065)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Violence in Rakhine State and the UK's response	HC 435
Second Report	The future of UK diplomacy in Europe	HC 514
Third Report	Kurdish aspirations and the interests of the UK	HC 518
Fourth Report	2017 elections to the International Court of Justice	HC 860
Fifth Report	The UK's response to hurricanes in its Overseas Territories	HC 722
Sixth Report	Global Britain	HC 780
Seventh Report	Global Britain and the 2018 Commonwealth Summit	HC 831
Eighth Report	Moscow's Gold: Russian Corruption in the UK	HC 932
Ninth Report	The FCO's preparations for the 2018 World Cup	HC 1011
Tenth Report	Global Britain and the Western Balkans	HC 1013
Eleventh Report	UK arms exports during 2016	HC 666
Twelfth Report	Global Britain: The Responsibility to Protect and Humanitarian Intervention	HC 1005
Thirteenth Report	Global Britain: Human rights and the rule of law	HC 874
Fourteenth Report	Global Britain: FCO Skills	HC 1254
First Special Report	The United Kingdom's relations with Russia: Government Response to the Committee's Seventh Report of Session 2016–17	HC 322
Second Special Report	The UK's relations with Turkey: Government Response to the Committee's Tenth Report of Session 2016–17	HC 333
Third Special Report	'Political Islam', and the Muslim Brotherhood Review: Government Response to the Committee's Eighth Report of Session 2016–17	HC 334

Fourth Special Report	Violence in Rakhine State and the UK's response: Government Response to the Committee's First Report	HC 868
Fifth Special Report	The future of UK diplomacy in Europe: Government response to the Committee's Second Report	HC 918
Sixth Special Report	Kurdish aspirations and the interests of the UK: Government response to the Committee's Third Report	HC 983
Seventh Special Report	2017 elections to the International Court of Justice: Government response to the Committee's Fourth Report	HC 1012
Eighth Special Report	Article 50 negotiations: Implications of "No Deal": Government response to the Committee's Ninth Report	HC 1053
Ninth Special Report	The UK's response to hurricanes in its Overseas Territories: Government response to the Committee's 5th Report	HC 1052
Tenth Special Report	Global Britain: Government response to the Committee's 6th Report	HC 1236
Eleventh Special Report	Global Britain and the 2018 Commonwealth Summit: Government response to the Committee's 7th Report	HC 1427
Twelfth Special Report	Moscow's Gold: Russian Corruption in the UK: Government response to the Committee's 8th Report	HC 1488
Thirteenth Special Report	The FCO's preparations for the 2018 World Cup in Russia: Government response to the Committee's 9th Report	HC 1507
Fourteenth Special Report	Global Britain and the Western Balkans: Government Response to the Committee's Tenth Report	HC 1572
Fifteenth Special Report	Global Britain: The Responsibility to Protect and Humanitarian Intervention: Government response to the Committee's Twelfth Report	HC 1719
Sixteenth Special Report	Global Britain: Human rights and the rule of law: Government response to the Committee's Thirteenth Report	HC 1759
Seventeenth Special Report	Global Britain and the Western Balkans: Supplementary Government response to the Committee's Tenth Report	HC 1760
Eighteenth Special Report	UK arms exports during 2016: Government Response to the Committees' First Joint Report	HC 1789
Nineteenth Special Report	Delivering Global Britain: FCO Skils: Government Response to the Committee's Fourteenth Report	HC 1937

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Ref: GOV/LEG/29

15 July, 2021

Mr. A. King
Senior Solicitor
Commission of Inquiry
Tortola VG1110

Dear Mr. King

Thank you for providing sight of the Ministers' position statement on Governance, and the subsequent supplementary submission.

I take this opportunity to comment on a small number of points within the Ministers' primary statement and enclose some further information.

Paragraph 11: Publicly Accessible Registers

On 14 December 2020, the UK Government published a draft Order in Council prepared in accordance with Section 51 of the Sanctions and Anti-Money Laundering Act, 2018. The draft Order sets out the UK Government's expectations for publicly accessible registers of company beneficial ownership in the Overseas Territories. In light of statements made by all the inhabited Territories, including BVI, on the adoption of publicly accessibly registers, the UK Government decided that it was not necessary to make the Order under section 51; the UK will keep this under review. The UK will continue to work with all Territories to support their implementation of publicly accessible registers of company beneficial ownership by the end of 2023.

Paragraph 16 & 17: RDA

I attach a copy of a letter (**Annex A**) from the Director of Overseas Territory Directorate to the then Premier Honourable Orlando Smith, dated 21 August 2018 that sets out more information in relation to the establishment of the Recovery and Development Agency.

Paragraph 24: Loan Guarantee

The loan guarantee was offered to the Government of the British Virgin Islands with fiscal responsibilities attached to it set out by the Cabinet Office of the UK Government. I attach a copy of the Cabinet Office documentation (**Annex B**) giving an overview of contingent liability process. It is for the BVI Government to decide whether or not to accept a loan guarantee. This remains a supportive offer to the British Virgin Islands Government with conditions that meet the stringent accounting requirement for public sector contingent liabilities.

Paragraph 31: Chairing of Cabinet

Section 2(3) of the Constitution makes clear that the reference to the holder of any office shall be construed as including a reference to any person who, under and to the extent of any authority in that respect, is for the time being performing the functions of that office.

Section 38(2) provides that 'The *Governor, acting in his or her discretion, may, by writing under his or her hand, authorise the Deputy Governor to exercise for and on behalf of the Governor any or all of the functions of the office of Governor, subject to such exceptions and conditions as the Governor may from time to time so specify.'*

Accordingly, 'the Governor' includes the person acting as Governor, who presides over Cabinet in accordance with section 49 (1) of the constitution.

I attach an exchange of letters between the then leader of the Constitutional Review Team and former Chief Minister Orlando Smith (**Annex C**) which sets out this common understanding of the UK and the Virgin Islands Governments in this issue.

Chairing of Cabinet has been an ongoing discussion with the current Premier - I enclose an exchange between the Premier and the previous Governor in relation to the ability to attend and/or chair Cabinet remotely, something we have recently accommodated for the Premier whilst he was himself in isolation through joining by Webex.

Paragraph 35: Disaster Management Act

Both the previous Governor and I have continued to make clear that Disaster Management involves a key national security aspect and therefore should be retained within the Governor's responsibilities. My predecessor had much discussion on this with the Premier (**Annex D**), resulting in both parties requesting advice from the Attorney General.

In December 2020 a memo from Augustus Jaspert requested that the budget for Disaster Management remain within the budget for the Governor's Group 2021. This was not actioned and so the Appropriation Act was signed with a conditional note that setting a budget line in a different group did not constitute the reallocation of departmental governance.

My letter of the 23rd April 2021 set out my position following consultation with the Premier. I set out my view that this matter should be addressed as part of the proposed constitutional review and was clear that I would reserve the question of assent if the bill was put forward as currently drafted.

Paragraph 39: Direction of Public Service

I enclose a copy of a letter dated 15th May 2020 from the previous Governor to the Premier (**Annex E**) in response to the letter issued on the 9th May 2020.

Paragraph 106: Integrity in Public Life Bill

My letter of the 25 March (**Annex F**) set out my full support for the introduction of legislation enhancing integrity in public life, rather than the bill as was then drafted, on which I offered suggested amendments.

Paragraph 132: Public Service

The public service needs to be able to operate impartially and to advise ministers without fear or favour. While management of the public service sits within the Governor's group, financial support to enable capacity building sits with the Financial Secretary. Additionally, good policy formulation by officials is dependent on clear Ministerial Policy guidance. It is not feasible to drive effectiveness and capacity of the public service without both of these.

In addition to the clarifications given to the Ministers' Governance statement, I respond to the question of the Registrar of Public Interests

Under Section 112 of the Constitution, the Registrar of Interests is appointed by the Governor. Section 112 also requires all members of the House of Assembly (including Ministers) to declare their interests to the Registrar.

That there were concerns over the Register is demonstrated by the attached letter of 18 June 2019 from the Premier to Mr Ben Merrick (**Annex G**), then Director, Overseas Territories Directorate in the Foreign and Commonwealth Office. In that letter the Premier stated that the "Register of Interests of Ministers will be made public immediately following further consultation with the Governor". The Register nonetheless remained closed to the public.

In light of the Governor's responsibility for the position of Registrar of Interests, and in the interest of upholding good governance and ensuring compliance with the Constitution, it was legitimate for the Governor to request information from the Registrar of Interests and to support her encouragement of members of the House of Assembly to comply with their obligations. Section 13 of the Register of Interests Act 2006 contains no prohibition on such a request. The Governor did not request nor did the Registrar provide details of what had been entered in the Register. Rather the Registrar shared information on who was non-compliant.

I am of course happy to discuss Governance further and will attend the Commission as requested.

Kindest regards



John J. Rankin CMG
Governor of the Virgin Islands

ANNEX A

Official

Foreign & Commonwealth Office

Ben Merrick
Director
Overseas Territories
King Charles Street
London, SW1A 2AH

www.gov.uk/fco

The Hon Dr D Orlando Smith OBE
Premier
Office of the Premier
Government of the British Virgin Islands
33 Admin Drive
Road Town
Tortola VG1110
British Virgin Islands

21 August 2018

Dear Premier,

1. I am pleased that Lord Ahmad had a productive recent visit to the British Virgin Islands. It is encouraging to hear that progress has been made on the establishment of the Recovery and Development Agency (RDA), in particular that a Chief Executive Officer has been appointed. The UK funded loan advisor has also been embedded in the Ministry of Finance. Now is the time to continue to increase the pace of the recovery, as Lord Ahmad said during his visit, there is much work still to be done before the islands are fully recovered.

2. My team are already working with the loan advisor and colleagues in the BVI Ministry of Finance on a joint strategy document that will set out the detail of the loan guarantee, and the process to establish this. I wanted to set out the five main steps for setting up the loan guarantees. It is worth noting that much of the work outlined below has already commenced. As you will appreciate, the process is necessarily technical and thorough, but I want to reassure you that we are keen to help drive momentum, and support your Government through the whole process.

Recovery Plan

3. As you know, the cornerstone of the recovery is the BVI Government's Recovery Plan, which details the work needed across the Territory to effect a strong and sustainable recovery. It is important that the Plan is finalised and agreed quickly. Once approved, the RDA, as the primary delivery agency, will need to assess the

value of projects and the timescales for completion. This will need to be coupled with a realistic assessment of BVI's operational capacity to carry out those works.

Fiscal Analysis

4. Once the RDA is confident in the above assessment, it can make an accurate calculation of the level of financing required and how that might be sequenced. The Ministry of Finance will need to assess how much of this can be funded out of the proposed borrowing under the UKG guarantees, up to the value of £300 million. The Ministry of Finance have already started a preliminary debt sustainability analysis, which I understand will shortly be available. This will allow your Cabinet to decide on the affordability of sustaining this level of borrowing. This analysis will also underpin internal UKG analysis to set up the guarantee. It is at this point that your Government may need to take decisions around mobilising revenues and expenditure consolidation to support fiscal sustainability.

5. In addition, the BVI Government and UKG will need to agree amendments to the Protocols for Effective Financial Management given the new borrowing will likely cause the BVI Government to remain out of compliance with the existing borrowing ratios. A date to return to compliance will need to be mutually agreed alongside interim targets and measures on public financial management in line with the High Level Framework for UK Support to BVI Hurricane Recovery.

Loan Structuring and Procurement

6. The Ministry of Finance and loan advisor will need to set out the structure of the loan and guarantee package to the FCO and HM Treasury that both suits the needs of the BVI Government and ensures value for money for the UKG. This process has already started. The loan advisor and Ministry of Finance have also begun engaging with financing institutions to gauge the market. Once complete, the process of legal drafting for the loan agreement (between the BVI Government and lender(s), guarantee (between the UKG and each lender) and counter indemnity terms (between the UKG and BVI Government) can begin. As you know, while the guarantee structure and associated loans are being arranged the BVI Government has available existing undrawn loans, ensuring that there should be no delay to project implementation for lack of funding.

HMT Contingent Liability

7. Across all of the above steps, the FCO and HM Treasury will be conducting an assessment of the guarantee using the data available from the Recovery Plan and Debt Sustainability Analysis (amongst others). Officials at the Ministry of Finance have been appraised of this process, known as the Contingent Liability Approval Framework. This is a key step before any guarantee from the UKG can

be finalised not least because it is a requirement for statutory accounting in the UK. This process will also verify that the BVI Government can afford to repay any loans and ensures that BVI Government accounts are robust. A key element of this is ensuring that strong oversight of project delivery and financial accountability is in place. This will be provided for through the RDA in respect of project implementation and by the Ministry of Finance in respect of debt sustainability and management.

8. As part of setting up a new contingent liability, HM Treasury requires appropriate risk monitoring mechanisms to be put in place. In this instance, a financial technical advisor will be appointed who will report directly to the Governor and to me as Senior Responsible Officer for the FCO. The advisor's primary responsibility will be to work with the Ministry of Finance to monitor the guaranteed loans, work on refinancing, communications and fiscal sustainability strategies and advise the FCO and HM Treasury on any relevant issues that affect the status of the guarantee.

Parliamentary notification

9. Once the contingent liability process is completed there is a legal obligation for the UKG to notify Parliament. Members of Parliament can request further information on the liability for 14 sitting days after the notification is made and it will be up to the FCO as the responsible Department to provide the further information before the guarantee structure is fully approved. Thereafter, provided all terms have been agreed between the BVI Government and lenders, the BVI Government will be able to execute the new guaranteed loan facilities and access the associated funding.

10. I am sure you will appreciate the necessity of such a comprehensive process. The UK remains committed to supporting BVI throughout, and I am pleased that our officials continue to work together for the benefit of the long term recovery of the British Virgin Islands.

Yours sincerely,

Director Overseas Directorate
Foreign and Commonwealth Office

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512
Facsimile: (284) 494-5790

MEMORANDUM

REF. No: GOV/FOR/01

TO: Premier

FROM: Governor

Copies: Deputy Governor
Deputy Premier

DATE: 17th October 2019

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR THE EFFECTIVE MANAGEMENT OF THE EARLY RECOVERY PROJECT INVESTMENTS

1. I am following up on my previous Memo to you dated 22 May 2019 on the subject noted above.

2. As noted in the Information Paper that was discussed at Cabinet on 15 May 2019, following the UK's immediate humanitarian response to hurricanes Irma & Maria, the UK subsequently provided approximately US$16.4m to support a range of early recovery projects that were implemented in partnership with the Government of the Virgin Islands (GOVI).

3. At the meeting of Cabinet on 15 May 2019 it was agreed that a Memorandum of Understanding (MOU) between GOVI and the UK Government would be executed to confirm the hand-over to GOVI of all infrastructure, equipment, resources and products of services procured by the UK for the early recovery projects.

4. I had signed the MOU on behalf of the UK Government, attached a copy to my previous Memo, and handed a copy to you for your signature on behalf of GOVI.

5. As I have not yet received a signed copy of the MOU from you or any written feedback relating to the contents of the MOU, another copy (unsigned) is attached to this Memo. Once you have signed and returned this copy to my Office, I will ask Ben Merrick to counter-sign on behalf of the UK Government.

6. Should you have any questions or comments relating to the contents of the attached MOU please let me know and my Office would be happy to set up a discussion to address these.

7. As you will be aware, the UK Government is accountable to the UK public for ensuring the proper use, value for money, and the sustainability of all UK support to GOVI and the BVI. While the attached MOU remains unsigned the UK Government does not have the assurance it requires in relation to the early recovery projects.

8. This lack of assurance in relation to past support has the potential to jeopardise the ability of the UK and GOVI to work in partnership in the future. An example of this is that I have had to recently advise the Foreign and Commonwealth Office (FCO) to explore whether another Overseas Territory would be able to store a black-start generator procured by the UK to be a resource for deployment across the Caribbean region – originally this was to be stored in BVI under the care of GOVI, giving BVI immediate access in the event of an emergency.

9. So as to ensure all stakeholders are aware of the UK Government's requirements relating to proper use, value for money, and sustainability going forward I suggest that our respective Offices should ensure that appropriate agreements are in place prior to the provision of any future UK support to GOVI for capital expenditure.

A. J. V. Jaspert

Gus Jaspert
HM Governor

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512
Facsimile: (284) 494-5790

MEMORANDUM

REF: **GOV/FOR/01**

TO: Premier

FROM: Governor

Copies: Deputy Governor
Deputy Premier

DATE: 22nd May, 2019

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR THE EFFECTIVE MANAGEMENT OF THE EARLY RECOVERY PROJECT INVESTMENTS

1. As noted in the Information Paper that was discussed at Cabinet on 15 May 2019, following the UK's immediate humanitarian response to hurricanes Irma & Maria the UK subsequently provided approximately $16.4m to support a range of early recovery projects that were implemented in partnership with the Government of the Virgin Islands (GOVI).

2. At the meeting of Cabinet on 15 May 2019 it was agreed that a Memorandum of Understanding between GOVI and the UK Government would be executed confirming the hand-over to GOVI of all infrastructure, equipment, resources and products of services procured by the UK for the early recovery projects. Accordingly I attach for your signature the aforementioned Memorandum of Understanding.

3. I have signed on behalf of the UK Government and would be most grateful if the attached Memorandum of Understanding could be signed on behalf of GOVI and a copy returned to my Office.

4. Additionally, although already shared with the Permanent Secretaries of the relevant Ministries at the time of each project's completion, I would like to share with you technical assistance reports produced by the consultancy services procured for the early recovery projects (as set out below):

a. Design and Implement Support for Promotion of Employment in Construction and Maritime Sectors
    i. Support for the promotion of employment in the construction and maritime sectors
    ii. Draft Labour-Policy Paper (DLPP) providing support to labour policy reform for post-disaster and recovery needs
b. Housing Recovery Support
    i. Recommended Draft Virgin Islands housing recovery and adaptation policy
    ii. Support to recovery in the British Virgin Islands – Housing Recovery
c. British Virgin Islands Ministry of Communications and Works Technical Assistance Programme
    i. Completion Report and Recommendations for implementing Asset Management System and Structural Reform of PWD and DW&S
d. Port Purcell Preparedness Assistance
    i. Port Preparedness Implementation Plan
    ii. Port Preparedness Training & Costing Plan
    iii. Hurricane Preparedness & Recovery Plan
e. Resilient Telecommunications Briefing Paper

Augustus J.U. Jaspert
HM Governor

Memorandum of Understanding for the Effective Management of the Investment made by the Government of the United Kingdom of Great Britain and Northern Ireland

Between

The Government of the United Kingdom of Great Britain and Northern Ireland (UKG) represented by the Foreign and Commonwealth Office (FCO)

and

The Government of the Virgin Islands (GOVI) represented by the Premier's Office

(together the Participants)

1. This Memorandum of Understanding (MOU) sets out the terms and understanding between the Participants for the effective management of the infrastructure, equipment, resources and products of services procured by the UK Government (UKG) for projects implemented in support of the reconstruction and recovery of the British Virgin Islands (BVI) following hurricanes Irma and Maria listed at ANNEX A.

Background

2. The hurricane disasters of 2017 caused widespread damage to the BVI with total damages estimated at approximately US$3bn. This presented an unprecedented challenge for recovery. In addition to humanitarian and military support provided for the immediate response, the UKG also committed funds to support to the Government of the Virgin Islands (GOVI) during the early recovery phase, prior to the establishment of the long-term recovery and development programme. The early recovery projects covered under this MOU are listed at ANNEX A.

Purpose

3. The purpose of this MOU is to provide clarity on the nature of the partnership between the Participants in relation to the projects listed at ANNEX A. The MOU details the investment that the UKG has provided in support of these early recovery projects and the commitments the GOVI has made in respect of those projects, including to be responsible for the on-going operations and maintenance of equipment and to maximise the impact of capacity building support to ensure long-term sustainability. The following overarching conditions (which may be further detailed in any separate arrangements for each project) are accepted by the Participants:

    a. The UKG has provided infrastructure, equipment, resources and products of services procured as part of the projects listed at ANNEX A to the GOVI for their use.

    b. The infrastructure, equipment, resources or products of services cannot be sold, leased or loaned without the prior approval of the UKG.

    c. The infrastructure, equipment, resources or products of services will be used, managed and maintained in accordance with the manufacturers' or service

providers' recommendations. Where possible repair work will not invalidate the warranty of the infrastructure, equipment or resources.

d. The infrastructure, equipment, resources or products of services will be used in accordance with BVI law and where appropriate only operated by a trained and competent operator.

4. The UKG accepts to:

   a. Hand the infrastructure, equipment, resources or products of services over to the GOVI for their on-going use, maintenance and management in accordance with clause 3. and any separate arrangements for individual projects.

5. The GOVI accepts to:

   a. Engage in the correct management, maintenance and use of the provided infrastructure, equipment, resources or products of services in accordance with clause 3. above and any separate arrangements for individual projects, and assume responsibility for all benefits and outcomes once they have been handed over.

Reporting

6. To meet the reporting requirements of the UKG:

   a. The GOVI will provide the UKG with any documentation that may be required to ensure compliance with this MOU and as may be reasonably requested by UKG.

Funding

7. The approximate UKG funding for all the infrastructure, equipment, resources and products of services procured for the projects listed at ANNEX A was US$16.4 million.

Termination

8. The UKG may end its participation in this arrangement by giving written notice to the GOVI in the following circumstances:

   a. Failure by the GOVI to manage, maintain or use the infrastructure, equipment, resources or products of services according to this MOU.

   b. Force majeure.

9. Where the UKG ends its participation in this arrangement due to the circumstances described in 8 a. the UKG may request that any or all of the infrastructure, equipment, resources or products of services (or the equivalent value in US$ as reasonably determined through international accounting best practice) are returned to the UKG by GOVI within 90 days or another reasonable timeframe as may be agreed by the Participants.

ANNEX A to MOU: Early Recovery Projects

ID	Project	Infrastructure, Equipment, Resource, or Service	GOVI counterpart
1	Vocational Training	Provision of technical assistance to H.Lavity Stoutt Community College (HLSCC) to design a comprehensive vocational training programme for the construction and maritime sectors and investment in training facilities and materials. Policy advice to Ministry of Natural Resources and Labour, Ministry of Education and Building Regulations Unit (Premier's Office) and Department of Public Works.	Ministry of Education and Culture Ministry of Natural Resources and Labour HLSCC
2	Prison Officer Support – Provision of prison officers to support HMP Balsam Ghut prison staff, including on the job mentoring.	Temporary deployment of 13 prison officers from the UK followed by the provision of a further team of 12 prison officers.	HMP Balsam Ghut
3	Prison Infrastructure Repairs and Support	Completion of infrastructure repairs to strengthen security, safety and living conditions at the prison, and provision of a	HMP Balsam Ghut
4	Housing Recovery Support	Provision of housing and engineering expertise to support Housing Recovery Unit. Provision of building materials and funds to contract construction firms to repair houses for 76 vulnerable families (and provide 4 temporary houses). Provision of surplus materials to aid disaster preparedness projects of the Department for Disaster Management	Housing Recovery Programme of the Ministry of Health and Social Development Department for Disaster Management
5	Power reconnection	Funding for a team of 27 linesmen, trucks and equipment to support BVI Electricity Corporation (BVI-EC) to reconnect 2,700 homes and businesses (20%) thereby reducing reconnection time by two months. The teams also reconnected more than 250	BVI-EC

		street lamps to strengthen security.	
6	Health	Provision of equipment to address mosquito infestation, inspection of water quality, a pick-up truck and mobile primary health care.	Ministry of Health and Social Development
7	Telecommunications Assessment	Funding for a study on how to strengthen telecommunications resilience in BVI.	Ministry for Communications and Works.
8	Police Support	Support to the Royal Virgin Islands Police Force (RVIPF), including deployment of UK, Cayman and Bermudan police to augment RVIPF capability, and a further programme of capacity building and provision of two specialist vehicles and equipment to the firearms teams.	RVIPF
9	Temporary Court House	Support to complete the construction of a temporary Magistrate's Court Connection of the court and prison by audio-visual link.	Magistrates Court HMP Balsam Ghut
10	Water and Sewage	Funding for immediate and urgent repairs to water and sewage infrastructure (including reservoirs) and purchase of equipment.	Department of Water and Sewage
11	Cash Assistance Programme	£2m to support 1,076 vulnerable households in close partnership with the Ministry of Health and Social Development.	Ministry of Health and Social Development
12	Vehicles and Equipment	Provision of six pick-ups, two small dump trucks, two large dump trucks and three back-hoe trucks to be managed by the Ministry for Communications and Works to support road repair, water and sewage.	Ministry of Communication and Works
13	Debris Clearance Equipment	Vehicles and equipment to support clearance of hurricane debris, including: three pick-ups, one flatbed truck, two tow trucks, two bucket trucks, one car crusher, three trailers, a compressor, debris clearance kits and three generators.	Ministry of Communication and Works
14	Infrastructure Advisers	Provision of a team of specialist infrastructure advisers (roads, power and water/sewage) to support the Ministry for Communications and Works develop proposals for an asset management plan & system and for restructuring of the Public Works Department and Department of Waste and Sanitation.	Public Works Department Department of Waste and Sanitation

15	Ports Assessment	Funding for a detailed assessment of Port Purcell and the port in Virgin Gorda by technical experts. The report detailed short, medium and long term recommendations on how to improve the functioning of these key goods ports.	BVI Ports Authority

OFFICE OF THE GOVERNOR
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3501

Honourable Premier
Office of the Premier
Ralph O'Neal Administration Complex

21 February 2020

Dear Premier,

I am writing in reference to your letter to Lord Ahmad of 17 February.

Whilst I welcome the good governance commitments set out therein, I do not agree with much of the content of the letter, which I consider to be unnecessarily confrontational and misrepresentative of my conduct as Governor. Specifically, it is disappointing that you continue to raise, and misconstrue, the discussion we had at Cabinet on governance on 9 January 2020. The accurate record of that conversation is set out in the minutes of that meeting and this was agreed by all of Cabinet, including all Ministers at the time. This was an impartial record taken and documented by the Cabinet Secretary. Given this record was agreed, I do not consider that it is in the best interests of the people of the Virgin Islands to continue to correspond on the matter.

I also strongly refute the assertions you make regarding my intentions, actions and behaviour. I do not intend to address each one in turn other than to formally record that the assertions in your letter are without foundation. The overall tone of your letter I find deeply disrespectful.

More broadly, I welcome your ongoing expressed wish to improve governance, transparency and accountability in the Territory as set out in both your letter to Lord Ahmad and your statement last week and I hope we can work effectively together and with the relevant institutions on these matters. As you are aware, the Deputy Governor's Office in partnership with other Ministries and agencies has been spearheading work on the good governance agenda. Legislative and policy proposals to improve the standards and institutions to support strong integrity, including the introduction of the Ministerial Code, Register of Interests and the Integrity in Public Life Act are well underway. I will ask the Deputy Governor and his team to continue to work closely with your officials to support taking these, and other important governance initiatives, forward as a matter of urgency.

A. J. V. 2

Augustus Jaspert
Governor

cc: Ben Merrick, OTD FCO
All Members of BVI Cabinet
Deputy Governor

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Commissioner of Affidavits *- Radha Persad* ***Door Tenant:*** *- Alvin Shiva Pariagsingh LL.B(Hons)*

In the matter of the Disaster Management Act 2003

AND

In the Matter of Sections 27, 35, 47 and 60 of the Virgin Islands Constitution Order 2007.

Legal Opinion

Issue:

Whether the governance and/or control of the British Virgin Islands (BVI) Department for Disaster Management (DDM) should be vested in the Governor General or the Cabinet/Minister of Government?

BVI Statutory Framework:

1. The BVI Department for Disaster Management (DDM) is charged with the coordination and integration of comprehensive disaster management into sustainable development policies, planning and programming with a special emphasis on disaster prevention, mitigation, preparedness, response and recovery and established pursuant to **Section 5 of the Disaster Management Act 2003 (the Act).**

2. The Director of the DDM is appointed by the Governor General (*Governor*) [Section 5 of the Act].

3. Pursuant to **Section 4 of the Act** the Governor is responsible for :

   (a)to cause to be prepared a comprehensive plan and programme which shall be integrated into and coordinated with other plans and programmes of the Government and which shall include

(i) mitigation of injury and damage caused by hazards;

(ii) emergency relief;

(iii) identification of areas, people, building and infrastructure particularly vulnerable to hazards;

(iv) taking measures for building and other development standards, safety measures for securing permanent structures and other mitigation measures designed to eliminate or reduce disasters or the impacts of hazards;

(v) authorization of the erection or other construction of temporary works designed to mitigate danger, damage or loss from other hazards, and the procedures therefore;

(vi) organization of personnel and establishment of chains of command;

(vii) coordination of emergency management activities;

(viii) any other matter he thinks necessary or expedient;

(b) in accordance with the plan and programme for emergency management of the Territory, and out of funds appropriated for these purposes, to procure and requisition supplies, medicines, materials and equipment, to institute training programmes and public information programmes;

(c) to take all preparatory steps, including the partial or full mobilization of emergency services;

(d) to ensure the furnishing of adequately trained and equipped forces for disaster response and recovery;

(e) out of funds appropriated for that purpose, to carry out studies and surveys of industries, resources and facilities in the Territory as may be necessary to ascertain the capabilities of the Territory for emergency management phases of Mitigation, preparedness, response and recovery And to plan for the most efficient emergency use thereof.

4. By virtue of the Act, the Governor is therefore vested with the authority to oversee, manage, implement and co-ordinate disaster response, mitigation, preparedness and recovery. The role of the Director and by extension the DDM, is to assist *the Governor in coordinating the general policy of the Government relating to the mitigation of, preparedness for, response to and recovery from, emergencies and disasters in the Territory* [See Section 6 of the Act].

5. The duties of the Director are subject to the *direction of a special or general character in relation to the policy to be followed in the exercise of the powers conferred and the duties imposed on him by or under this Act* ***as the Governor gives***. [Section 8].

6. The Governor also sits as chairman of the National Disaster Management Council [See Schedule pursuant to Section 9(2)]. It is not necessary to review the function of the Council as it is not charged with executing, implementing or managing the DDM. Its function is merely to review, advise and make recommendations on matters concerning disaster management.[Schedule 1 (11)]

7. The Governor is empowered to manage funds allocated to the DDM pursuant to Section 4 (1) (b) and (e).

8. There is also provision for the establishment of an Emergency Disaster Fund under Part 10 of the Act, to be *applied towards recovery efforts and the adoption and promotion of preventive measures before, during and after a disaster emergency.* [Section 27]. The Fund is to be managed by a Committee ("the Fund Committee") comprising the Financial Secretary, as *ex officio* Chairman, and not more than four other persons, appointed by instrument under the hand of the Governor after consultation with the Minister [Section 26(2)].

Constitutional Framework:

9. The BVI is a dependent territory of the United Kingdom with a framework of a parliamentary representative democratic dependency. Accordingly, its governance structure is comprised

of the Governor and the Executive with executive authority of the Virgin Islands being vested in Her Majesty. This "executive authority" is then exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him or her. The Cabinet headed by the Premier forms part of the Executive.

10. The Governor's powers and duties are defined at **Section 35 (2) of the Constitution:**

Section 35(2)

(2) The Governor shall have such powers and duties ***as are conferred or imposed on him or her by this Constitution*** or any ***other*** law and such ***other*** powers as Her Majesty may from time to time ***be pleased to assign*** to him or her.

11. Special responsibilities are delegated unto the Governor by virtue of Section 60:

Section 60(1)

*60.—(1) The Governor shall be responsible for the conduct (subject to this Constitution and any other law) of any business of the Government of the Virgin Islands, including the administration of any department of government, **with respect to the following matters** —*

(a) external affairs, subject to subsection (4);
*(b) **defence, including the armed forces**;*
(c) internal security, including the Police Force, without prejudice to section 57;
(d) the terms and conditions of service of persons holding or acting in public offices, without prejudice to section 92; and
(e) the administration of the courts;
and the Governor shall keep the Premier fully informed concerning the general conduct of these matters, and the Premier may request information in respect of any particular matter.

12. **Section 27** (1) of the Constitution gives the Governor General the power to declare a public emergency, subject to the need for consultation with the cabinet or Premier [Section 27(6)]:

> *A period of public emergency may be declared by the Governor, by proclamation published in the manner provided in subsection (2), when—*
>
> ***the well-being or security of the Virgin Islands is threatened by war, invasion, general insurrection, public disorder, natural disaster or other public emergency; and***
> *the declaration is considered necessary by the Governor to maintain or restore peace and order.*

13. Section 47(3) empowers the Cabinet with the responsibility for

- the **formulation** of policy,
- including **directing the implementation of such policy**, insofar as it relates to **every aspect of government**,

except those matters for which the Governor has special responsibility under **section 60,** and the Cabinet shall be collectively responsible to the House of Assembly for such policies and their implementation.

Discussion:

14. The Cabinet, unless a matter falls within the remit of section 60, has the responsibility to formulate and implement policies as it relates to **EVERY** aspect of government. This is the core function of an elected government in a constitutional democracy based on the Westminster model of governance.

15. The democratic will of people is of paramount importance. The preamble notes:

*"Accepting that the Virgin Islands should be governed based on adherence to well-established **democratic principles** and institutions;*
*Affirming that the people of the Virgin Islands have generally expressed their desire to become a self-governing people and **to exercise the highest degree of control over the affairs of their country** at this stage of its development; and..."*

16. In **Attorney General v Joseph [2006] CCJ 3 (AJ)** Wit J characterised the preamble as, "filling the Constitution with meaning" and breathing "life into the clay of the more formal provisions in that document". The highlighted words of the preamble affirm that a democratic institution should be given the mandate to exercise the highest degree of control over the affairs of the country. The Governor is not elected by the people – the government is. This view has been underscored by the Courts. In **Civil Appeal 37 of 2003 Attorney-General of St Lucia v Martinus Francois** , Justice of Appeal Rawlins stated:

"In a real and practical sense, under our Westminster Model Constitutions, the Cabinet is the center of executive action, although the executive authority is vested in Her Majesty. In the main, executive functions of the State are actually exercised by the Ministers who form the Cabinet and the Government."

17. Disaster management is not a matter that is covered by section 60. It does not form part of the constitutional mandate of the Governor's jurisdiction and hence it is a matter for which the cabinet can assume responsibility subject to appropriate legislative intervention to amend or repeal and replace the **Disaster Management Act 2003.**

18. The role of the DDM includes:

    a. drafting of laws and implementing regulations that establish the legal authority for the development and implementation of the disaster management programme and organization;

b. planning, development, coordination, and implementation of operational plans and procedures are fundamental to effective disaster response and recovery and

c. the development of fiscal and administrative procedures designed to support a disaster management programme.

19. The role and function of the DDM is plainly a matter that falls within the remit of the executive which is responsible for policy formulation and implementation. The imposition of responsibility for planning, devising, implementing and co-ordinating disaster preparedness, management and policy unto the Governor by virtue of the Disaster Management Act 2003 is therefore an additional responsibility conferred by parliament which it is free to change.

20. It is arguable that the DDM is tangentially relevant to two aspects of the Governor's powers under the Virgin Islands Constitution Order 2007: external affairs and a state of emergency. Such peripheral relevance does not however bring disaster management within the mandatory constitutional remit of the Governor such that the executive is unable to carry out these functions.

21. Local disaster management does not necessarily impact on external affairs. A cursory glance at the functions of the DDM shows that it is more than able to execute its mandate as part of the government. Disaster preparedness is done to ***avoid*** a disaster from escalating into an emergency. Preparation for and management of a disaster is aims to prevent a state of emergency at which point the constitutional reigns pass from the government to the Governor.

22. Section 27 is very specific in application. Only in periods of grave natural disaster or public emergency, may it be invoked. In cases of an urgent threat to the state, Section 27 permits the delegation of powers to the Governor General to issue decrees, to censor information, and to suspend legal processes and rights. The purpose for which this special authority is granted is limited. It is aimed at resolving the threat to the state and public in order to restore

the status quo. It anticipates that constitutional and other legal rights and processes will be restored with the consequential return to normal law and order. It is to be used conservatively, and the Governor is not permitted to use emergency powers to make any permanent changes in the legal/constitutional system.

23. By way of comparison, the Cayman Islands has a Disaster Preparedness and Hazard Management Law. The Governor appoints the Director who has wide powers to oversee, manage, implement and co-ordinate disaster preparedness and management. The government has however assumed a pivotal role in this critical agency creating a National Disaster Fund under the *Public Management and Finance Law* (*2018 Revision*). Section **4A(4)** states:

> *Pursuant to this Law, the Management Executive shall advise Cabinet on the use of the Fund and shall be responsible for the management of the monies disbursed from the Fund to carry out any of the activities required to give effect to the purposes of the Fund* ***as directed by Cabinet****.*

Need for Change?

24. Currently there are two divergent views on where the DDM should be assigned. One view is that the DDM would be correctly placed with the Premier's Office or another Government Ministry, while the other view is that it should be the responsibility of the Governor. Currently, the DDM is a government department which operates under the legal authority of the Governor General.

25. The sentiments for change echo largely as a result of the unprecedented damage caused to the BVI by hurricane Irma in 2017. The effects of Hurricane Irma in the British Virgin Islands were significant in terms of both human and socio-economic impact on the Territory. It caused widespread destruction, and killed a total of four people.

26. The hurricane caused extensive damage to property and infrastructure in the Territory, and caused statistically significant levels of depopulation. The Governor for the first time ever,

declared a state of emergency under the Territory's constitution. Radio facilities had been significantly damaged and the state of emergency had to be announced by distribution of flyers around the capital, Road Town. The UK's Foreign Secretary Boris Johnson visited Tortola on 13 September 2017 and said that he was reminded of photos of Hiroshima after it had been hit by the atom bomb. Approximately 85% of housing were damaged or destroyed. After the storm, it took almost 6 months to restore public electricity to the entire country.

27. The aftermath of the hurricane left food, potable water, fuel and medicine highly limited. Residents had to queue, sometimes for hours, in the sun to obtain necessities. None of the banks functioned for several days afterwards, and the Territory became a purely cash economy for a period of weeks.

28. The building which housed the DDM was almost totally destroyed in the storm. Accordingly, the relief and recovery efforts had to be coordinated from a conference room in Peebles Hospital.

29. There is no doubt that the DDM, under the authority of the Governor General, failed miserably to anticipate and/or respond to Hurricane Irma. Therefore, there is a need for a revamp in policy and legislation to ensure the BVI's disaster preparedness and management is more robust, effective and efficient.

30. The need for change in the wake of disaster is not uncommon. The **Organisation of American States Caribbean Emergency Legislation Project at Part II pages 141 to 146** deals with the comparison of different legislative framework and development:

> *Nearly all significant or overarching legislative/administrative development relating to emergency/disaster law occurs in countries recently after they have suffered major disaster or emergency events. This factor is closely related to the alignment of political will within the country, to avoid suffering such significant injury or damage in the future. As expressed in the context of the UN International Strategy for Disaster Reduction,*

"The post-disaster reconstruction period provides the best time to introduce disaster reduction into sustainable development planning. When perceived as a distinct set of activities, risk management initiatives are placed in competition with other environmental and developmental objectives, rather than being seen as integral parts of the same whole. Therefore, political commitment and social acceptance of the value of risk reduction are necessary to increase the sustainability of communities."[2]

Similar responses were noted in many different countries, often focused on re-assigning disaster focal point responsibilities to agencies better able to promote intra-governmental coordination...

31. During the disasters of 2017, members of the public were calling on their elected representatives to assist them. Not being adequately informed and familiar with the disaster management procedures, many citizens were not properly served by the response effort which followed. Elected representatives are in tune with the weaknesses of the community at large and specifically their constituencies. They are particularly aware of the vulnerable families and the structural deficiencies to the physical infrastructure of their districts.

32. From a financial standpoint, the Territory learned the importance of investing in financial instruments which pay dividends in the face of a disaster, the hard way. The decision to sign up to the Caribbean Catastrophe Risk Insurance Facility (CCRIF) was only taken after being hit by Irma and Maria, though this facility was available to decision makers long before the disaster. This was another area where exposure to relevant information about the threat of disasters could have propelled the policy decision to ensure better financial preparedness was implemented. This also is an area where the Governor would be powerless to implement policy to ensure enhanced financial preparedness.

33. Positioning the Cabinet to take full responsibility to make policies in an integrated way to address the various deficiencies before, during, and after a disaster is a critical step for the

Territory to be sufficiently prepared to respond to a disaster, since disaster response begins with preparedness.

Conclusion:

34. Disaster preparedness and management does not interfere with the power of the Governor General to declare a state of emergency. It is an executive function that properly resides under the constitutional jurisdiction of the cabinet.

35. The role of the Governor envisaged by the constitution under section 27 is limited to declaring a state of public emergency. This declaration is a constitutional trigger which gives the Governor the power to make *"such regulations for the Virgin Islands as appear to him or her to be necessary or expedient for securing the public safety, the defence of the Virgin Islands or the maintenance of public order, or for maintaining supplies and services essential to the life of the community."*

36. The *legal* power to declare a state of emergency does not mean that the executive function of disaster preparedness and management is subsumed within it. It is neither a constitutional imperative nor legislative corollary. This is properly a matter for the elected government of the day. It falls within its executive authority.

37. The fact that disaster preparedness and management was not included among the "special responsibilities" given to the Governor in section 60 (1) supports the conclusion that it was intended that this would be matter for the government: *expressio unius est exclusio alterius*.

38. In the circumstances, it is open to the government to repeal the Disaster Management Act 2003 and replace it with a more modern statutory framework which reflects the constitutional division of responsibilities between the cabinet and the Governor. Whilst the Governor alone has the power to declare a state of emergency and make regulations, it is the cabinet that has responsibility to formulate and implement policies for disaster preparedness and management in the exercise of its executive authority.

And we so advise.

This 17th day of November, 2020

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Overview of contingent liability process

3.1 This chapter provides an overview of the contingent liability process of which the checklist process is just one part. The process and associated checklist increase scrutiny, control, and oversight of public sector contingent liabilities. This will support the Treasury in meeting its core objective of placing the public finances on a sustainable footing.

3.2 There are 4 key stages that a contingent liability will go through: policy development; Treasury approval; Parliamentary notification and approval; and reporting. Each of these stages is described below. Note that the timings associated with each stage where Treasury is involved are indicative and will depend on available resources and the complexity of the policy issue. Therefore it is possible that less time could be required to process more routine cases while more time could be needed for especially complex cases. Furthermore, in particularly urgent cases, some of the stages may be run in parallel.

Policy development

3.3 This is the first stage that a contingent liability goes through. It is at this stage that a policy is being developed which gives rise to a contingent liability. As highlighted in chapter 2, the relevant policy officials, in conjunction with departmental finance teams, are responsible for determining whether a particular policy gives rise to a contingent liability and subsequently classifying / reclassifying the contingent liability.

3.4 The Treasury's checklist process becomes relevant as soon as it has been determined that a contingent liability may be incurred as a result of the policy. Therefore, at this stage, the relevant policy official should consult this guidance on whether the contingent liability would be in scope of the checklist and if so, how to complete the checklist. If questions remain on completing the checklist, the official should consult the relevant Treasury officials (in most cases, this will be a member of the associated spending team in the first instance).

3.5 Once the checklist is completed, it should be submitted to the relevant Treasury officials for approval. The Treasury expects at least 5 working days to assess the completed checklist, although in many cases the process will be iterative and therefore may depend on how quickly officials drafting the checklist are able to provide further information in light of comments.

3.6 If the checklist is approved, the policy official would then be expected to seek final approval from the relevant departmental minister and accounting officer. As part of seeking that approval, the policy official should make clear that the contingent liability has passed the Treasury's internal contingent liability approval process.

3.7 However, if the checklist is not approved and officials proceed with the policy, they should make clear in their advice to ministers and accounting officers that the contingent liability has not been approved and therefore formal Treasury approval of the contingent liability is unlikely.

3.8 The checklist may not be approved for several reasons. For example, it might be the case that Treasury officials feel that they do not have sufficient information to make a judgement as the checklist has not been answered as comprehensively as expected. It might also be the case that the Treasury officials do not consider the contingent liability to be consistent with the Treasury's core objective of ensuring the sustainability of public finances. This could be the case

if, for example, the expected loss in the future is particularly large and not supported by a strong rationale or value for money assessment.

Treasury approval

3.9 'Managing public money' makes clear that departments must obtain Treasury consent before making commitments which could lead to expenditure. Contingent liabilities are commitments which could lead to expenditure. Therefore, once a contingent liability has been approved by the relevant departmental minister and accounting officer, it must be submitted to the Treasury for formal approval. This process is likely to take 5 working days if ministerial approval is judged necessary otherwise it is likely to be less.

3.10 Treasury officials will make a judgement on whether the contingent liability needs approval by the Chief Secretary of the Treasury (and in specific cases, the Chancellor of the Exchequer). If it does, the advice to ministers will be based on whether or not the contingent liability passed the checklist in the first stage. Note that while getting Treasury approval for a contingent liability will be particularly challenging if it has not passed the checklist, ministers may still reject the contingent liability for other reasons even it has passed the checklist.

3.11 Treasury approval of a contingent liability is on the understanding that the department concerned accepts the risk of paying out if the liability crystallises. Departments should include contingent liabilities with the other financial risks they manage. Spending pressures created by an unaffordable contingent liability should be dealt with by the department in discussion with its Treasury spending team in the usual way. Treasury agreement to a contingent liability does not affect normal Treasury controls over access to the Reserve.

Parliamentary notification

3.12 Parliament expects advance notice of any commitments to future use of public funds for which there is no active request for resources through Estimates. Therefore, once the Treasury has approved the contingent liability, a departmental Minute will need to be drafted in order to notify Parliament that the department or its arm's length body (ALB) is incurring a contingent liability (unless the contingent liability is incurred in the normal course of business; is statutory in nature; or is below £300,000 in value).

3.13 Departmental Minutes must be approved by the Treasury and should be accompanied by a written ministerial statement. As part of this approval, the Treasury will expect assurance that those contingent liabilities within the scope of the checklist have passed it. The Treasury aims to complete this approval within 5 working days. In urgent cases, this approval may be run in parallel with the approval of the checklist. Further information on the Parliamentary notification process and the range of contingent liabilities to which it applies is available in Annex 5.4 in 'Managing public money'.

Reporting

3.14 The final stage of the contingent liability is reporting. The contingent liability will be reported through the Estimates and in departmental or ALB annual report and accounts.

3.15 Following publication in the departmental or ALB accounts, the Treasury will publish on a consolidated basis, as part of the Whole of Government Accounts (WGA), contingent liabilities for the whole public sector. This will enable an assessment of the risks associated with contingent liabilities for the public sector.

Completing the contingent liability checklist

4.1 This chapter first sets out the scope of the contingent liability checklist. It then describes each section of the checklist providing detailed guidance on every question with examples where necessary. It is expected that officials initiating the policy that give rise to potential contingent liabilities that are in scope of this process will complete the contingent liability checklist as part of the overall policymaking process.

Scope of the checklist

4.2 In all cases, relevant Treasury officials should be made aware of any potential contingent liabilities that could be considered novel, contentious, or repercussive. The relevant Treasury official will usually be a member of the associated spending team.

4.3 Of the contingent liabilities with a maximum exposure of £3 million or more, only those that are considered novel, contentious, or repercussive will be in scope of this checklist. As such, contingent liabilities taken on in the normal course of business (that is, those that are business as usual) will be exempt from this process and will not require a checklist to be filled out. 'Managing public money' explains that in order for a liability to be considered business as usual, the organisation should be able to show that the activity is an unavoidable part of its business and/or Parliament could reasonably be assumed to have accepted that such liabilities can rest on the sole authority of the Appropriations Act. Further information and examples of such liabilities are provided in Annex 5.4 of 'Managing public money'.

4.4 Furthermore, 'Managing public money' makes clear contingent liabilities with a maximum exposure of less than £300,000 do not need to be notified to Parliament. As such, such small contingent liabilities are also exempt from the checklist process.

4.5 Contingent liabilities with a maximum exposure of £300,000 or more but less than £3 million will still need to be approved by the Treasury and notified to Parliament but will not be required to go through the checklist. Nonetheless, for this class of contingent liabilities, the relevant Treasury official may require the contingent liability to go through the checklist process if it is deemed particularly novel, contentious, or repercussive.

4.6 While many contingent liabilities would not be required to go through the checklist process, it would be considered best practice for policy officials to use the checklist as part of the policymaking process.

The contingent liability checklist

4.7 The contingent liability checklist has been designed in order to ensure that policies giving rise to contingent liabilities are consistent with the Treasury's objective of safeguarding the sustainability of public finances. The checklist is composed of five sections: rationale; exposure; risk and return; risk mitigation and management; and affordability. Each section provides important information about the proposed contingent liability and will be assessed both individually and in conjunction with the other sections.

1. Rationale

4.8 The first section in the checklist relates to the rationale for the contingent liability. The aim of this section is to make sure that the reasons for incurring a particular contingent liability are robust and that the rationale would stand up to scrutiny.

Question A: What is the problem that needs to be solved (the market failure) and why is government intervention necessary?

4.9 This question concerns the problem that needs to be addressed. A market failure is a situation in which the free market is unable to allocate resources efficiently. Market failures come in many different forms. For example, the market may not result in an efficient outcome due to an information asymmetry (that is, when one party has more information than the other). For instance, when making a loan, the lender knows less about the likelihood of repayment than the person they are lending to. This may lead to a situation where lending is either less in volume or higher in price than that would be achieved if there was perfect information. If it is not possible to achieve perfect information, the government may provide a guarantee to encourage lending.

4.10 The answer should explain why government intervention is necessary and likely to address the problem. If the problem could be fixed without government intervention, then the answer should make clear why government intervention would be a more effective solution.

4.11 In some cases, it may not be possible to link the intervention to a market failure. In such cases, a clear explanation should be given as to why the government is intervening despite the lack of a market failure.

Question B: Why is incurring / modifying a contingent liability necessary to address the market failure?

4.12 This question focuses on whether incurring a contingent liability is necessary to address the market failure. Specifically, the answer should explain how it addresses the underlying market failure (or at least part of it). The answer should also explain why addressing the market failure is best accomplished through incurring a contingent liability rather than an increase in spending today that would also target the market failure.

4.13 The creation of a contingent liability with the sole purpose of avoiding an increase in spending today would not be considered a sufficient reason to incur a contingent liability as it creates a potential spending obligation in the future and therefore does not necessarily support the Treasury's objective of ensuring the sustainability of public finances.

4.14 In cases where it is not be possible to link the contingent liability to a market failure, a clear explanation should be given as to why the contingent liability is more effective than an equivalent increase in spending in solving the underlying problem.

Question C: What other alternatives have been explored? For example, direct spending such as subsidies. Why were these rejected?

4.15 An answer to this question should detail the alternatives that have been explored. This could include both alternative forms of government intervention as well as no direct government intervention.

4.16 This answer should also explain why incurring the contingent liability is a more effective solution to addressing the market failure than the alternatives. If a market failure is not possible to identify, then this answer should explain why the contingent liability is the most effective form of government intervention.

2. Exposure

4.17 The second section of the checklist relates to the exposure created by the contingent liability. This refers to the magnitude of costs the Exchequer would face if the contingent liability was to crystallise and to how long the Exchequer is exposed to such costs.

Question A: **What is the maximum size of the contingent liability, if any?**

4.18 This answer should state the total cost to the Exchequer if the contingent liability crystallised completely. The maximum size is considered the worst case scenario and is thus useful to provide an idea of the scale of risk potentially facing the public sector. For example, if the government guaranteed losses on a portfolio of loans, the maximum size of the contingent liability would be the cost the government would face if all the loans in the portfolio defaulted completely.

4.19 The answer should also explain how the maximum size was calculated. Using the example above, this would be the maximum number of people that could take out a loan multiplied by the maximum size of each of those loans.

4.20 If it is impossible to estimate the maximum size of the contingent liability and it is deemed unquantifiable, the answer should justify why such an estimate cannot be obtained and provide a qualitative analysis of the likely size.

Question B: **Why is this size necessary? If there is no explicit maximum, please explain why.**

4.21 This question seeks to understand the rationale behind the size of the contingent liability. As such, the answer should explain why the size chosen is optimal for solving the underlying market failure.

4.22 If there is no maximum, the answer should make clear why there is no explicit maximum.

Question C: **What is the maturity of the contingent liability, if any? Specifically, when does it cease to exist?**

4.23 While maximum size gives an idea of the scale of risk, this question seeks to find out how long the public sector will bear that risk (that is, what is the maturity of the contingent liability?).

4.24 The answer should give information on both when the policy giving rise to the contingent liability concludes as well as how long the contingent liability may last. For example, if the government provided a 10-year guarantee from the year 2000 up until the year 2020, the policy would exist for 20 years but the risk would remain until the year 2030 (if a 10-year guarantee was provided on a loan given in 2020, the contingent liability would exist until 2030).

Question D: **Why is this maturity necessary? If there is no explicit maturity, please explain why.**

4.25 Similar to question 2.B, this question seeks to understand the rationale for the maturity of the contingent liability. The answer should make the case for the maturity stated in response to 2.C. For instance, using the example above, the answer to this question should explain why a 10-year guarantee was required to address the market failure and why the policy needs to exist for 20 years.

4.26 If there is no explicit maturity, the answer should make clear why not and if not whether the contingent liability has a review clause (for example, that the contingent liability will be reviewed at a particular date in the future). It will be important to review contingent liabilities that have no explicit maturity to ensure that when they have served their purpose they are allowed to mature.

Question E: **If, prior to maturity, the contingent liability no longer proves to be value for money, is there an exit strategy? If yes, how would it work? If no, why not?**

4.27 Contingent liabilities can have long lifespans and therefore it is important to retain flexibility to deal with changing risks. This answer should make clear whether there is a policy for either relinquishing the obligation associated with the contingent liability or changing the terms of the contingent liability in the future, especially if future circumstances change.

4.28 For example, if the contingent liability became more likely to crystallise, the answer should set out how the public sector could reduce or eliminate its exposure to the contingent liability.

3. Risk and return

4.29 This section of the checklist focuses on the risk and return posed by the contingent liability. It is particularly important in enabling the Treasury to assess the fiscal risks faced by the whole of the public sector and therefore assist it in safeguarding the sustainability of public finances. While section 2 focused on the worst case scenario, this section aims to understand the *most likely* scenario as well as the causes of such scenarios.

4.30 Many of the questions in this section seek numbers that may be difficult to estimate. Officials should provide quantification as much as possible and if necessary provide ranges to indicate the uncertainty associated with the estimate. The Government Actuary's Department (GAD) is a non-ministerial department that provides bespoke modelling services and may therefore be able to assist in deriving the estimates sought in this section.[1]

4.31 If numbers are not provided, the answer should make clear why it was not possible to provide any estimate and provide a qualitative analysis. The Treasury will require the estimates requested in order to approve the contingent liability and will only consider approving contingent liabilities without such estimates in special circumstances.

4.32 It should be made clear if estimates are provisional and dependent on the outcome of commercial negotiations. In such cases, if there are material changes to the estimates following a negotiation, the Treasury would expect to see the revised estimates.

Question A: **What are the triggers for potential crystallisation of the contingent liability?**

4.33 The response to this question will be helpful in assessing which factors could trigger realisations in the government's portfolio of contingent liabilities. For example, it would allow the Treasury to ascertain what proportion of contingent liabilities crystallise following a fall in the price of a particular commodity or a change in a particular macroeconomic variable.

4.34 Therefore, the response should list all events that could cause crystallisation, giving an indication of proportion that would be expected to crystallise as a result of the event. For example, a fall in the price of a particular commodity of 25% would cause crystallisation of 50%, or a 1% rise in inflation in a particular region would cause 10% crystallisation.

4.35 Responses should avoid simply saying a credit event would lead to crystallisation of the contingent liability but focus on what factors could cause the credit event.

Question B: **What is the likelihood of complete crystallisation over what timeframe? For example, time t = X%, time t+1 = Y%, time t+2 = Z%, etc**

4.36 This question seeks to understand the likelihood of complete crystallisation over the lifespan of the contingent liability. For example, if a contingent liability had a maturity of 5 years,

[1] For more information on how GAD may be able to provide support please visit www.gov.uk/gad or email enquiries@gad.gov.uk.

this answer would provide the probability that the contingent liability completely crystallises by the end of year 1, by the end of year 2, by the end of year 3, by the end of year 4, and by the end of year 5. Note that the probability of complete crystallisation by the end of year 5 cannot be lower than that by the end of year 1 because the probability of complete crystallisation in year 5 would include the probability that the contingent liability crystallised in year 1, year 2, year 3, and year 4.

4.37 If the contingent liability had a maturity of just 1 year, it would be more appropriate to use monthly or quarterly figures for the probability. A judgement should be made on using an appropriate timeframe. An indication should be provided on the uncertainty associated with the probability estimates.

Question C: **What is the distribution of possible losses over the life of the contingent liability? For example, loss of A with likelihood of B, loss of C with likelihood of D, etc**

4.38 The distribution of possible losses is very helpful in assessing the risks to the Exchequer. For example, if the government guaranteed losses on a portfolio of loans with the maximum exposure as £10 million, the response to this question should explain that there is a 55% of no loss, a 5% of a £2 million loss, a 20% chance of a £5 million loss, a 15% chance of a £8 million loss, and a 5% chance of a £10 million loss (that is, a 5% chance of complete crystallisation). Note that the distribution is used to given the range of all possible outcomes so the probabilities should sum to 100%.

4.39 The above example has provided five scenarios with the associated probabilities and losses. While more scenarios would generally be preferred as they provides greater information, the policy context will largely determine what is feasible. For example, it might be the case that there are only two scenarios (either there is no loss or complete crystallisation). If we use the same example as above, it could be that there is 72% chance of no loss but a 28% chance of a £10 million loss (that is, a 28% chance of complete crystallisation).

Question D: **What is the expected loss associated with the contingent liability?**

4.40 The expected loss is a particularly important summary statistic. It is calculated by using the information in the response to question 3.C. Specifically, it is calculated by multiplying the potential losses with their respective probabilities and then taking the sum of them.

4.41 For instance, building on the first example in 3.C, the expected loss would be £2.8 million ([55% x £0 million] + [5% x £2 million] + [20% x £5 million] + [15% x £8 million] + [5% x £10 million]).

4.42 Note that the second example in 3.C also has an expected loss of £2.8 million ([72% x £0 million] + [28% x £10 million]). While expected loss is a very useful summary statistic, these examples show that even if expected losses are the same on two different transactions, the underlying distributions may be quite different.

4.43 It is unlikely that the expected loss will be exactly zero as this would imply that either the probability of complete crystallisation is zero or the maximum exposure of the contingent liability is zero or that both are zero.

Question E: **How do the risks compare to the returns on the contingent liability?**

4.44 The answer to this question should summarise the risks to the Exchequer and compare them against the returns. For example, using the contingent liability described in 3.C, the risks would be the distribution of losses (as well as the expected loss). The returns would be the fee that the government may have charged in order to provide the guarantee.

4.45 The above would give an indication of how the risks compare with the returns in financial terms. However, there will also be wider policy benefits which should also be summarised and quantified where possible.

4. Risk management and mitigation

4.46 Good management and governance arrangements may lead to and reduced likelihood of a contingent liability crystallising. It may also mean that the public sector is better able to react to changing market conditions.

4.47 This section focuses on the policies for risk management and mitigation associated with the contingent liability.

Question A: Who will manage the risks associated with the contingent liability and what is the governance process around the management of these risks?

4.48 The answer should make clear the body immediately in charge of managing the risks associated with the contingent liability. This could be an agency, a government department, or indeed the Treasury. It could also be a specific committee within a government department.

4.49 If the body immediately in charge of managing the risks is not a government department, the answer should then state which is the lead government department (that is, the department to which the body reports to) and whether the Treasury has any oversight in the process and if so, how that oversight structured.

4.50 Furthermore, the answer should explain how the governance process works around managing the risks. For example, if the contingent liability suddenly becomes more likely to crystallise, it should make clear what the body responsible for managing the risks is able to do and how it would make such decisions.

Question B: What risk mitigation tools have been explored? For example, partial guarantees, collateral, controls on risk-taking behaviour, reinsurance, etc

4.51 While question 4.A focuses on the processes set up to manage the risks associated with the contingent liability, this question seeks to understand which measures have been taken to reduce the risks. For example, a government guarantee of a bank loan may result in moral hazard as banks will have less incentive to robustly screen borrowers given that if they default, the government will pay. Therefore, in this case, as part of the guarantee, the government could set controls on risk-taking policy ex-ante. This could include setting conditions on the credit-worthiness of borrowers or setting minimum requirements on the loan (for example, a minimum loan-to-income ratio).

4.52 Risk mitigation tools could come in various forms but the aim of such tools will be to reduce the likelihood that the contingent liability crystallises or in the case that it does crystallise reduce the loss from crystallisation (for example, through requiring collateral).

4.53 Therefore, the response to this question should explain which risk mitigation tools are being used and why. Furthermore, it should describe other tools that were considered but not utilised and explain why.

Question C: Is the Exchequer being adequately compensated for bearing the risk associated with the contingent liability? For example, guarantee fees, contingent claims, profit-sharing, etc

4.54 This is similar to question 3.E as it seeks to understand the return to the Exchequer but also explores what mechanisms can discourage poor management. The answer should set out how the Exchequer is being compensated for bearing the risks in monetary terms. For example, the

answer could explain that the Exchequer is receiving guarantee fees. If this is the case, it should also make clear the size of such fees. The answer should then explain how the fees were calculated and whether the compensation is calculated on a commercial basis. If the fee is calculated on a commercial basis, it must be greater than the expected loss associated with the contingent liability.

4.55 If the Exchequer is not being compensated on a commercial basis, then the answer should clearly set out why.

Question D: **How should the Exchequer guard against the residual risk? For example, contingency fund, setting aside financial assets, hedging, etc**

4.56 This question follows on from questions 4.B and 4.C. If not all of the risk has been mitigated through utilising risk mitigation tools and the compensation received also does not cover all of the risk associated with the contingent liability, then the Exchequer will bear some risk (residual risk). This answer should explain how best the Exchequer should guard against the residual risk by providing several options (for example, one option is having a contingency fund to cover the residual risk).

5. Affordability

4.57 This section assesses the impact of crystallisation of the contingent liability on departmental budgets. Evaluating the affordability of a contingent liability in this way is similar to evaluating the affordability of public spending.

Question A: **If the contingent liability crystallised, to what extent would it be possible to meet the required payment out of the department's existing budget?**

4.58 A response to this question should make clear the impact on the department's existing budget if the contingent liability completely crystallised.

Question B: **What is the ratio of the contingent liability's expected loss to the department's available resource?**

4.59 This question uses the expected loss determined in 3.C and takes a simple ratio of that to the department's available resources. This is intended to provide a simple and consistent metric on affordability.

4.60 For example, if the expected loss is £1 million and the department's available resources are £100 million, the metric would be 1%. If the expected loss is only £500,000, this may appear smaller, but if at the same time the department's available resources are £2 million, the metric would be much higher at 25%. All else constant, the latter case would be more risky in terms of affordability even though it has a lower expected loss.

Question C: **If the contingent liability crystallised, how would it affect public sector net borrowing (PSNB) and public sector net debt (PSND)?**

4.61 Depending on the specific circumstance, the crystallisation of contingent liabilities may impact on PSNB and PSND. The response to this question should explain the ways in which crystallisation may impact on PSNB and PSND.

4.62 For example, if crystallisation of the contingent liability is met completely through the department's existing budget without any knock-on impacts, it will not impact on forecast PSNB and PSND. However, if a claim is made on the Reserve, then depending on the nature of the contingent liability, it may impact both PSNB and PSND.

Contingent liability checklist

1. Rationale

A: What is the problem that needs to be solved (the market failure) and why is government intervention necessary?

B: Why is incurring / modifying a contingent liability necessary to address the market failure?

C: What other alternatives have been explored? For example, direct spending such as subsidies. Why were these rejected?

2. Exposure

A: What is the maximum size of the contingent liability, if any?

B: Why is this size necessary? If there is no explicit maximum, please explain why.

C: What is the maturity of the contingent liability, if any? Specifically, when does it cease to exist?

D: Why is this maturity necessary? If there is no explicit maturity, please explain why.

E: If, prior to maturity, the contingent liability no longer proves to be value for money, is there an exit strategy? If yes, how would it work? If no, why not?

3. Risk and return

A: What are the triggers for potential crystallisation of the contingent liability?

B: What is the likelihood of complete crystallisation over what timeframe?
For example, time t = X%, time t+1 = Y%, time t+2 = Z%, etc

C: What is the distribution of possible losses over the life of the contingent liability? For example, loss of A with likelihood of B, loss of C with likelihood of D, etc

D: What is the expected loss associated with the contingent liability?

E: How do the risks compare to the returns on the contingent liability?

4. Risk management and mitigation

A: Who will manage the risks associated with the contingent liability and what is the governance process around the management of these risks?

B: What risk mitigation tools have been explored? For example, partial guarantees, collateral, controls on risk-taking behaviour, reinsurance, etc

C: Is the Exchequer being adequately compensated for bearing the risk associated with the contingent liability? For example, guarantee fees, contingent claims, profit-sharing, etc

D: How should the Exchequer guard against the residual risk? For example, contingency fund, setting aside financial assets, hedging, etc

5. Affordability

A: If the contingent liability crystallised, to what extent would it be possible to meet the required payment out of the department's existing budget?

B: What is the ratio of the contingent liability's expected loss to the department's available resource?

C: If the contingent liability crystallised, how would it affect public sector net borrowing (PSNB) and public sector net debt (PSND)?

HM Treasury contacts

This document can be downloaded from www.gov.uk

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OFFICE OF THE PREMIER
GOVERNMENT OF THE VIRGIN ISLANDS

Our Ref: OP/C4/001

12th January, 2021

His Excellency the Governor
Mr. Augustus J. U. Jaspert
Governor of the Virgin Islands
Office of the Governor
Road Town
Tortola VG1110

Dear Governor Jaspert:

RE: Chairing of Cabinet Meeting today

Good day, God's Blessings and Happy New Year to you and your family. May I also take this opportunity to welcome you back to the Territory after your Christmas vacation abroad. I do hope that you were able to have an enjoyable holiday, albeit that it was a brief one.

As you are aware, on 7th January, 2021, Cabinet agreed to fix its next meeting for Wednesday, 13th January, 2021, and that Members would attend "in person". Your current quarantine, in accordance with the COVID-19 public health protocols for persons arriving into the Territory, of course, makes it impossible for you to be present at this meeting in person.

Section 49(1) of the Virgin Islands Constitution Order 2007 requires the attendance of the Governor at Cabinet Meetings, so far as practical. Where it is not practical for the Governor who is in the Territory to attend a Cabinet Meeting, the Constitution has provided for this situation. Section 49(2) provides for the Cabinet Meeting to take place with the Meeting being presided over by the Premier, or in the Premier's absence, the Deputy Premier.

You would agree that Good Governance must be conducted in accordance with the Constitution. In the present circumstances where, due to you being quarantined under the COVID-19 protocols based on your recent arrival from the UK, you are in the Territory but unable to attend Wednesday's in-person meeting of the Cabinet, it is clear that Section 49(2) of the Virgin Islands Constitution Order 2007 is automatically activated for the said Cabinet Meeting.

Do have an enjoyable day.

Yours in BVILOVE,



.....

Andrew A. Fahie
Premier and Minister of Finance

cc: All Cabinet Members
Cabinet Secretary

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Virgin Islands

Telephone: (284) 468-3512

Ref. No: GOV/GMD-SI/PO&D/02

12th January, 2021

Honourable Andrew A. Fahie
Premier and Minister of Finance
Road Town, Tortola
British Virgin Islands VI 1110

Dear Premier,

Cabinet and Protocols

I refer to your letter dated 12th January, 2021 relating to the chairing of Cabinet, and your letter dated 10th January 2021 to Lord Ahmad of Wimbledon concerning my recent return to the Territory and the protocol measures that were undertaken.

Out of concern, and with an abundance of caution, for the safety of my staff and others I am willingly and voluntarily undertaking 14 days self-isolation, working remotely throughout, to ensure that there is no risk to my office or to the public.

I will be performing my full duties virtually throughout this period as I agree that we need to remain vigilant and to take all precautionary measures for the safety of all concerned.

As you know, up until my departure from the UK on the 7th of January 2021, the official COVID-19 prevention protocols allowed for four (4) days quarantine and not for fourteen (14) days as is now required. These new measures were introduced as part of the travel ban for persons departing from or transiting through the UK and went into effect on 11th January 2021.

I note your support of me working remotely, to fulfill the functions of my office and constitutional duties, while in voluntary self-isolation.

The Constitution [section 49(1)] says I am required to attend and preside at meetings of the Cabinet when practicable to do so. Given the precedent set over the last year, we know it is practicable for the Governor to chair Cabinet online remotely and I look forward to doing so at the Cabinet meeting tomorrow.

My actions have always been and will remain in the best interest of the people of the Virgin Islands. I remain steadfast and unmoving in my position to govern to the best of my ability up until I remit this post as Governor, and in this regard your support is always welcomed and encouraged.

Sincerely,

A. J. U. Z

Augustus Jaspert
HM Governor

Cc: Deputy Governor
All Members of Cabinet

Foreign &
Commonwealth
Office

K1.174
King Charles Street
London
SW1A 2AH

Tel: [redacted]
Fax:
E-mail: [redacted]

19 March 2008

Governor
British Virgin Islands

Dear Governor,

CHAIRMANSHIP OF CABINET - ABSENCE OF GOVERNOR

You asked for my view on whether the person appointed as deputy to the Governor can preside at Cabinet meetings in the absence of the Governor, or whether, when the Governor is unable to preside but has appointed a deputy to the Governor rather than an acting Governor, it should be the Premier who presides.

Under the Constitution, section 37(1), when the Governor is absent from the Virgin Islands or for any other reason unable to perform the functions of his office, the Deputy Governor or (in the stated circumstances) such other person as Her Majesty may designate by instructions given by a Secretary of State shall act in the office of Governor and shall perform the functions of that office.

However, under section 39 of the Constitution, where the Governor is absent from the seat of Government but not the Virgin Islands, or is absent from the Islands or suffering from an illness either of which he believes will be of short duration, he may appoint a deputy to the Governor. An acting Governor may not be appointed in these situations.

While during the constitutional negotiations it was generally accepted by both sides that section 2(3) of the Constitution covered the point, the exchange of letters between Mr Ian Hendry and Dr Orlando Smith of 23 and 24 April 2007 was intended to make clear that although there was no reference to "acting Governor" in section 49(2) of the Constitution, the reference to "Governor" also included the acting Governor, and only if both the Governor and the acting Governor were absent would

the Premier preside. The discussion and letters dealt with this issue specifically, and the question of the role of the deputy to the Governor under section 49(2) was not addressed.

While these letters do not constitute legally binding instruments, they do set out the common understanding of the UK and the Virgin Islands Governments on this issue, and it is our expectation that both sides would respect them.

Setting the letters aside for a moment, in my view it is clear that under section 39 of the Constitution it would be open to the Governor, if the circumstances for appointment were met, to appoint a deputy to the Governor and to specify that one of his or her functions would be to preside at meetings of Cabinet. The reason for this is that it is open to the Governor to specify that the deputy will perform "such of the functions of the office of Governor as may be specified in the instrument". This is without limitation.

The issue therefore seems to boil down to the question whether or not the content of the exchange of letters now precludes the Governor from specifying that one of the functions of the deputy is to attend and preside at Cabinet meetings.

It is my view that although the Constitution itself does not preclude a deputy to the Governor from presiding at Cabinet meetings, and there is therefore a constitutional and legal basis for the deputy so to preside, it is clear from the exchange of letters that it was the intention of both Governments at the time that where there was no Governor or acting Governor to preside at Cabinet meetings, the Premier would preside.

Yours ever,

SJDickson

Susan J Dickson
Legal Counsellor



Office of the Chief Minister

British Virgin Islands

Ref: L2/049

24th April, 2007

Mr. Ian Hendry, CMG
Leader, UK Constitutional Review Team
Foreign & Commonwealth Office
King Charles Street
London SW1A 2AH

Dear Mr. Hendry,

Re: New Constitution of the Virgin Islands

We have discussed the meaning of the references to "the Governor" in section 49 (1) and (2) of the draft new Constitution of the Virgin Islands. I can confirm that the BVI interpretation of the references is that, as a result in particular of section 2 (3) and section 37 (1) of the Constitution, the term "the Governor" includes any person for the time being duly authorized to act as Governor under section 37 (1). Accordingly, the Governor presides in the Cabinet, the person acting as Governor by virtue of section 37 (1) presides in the absence of the Governor, and the Premier presides in the absence of both the Governor and the person so acting as Governor.

It is my understanding that this interpretation is shared by the UK as confirmed by your letter to me of 23rd April, 2007.

Yours sincerely,

D. Orlando Smith
Chief Minister

cc: His Excellency the Governor, Mr. David Pearey

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Foreign &
Commonwealth
Office

King Charles Street
London SW1A 2AH

23 April 2007

Dr Orlando Smith
Chief Minister
Road Town
British Virgin Islands

Dear Chief Minister,

New Constitution of the Virgin Islands

We have discussed the meaning of the references to "the Governor" in section 49(1) and 49(2) of the draft new Constitution of the Virgin Islands. The UK interpretation of these references is that, as a result in particular of section 2(3) and section 37 of the Constitution, "the Governor" includes any person for the time being duly authorised to act as Governor under section 37(1). Accordingly, the Governor presides in the Cabinet, the person acting as Governor by virtue of section 37(1) presides in the absence of the Governor, and the Premier presides in the absence of both the Governor and the person so acting as Governor.

It is my understanding that this interpretation is shared by the BVI, and I should be grateful for your confirmation that this is the case.

Yours sincerely,

Ian Hendry

Ian Hendry
Leader, UK Constitutional Review Team

cc: HE The Governor

ANNEX D

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512

Ref. No: GOV/DIS/01

4th December, 2020

Honourable Andrew A. Fahie
Premier and Minister of Finance
Road Town, Tortola
British Virgin Islands VI 1110

Dear Premier:

Governance of the Department of Disaster Management

I am disappointed that I was not consulted on your proposed Machinery of Government changes, namely the movement of the Department of Disaster Management (DDM) from the Governor's Group to the Premier's Office, before they appeared in the budget. This is not a partnership approach to governance.

While I welcome a collaborative, whole of Government approach to disaster management, it is ultimately the responsibility of the Governor to ensure the safety and security of the Territory. Disaster preparedness must be considered a vital part of ensuring and maintaining this.

As the law stands, the Governor's responsibility for Disaster Management is made abundantly clear by the Disaster Management Act 2003, under which coordination of the Government's general policy for disaster management is ultimately for the Governor.

Specifically, it is the Governor's duty both to prepare a comprehensive disaster management plan, as well as to make preparations for disasters, including through the use of funds appropriated for that purpose. To achieve this, the Act provides for the Governor to appoint and supervise a Director of the Department of Disaster Management, who in turn is responsible for the running of the DDM.

This is consistent with the clear connection between disaster management and the Governor's special responsibility for internal security under the Constitution. As you are aware, where a matter falls within the Governor's special responsibilities, then, subject to any other law, executive authority rests with the Governor. Section 60 of the Virgin Islands Constitution states that the *'Governor shall be responsible for the conduct of any business of the Government of the Virgin Islands, including the administration of any department of government, with respect to [...]internal security'.* Moreover, where a matter, including assent to new legislation, involves these special responsibilities, the Constitution ensures that decision-making ultimately rests with the Governor.

In terms of the Deputy Governor, he may assist me under section 38(1)(a) of the Constitution, or indeed under my more general discretion under section 38(2), which allows me to assign *"any or all of the functions of the office of Governor"* to the Deputy Governor.

The Constitution sets out the process by which executive authority may be delegated to Ministers, and it is clear that such delegations are subject both to the Governor's special responsibilities, as well as other provisions of BVI law, including, in this case, the Disaster Management Act. Any change to the allocation of responsibility for disaster management would therefore require new legislation, as your own legal advice made clear. Given that such legislation would be likely to involve my special responsibilities, I would need to give particularly careful attention to the question whether I could properly assent to it.

I firmly believe that the current allocation of responsibilities for disaster management achieves the right balance in allowing the Governor to discharge my constitutional responsibilities, while fully involving you and Ministers. Although the Department of Disaster Management rightly sits in the Governor's group, I agree that disaster management is an issue for which all parts of BVI's government should share delivery. The current approach enables this. In particular, as Premier, you have an important role in the disaster management process. You co-chair with me the National Disaster Management Council (NDMC). Moreover, Ministers have direct oversight of their respective parts of disaster management.

The 2014 review of the National Disaster Management Council (NDMC) was carried out in order to integrate disaster management at sector level and to build leadership at Ministerial level. The NDMC is led by Permanent Secretaries from each Ministry. Ministers have direct responsibility for areas of disaster management embedded within their Ministries. The DDM has established roles concentrating on disaster management directly in Ministries; from the Health Disaster Management Programme, which is led by the Health Disaster Coordinator in the Ministry of Health and Social Development, to the Climate Change programme in the Ministry of Natural Resource and Labour.

In 2001, the Caribbean Disaster Emergency Management Agency (CDEMA) promoted a comprehensive approach linking all the elements of the Disaster Management cycle, namely preparedness, response, mitigation and recovery. The 'recovery' element, as longer-term development, rightly sits under you as Premier, as set out in the Recovery and Development Act 2018. These NDMC arrangements provide for the required partnership approach recommended by CDEMA.

In his written legal opinion, Mr Ramlogan makes unfounded assertions about the performance of the DDM and BVI's disaster preparedness and management. External evaluations of the Disaster Management programme over the years have lauded the approach of the BVI. In 2015, the Emergency Management Accreditation Programme (EMAP) validated the programme; BVI became the first territory outside of the United States and Canada to be granted international accreditation. BVI remains the only territory within the 19 CDEMA Participating States to have achieved this outstanding accomplishment. The programme met

all 64 standards, which made it in full compliance with worldwide industry standards. Furthermore, the Comprehensive Disaster Management Audit (CDM Audit) carried out by CDEMA in 2018 scored BVI highly across all phases of the disaster management cycle.

Undoubtedly, Hurricanes Irma and Maria had a devastating impact on BVI and there are always lessons to be learnt. However, the impact, potential casualties and recovery may have been much worse if not for the hard work of those with responsibility for disaster management across the Ministries and the vital support provided by the UK, including the Royal Marines and the Royal Engineers helping to re-establish power and water. Such UK support is able to be leveraged primarily due to the responsibility for disaster management being held by the Governor.

To sum up, the law is clear that the Governor is ultimately responsible for disaster management, and that it is within my authority to allocate the function of disaster management to the DG. Ministers are already involved in the work of the DDM through the NDMC, and have direct oversight of aspects of disaster management within their own portfolios. This approach has been validated by the exceptional results of the CDM Audit and EMAP validation.

Given the position under the law, DDM and the subject of Disaster Management should of course be presented correctly in the Budget Estimates as being under the remit of the Governor's Group.

To deviate from this would, as your own advice made clear, require legislative change, which I firmly believe would be best considered as part of your Constitutional Review proposals.

As I have made clear, where legislation presented to me involves the Governor's special responsibilities, I would have to pay particularly careful attention to whether I could properly assent to it.

Sincerely yours,

A. J. U. J.

Augustus J. U. Jaspert
HM Governor

CC: Cabinet Members

ANNEX D

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512

18th December, 2020

Honourable Andrew A. Fahie
Premier and Minister of Finance
Road Town, Tortola
British Virgin Islands VI 1110

Dear Premier:

Governance of the Department of Disaster Management

In response to your letters dated 9th and 14th December, my position remains as set out in my letter dated 4th December.

As the constitution and the Disaster Management Act 2003 stands, the Governors responsibility is clear.

Given the position under the current constitution and law, DDM and the subject of Disaster Management should be presented correctly in the Budget Estimates as being under the remit of the Governor's Group.

To deviate from this would, as your own advice made clear, require legislative change, which I continue to firmly believe would be best considered as part of your Constitutional Review proposals.

Sincerely yours,

Augustus J. U. Jaspert
HM Governor

Cc: Attorney-General
Cabinet
Deputy Governor
PS, DGO

OFFICE OF THE GOVERNOR
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MEMORANDUM

Ref. No.: GOV/LEG/08

TO: Clerk, House of Assembly

FROM: Acting Governor

DATE: 22nd December, 2020

RE: **Appropriation (2021) Act, 2020**

I have assented to the Appropriation (2021) Act 2020, but clarify that in doing so, do not endorse any purported regroupings or movement of financial controls within the budget estimate; unless in line with current Governance structures, and until these are altered through a proper, lawful process, including where necessary, assent to legislation reallocating responsibility.

David D. Archer, Jr.
Acting Governor

MEMORANDUM

FROM: Attorney General **Our Ref.:** AGC SS/5/1/1/1K

TO: Premier & Minister of Finance

cc: His Excellency, the Governor

DATE: 21 December 2020

Re: Interpretation from the Courts (Department for Disaster Management)

1. I refer to your memorandum dated 17 November 2020 on whether the governance and/or control of the Department for Disaster Management (DDM) should be vested in the Governor or instead, in a Minister of the Government of the Virgin Islands ("the Government"). You also asked me, as Attorney General, to refer this question to the Court of Appeal for a ruling under the provisions of the Attorney General's Reference Act, 2011 (the "AG's Reference Act").

2. My advice is that:

(a) the *Disaster Management Act, 2003* (the "Act") vests authority for DDM in the Governor. There is no ambiguity or absurdity in the legislation and this is not an issue that is directly addressed by the *Virgin Islands (Constitution) Order, 2007* (the "Constitution");

(b) Which entity should be responsible for DDM is a question of policy and as such, not suitable for reference under the AG's Reference Act which is only concerned with the resolution of questions of law or fact, such as the correct interpretation of the Constitution or legislation;

(c) The Act can be amended to re-assign responsibility for the Department for Disaster Management to a Minister of Government; and

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(d) The parties should consider a mediated solution to ensure that there is effective handling of all facets of disaster management irrespective of where the lead responsibility lies.

3. In providing my opinion, I have reviewed the Constitution, the Act and the AG's Reference Act among other authorities and materials. I have also reviewed the following correspondence which were directed, copied or provided to me by you (the "Premier") or His Excellency the Governor (the "Governor"):

i. Memorandum from the Premier to the Attorney General dated 13 November, 2020 (Re-Assignment of Disaster Management under the Premier's Office);

ii. Memorandum from the Premier to the Attorney General dated 17 November, 2020 (Interpretation from the Courts, etc.);

iii. Opinion from Freedom Law Chambers (Ramlogan, SC) dated 17 November, 2020 (the "Ramlogan Opinion");

iv. Letter dated 4 December, 2020 from the Governor to the Premier dated 4 December, 2020 (Governance of the Department of Disaster Management);

v. Letter dated 9 December, 2020 from the Premier to the Governor in response to the Governor's letter of 4 December, 2020;

vi. Letter dated 14 December from the Premier to the Governor;

vii. Letter dated 18 December, 2020 from the Governor to the Premier;

viii. Letter dated 18 December, 2020 from the Premier to the Governor; and

ix. Letter dated 27 April, 2010 (provided by the Premier) from the then Governor to the Permanent Secretary in the Premier's Office citing the

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Comprehensive Disaster Management Policy approved by Cabinet in 2009 which placed responsibilities for disaster mitigation and recovery under the Premier and provided for mitigation and risk reduction to be handled by the Town and Country Department and the then Development Planning Unit. It also called on the Permanent Secretary to appoint a chair of the Mitigation Sub-Committee as it was no longer being chaired by the Deputy Governor (the "2010 Letter")

Background

4. By correspondence beginning with his letter of 13 November, 2020 to the Attorney General, the Premier set out his position that disaster management is not one of the Governor's special responsibilities under section 60 of the Constitution and that therefore the responsibility for disaster management should be assigned to a minister in accordance with section 56(1). He stated that there were many weaknesses in the aftermath of Hurricanes Irma and Maria which "...exposed the inefficiencies in the level of preparedness across the Territory...".

4. The Premier also asserts that:

> "... one of the root causes of this problem is the inadvertent placement of the Department for Disaster Management (DDM) under the Governor's Group, which placement is inconsistent with the provisions of the ...[Constitution] and leads to the inefficient coordination with the rest of Government in terms of policy, planning and preparedness."

5. The Premier's position has been reinforced or reiterated in the Premier's subsequent correspondence and in the Ramlogan Opinion.

6. By letter dated 4 December, 2020 the Governor responded to the Premier's assertions stating:

> The Constitution sets out the process by which executive authority may be delegated to Ministers, and it is clear that such delegations are subject both to the Governor's special responsibilities, as well as other provisions of BVI law, including, in this case, the Disaster Management Act. Any change to the

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> allocation of responsibility for disaster management would therefore require new legislation.... Given that such legislation would be likely to involve my special responsibilities, I would need to give particularly careful attention to the question whether I could properly assent to it.

7. The Governor also expressed his firm belief that any legislative change "...would be best considered as part of [the]... Constitutional Review proposals."

8. There has been a series of correspondence by the Premier and between him and the Governor as well as a direct request from the Premier to the Attorney General to commence proceedings under the AG's Reference Act.

9. On 5 November, 2020 the *Disaster Management Bill, 2020* had a first reading in the House of Assembly. Among other things, it provides for specific roles for the Governor and the Premier and notably, for the legislated duties of the Governor to be performed *in consultation with* the Premier.

10. On 15 December, 2020 the House of Assembly passed the *Appropriation (2021) Act, 2020* including budget estimates placing the funding for the Department of Disaster Management under the Ministry of Transportation, Works & Utilities and effectively defunding the Governor's group in respect of disaster management.

Responsibility for Disaster Management

11. *Disaster management* is not listed in section 60 of the Constitution as one of the Governor's special responsibilities. However, the Governor contends that "... it is ultimately the responsibility of the Governor to ensure the safety and security of the Territory... " and that... "[d]isaster preparedness must be considered a vital part of ensuring this."[1] Even if the latter statement is accepted, it is not the same as saying that responsibility for disaster management cannot, as a constitutional matter, reside elsewhere.

[1] Governor's Letter (4 December, 2020) p. 1

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12. The word 'disaster' is mentioned only once in the Constitution – in section 27 which empowers the Governor to declare a public emergency in respect of several eventualities, one of which is in respect of a natural disaster. In fact, since the terminology 'disaster management' (unlike subjects such as 'external affairs', 'defence' or 'internal security') is not mentioned in the Constitution at all, it must be a question of substance whether *disaster management* can only be the responsibility of the Governor or can be assigned to a Minister. In any event, the stated concern of the United Kingdom to retain 'sufficient authority to guard against the Overseas Territories becoming a liability... in circumstances of natural disaster' must be noted.[2]

13. The closest the existing law comes to a definition of disaster management is in the Disaster Management Act, 2003 which, in section 4, gives the Governor clearly enumerated responsibilities in respect of what is termed (without definition) *disaster management*. Here, the Governor's role includes ensuring the preparation of a comprehensive plan and programme; procuring supplies, materials and equipment; mobilizing emergency services and conducting studies and surveys from funds appropriated for that purpose. Further, s. 6 of the Disaster Management Act provides for the DDM Director to assist the Governor in coordinating the general policy of the Government in relation to mitigating, preparing for, responding to and recovering from emergencies and disasters.

14. When construing legislation, the first rule of statutory interpretation is to consider the natural or ordinary meaning of the particular words or phrases in the relevant legislation. It is only when the meaning leads to some result which cannot reasonably be supposed to have been the intention of the lawmakers that it is proper to look for some other possible meaning. These principles were set out in the seminal case of ***Pinner v Everett*** [1969] 1 WLR 1266, 1273 and re-affirmed just last month by the Privy Council in ***Attorney General of the Turks and Caicos Islands v. Misick and Ors.*** [2020] UKPC 30: see paragraph 38.

[2] This is recorded, for example, in the 2005 Report of the Constitutional Commissioners at para 9.15

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15. There is nothing in the plain, natural or ordinary meaning of the language used in the Disaster Management Act which leads to any ambiguity or absurdity. The result is that the Governor unquestionably has responsibility for, and control over, DDM. This is not a constitutional question as the Governor's authority in this respect properly derives from statute.[3] Simply put, it is a matter of policy whether the governance and control of the DDM remains vested in the Governor or is assigned to a Minister of Government.

Attorney General's Reference Act, 2011

16. Under s. 3(1) of the *Attorney General's Reference Act, 2011* an Attorney General has the discretion, with the approval of Cabinet, to refer important questions of law and fact to the Court of Appeal for hearing and consideration. An example of where similar legislation was employed in the Eastern Caribbean Supreme Court occurred in ***In the Matter of the Attorney General's Reference (Constitutional Questions) Act Cap. 17.18 of the Revised Laws of St. Lucia*** SLUHCVAP 2012/0018 where there was need for clarity in respect of a typographical error in St. Lucia's constitution relative to their final appellate court.

17. Having considered the matter fully, there does not seem to be anything in the instant case to merit reference under the Act given the clear and plain meaning of the provisions of the Act. The solution is to decide on the policy position and back it up with supporting legislation.

Mediated Outcome?

18. In their correspondence, both the Premier and the Governor refer to the 2017 disasters and their aftermath, for example, to underscore the assistance from the United Kingdom in restoring order or the exclusion of elected representatives from access to resources and information that could have been used to assist their communities. In fact, this period seems to have provided at least a renewed impetus for the current

[3] This is also supported by the Objects and Reasons to the Disaster Management Bill, 2003 which speaks about *conferring* certain powers and duties on the Governor and also *imposing* on him a 'wide range of duties that relate to ensuring that certain plans and preparations are made before the Territory is threatened by a hazard.'

debate. It can also be the case study for what disaster management is as a matter of practice and create a starting point for an improved partnership approach to disaster management in the Virgin Islands.

19. The breadth and content of the correspondence between the Premier and the Governor evidence a number of concerns that are ripe for resolution and that even an amendment to the Act will not, in and of itself, properly address. It also underscores the need to properly define the ambit of disaster management and the roles, responsibilities and accountability measures for various actors. From all indications and by its very nature, disaster management is a high stakes responsibility requiring multi-sector participation. Fortunately, the *Disaster Management Bill* takes some steps forward by prescribing responsibilities for both the Governor and the Premier and defining *disaster management* among other improvements.

20. I also say this in the context of the House of Assembly's responsibility for the passage of legislation and the Governor's power of assent under ss. 71 and 79 of the Constitution, respectively. Recent history[4] has demonstrated that Governors will use their power of assent to prevent legislation passed by the House of Assembly from coming into force. Indeed, the Governor has clearly stated in his correspondence that where legislation involves his special responsibilities that he would have to pay 'particularly careful attention' to whether he could properly assent to it.

21. Ultimately, it may therefore be most prudent for the Governor and the Government to engage in mediated discussions in a bid to amicably resolve the current impasse since the Governor's co-operation through assent would be ultimately required to achieve the desired outcome.

Conclusion

22. The Act unequivocally vests responsibility for *disaster management* in the Governor. As there is no ambiguity or absurdity created by the provisions of the Act or

[4] For example, with the *Computer Misuse and Cybercrime Act* in 2014 and again in 2019 and most recently the *Cannabis Licencing Act* and the *Drugs (Prevention of Misuse)(Amendment) Act*

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the Constitution, it is not appropriate to make an application to the Court under the AG's Reference Act for an interpretation. The obvious recourse is for the House of Assembly to amend the Act to transfer responsibility for disaster management to a Minister of Government. As it turns out, the Disaster Management Bill, 2020 had its first reading in the House of Assembly on 5 November, 2020.

Dawn J. Smith
Attorney General

4811-9546-6709, v. 1

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REF: GOV/LEG/08

23 April, 2021

Honourable Andrew A. Fahie
Premier and Minister of Finance
Premier's Office
Government of the Virgin Islands
Cutlass Towers, 2nd Floor
Road Town, Tortola VG1110

Dear Honourable Premier

Disaster Management Act, 2021

I refer to our conversations of 10 and 17 February and my letter of 18 February concerning the Disaster Management Act, 2021 (DMA2021).

Ensuring effective disaster management is of the highest priority in BVI and an area of work in which all parts of BVI's Government and the emergency services should be involved, working in a collaborative fashion. In some instances, as happened following Hurricane Irma in 2017, external support to help ensure the safety and security of the Territory will also be required, with a further need for effective coordination and joined-up working. I am committed to maintaining that approach to best meet the Territory's needs.

It is the responsibility of the Governor under the Constitution to ensure the security of the Virgin Islands. Disaster management clearly involves internal security and external affairs, both of which fall to the Governor under Section 60 of the Constitution. I continue to believe that key disaster management policy responsibilities should remain within the Governor's Group in order that I am able to fulfil those constitutional responsibilities. The DMA2021 represents a major transfer of policy and power of direction away from the Governor's Group

Accordingly, I would not be able to assent to DDM2021 as currently drafted.

The Constitutional Review which you have proposed will, however, present an opportunity to consider further the balance of responsibilities for particular issues under the Constitution. It would be prudent for decisions on such matters to be made on completion of the Review rather than in advance. I would therefore respectfully ask

you to agree that DMA2021 be redrafted as appropriate following the Constitutional Review.

Should you not be willing to agree to that approach, I will reserve the question of assent to the Foreign Secretary for his consideration.

Yours sincerely
John Rankin

John J. Rankin CMG
Governor of the Virgin Islands

ANNEX E

OFFICE OF THE GOVERNOR
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3502/16
Facsimile: (284) 494-5790

15th May, 2020

Hon. Andrew A. Fahie
Premier
Premier's Office
R. T. O'Neal Building
Road Town, Tortola
British Virgin Islands

Dear Honourable Premier:

I have received a number of letters recently from you which include unfounded allegations and factual inaccuracies relating to both myself and other officials.

I refer specifically in this letter to your letter of 9th May which referred to our discussion immediately preceding the joint press conference we undertook. Your letter misrepresents that discussion and includes allegations I consider to be without foundation.

You will recall that prior to our statements on COVID-19, I respectfully asked that we uphold the order of precedence and protocol of the Territory and in line with the Constitutional roles we have. I respectfully suggested a private conversation in another room, which you declined. I am disappointed that you have chosen to misrepresent our conversation.

The press conference we undertook was an official Government event on Government channels. I expect all future official events to follow the correct order of protocol. Please can you ensure that this takes place.

Further, your allegations that I threatened to victimise you and the people of the Virgin Islands bear no relation to my recollection of the conversation. I am disappointed that you have chosen to make such serious allegations without foundation.

My priority is the people of the Virgin Islands and that will remain my focus. I am privileged to be in a position as the Constitutional head of government to work in partnership with yourself, all of Cabinet, the public service and communities for the good of all the people of this Territory. That is my only mandate and one I will not falter from, nor one

that I will be dissuaded from fulfilling. I am acutely aware of the responsibilities on myself for the people of this Territory and also for the

example I set for the people. You, as Premier, I am sure will be likewise conscious of similar responsibilities. Your letter refers to a modern partnership based on mutual respect, a principle I am deeply committed to. I hope that you will reflect on the content and tone of your letter, and whether they reflect this principle.

I would welcome the formal retraction of your letter and request a written apology. I would also ask you not to refer to my family again in such correspondence.

Whether you choose to do this or not, please be assured that nothing will alter my dedication to serve the people of this Territory.

Yours sincerely,

Augustus J. U. Jaspert
Governor

cc: Mr Ben Merrick, Director of Overseas Territories, UK Foreign and Commonwealth Office
Hon. Carvin Malone, Deputy Premier and Minister for Health and Social Development
[redacted]

ANNEX F

OFFICE OF THE GOVERNOR
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3501/12
Facsimile: (284) 494-5790

Ref: GOV/LEG/08A

25 March, 2021

Ms. Dawn J. Smith
Hon. Attorney General
Attorney General's Chambers
Government of the Virgin Islands
TTT Building, 4th Floor
P.O. Box 242
Road Town, Tortola VG1110

Dear Attorney General

Integrity in Public Life Bill

I refer to the Integrity in Public Life Bills prepared respectively by your Chambers together with the Deputy Governor's Office ("the Original draft") and by the Premier.

The introduction of legislation enhancing integrity in public life has my full support. As noted by Governor Jaspert in his letter of 18th December (attached), Section 60 of the Constitution clearly sets out that terms and conditions of service of persons holding public office are the responsibility of the Governor. I would therefore be grateful if you could ensure continued close consultation with my office and that of the Deputy Governor in further drafting of legislation in this area.

I would also note the need to ensure that the legislation is consistent with other provisions of the Constitution, including in particular Section 112 on Registration of Interests and the powers and functions of the Complaints Commissioner, the Police and the Director of Public Prosecutions.

There is also a wider need to maintain the independence of the proposed Commission which will oversee the Integrity and Code of Conduct requirements, and to ensure that its decisions and the requirements of the legislation are not under the direction of a Minister whom the Commission will itself need to monitor in terms of compliance. In that context the provisions and powers set out in the Turks and Caicos Islands Integrity Commission Ordinance may provide a useful model on which to draw.

Otherwise, and without prejudice to the Original draft, I would offer the following comments on the Bill presented by the Premier:

Establishment of Commission (Section 11)

It is for consideration whether appointment of members of the Commission on the advice of the Premier or the Leader of the Opposition potentially conflicts with the Commission's role in holding those persons or other Ministers and Members of the House of Assembly to account.

Without prejudice to that point, in order to achieve proper balance and independence in the Commission's membership, the make-up and system of appointment should be aligned with that of the Public Service Commission (as per Section 91 of the Constitution) and similar bodies. The number of members appointed by the Governor on the advice of the Premier and on the advice of the Leader of the Opposition should be the same.

Declarations of Interest (Section 5(3))

Section 5(3) would appear to allow the Minister to specify that only certain officers would be required to complete and file a Declaration of Interest. The requirement should apply to all Public Officers and not be subject to Ministerial discretion.

Acts of Corruption/Offences

The list of offences set out in Section 18 of the Original draft is more comprehensive and specific than that contained in Section 28 of the Premier's draft and is to be preferred. The point in the DPP's letter of 11 November (attached) on the need to cross-reference to Sections 79-89 of the Criminal Code 1997 is also noted.

Declarations of Gifts

The Bill should be aligned to Section 23 (1) of the Original draft i.e. there should be a prohibition on acceptance of gifts connected with the performance of duties save in limited specified exceptions. A limit on the value of gifts that can be accepted should also be included in regulations made under the Act.

Prosecutions (Section 32)

The prescription period for prosecutions should be aligned with wider criminal law – the rationale for the proposed five-year prescription period is not made out.

Audit (Section 36)

Section 13 (2) of the Original draft should be followed i.e. it must be for the Auditor General, not the Minister, to appoint those who audit the Commission's account.

Confidentiality (Section 41)

There is a strong policy case for declarations of interests by Ministers and Members of the House of Assembly to be made public in line with best practice in other jurisdictions, including the UK. The provision also needs to be amended to take account of the Commission of Inquiry Act and the recent Register of Interests legislative amendment.

First Schedule

All Public Officers should be required to provide declarations of interest i.e. not just those above a certain rank.

As per the DPP's letter of 11November, the Bill must not contravene Section 59 of the Constitution and the independence of the Director's decisions in respect of prosecutions.

The application of the Act to Heads of Diplomatic Missions, with the consequent requirement of declarations of interests, would be incompatible with the provisions of the Vienna Convention on Diplomatic Relations and should be deleted. In that context it should be noted that BVI offices e.g. in London and Hong Kong, and the Governor's Office, are not diplomatic missions.

Next Steps

I look forward to working with you further on Integrity in Public Life legislation and am copying the Deputy Governor, whose office will be pleased to provide past documents relating to the Bill on request.

Yours sincerely
John Rankin

Mr. John Rankin CMG
Governor of the Virgin Islands

ANNEX G

OFFICE OF THE PREMIER
GOVERNMENT OF THE VIRGIN ISLANDS

18th June, 2019

Mr. Ben Merrick
Director
Overseas Territories Directorate
Foreign and Commonwealth Office
King Charles Street
London
United Kingdom

Dear Mr. Merrick,

BEN MERRICK VISIT FOLLOW-UP

It was my pleasure to receive you during your recent visit to the Territory from 3-6 June. I found our various meetings to be highly constructive. You will recall that during our bilateral meeting we discussed a number of important issues on which I stated the Territory's position:

Register of Interests

- Register of Interests of Ministers will be made public immediately following further consultation with the Governor

Ministerial Code

- A Ministerial Code will be adopted by October 2019 at the earliest with the advice of other Heads of Government and Ministers of Government within the Caribbean region

Integrity Commission

- An Integrity Commission will be established by the end of 2019 led by the Premier's Office as the lead ministry

Procurement Act

- The new Procurement Act will go to Cabinet by 1st October, 2019.

Recovery Development Agency and UK Loan Guarantee

- The Government of the Virgin Islands will consult with the public on the Recovery Development Plan and Agency and UK Loan Guarantee to determine a clear policy with the full input of the public within the next two weeks.
- The Government of the Virgin Islands would welcome the UK Government placing in writing their willingness to relax the Protocols for Effective Financial Management in relation to the UK Loan Guarantee, should it be exercised.

Tender Waivers

33 Admin Drive, Road Town, TORTOLA VG1110
British Virgin Islands
Tel: (284) 494-3808 / 3701 ext. 2152 • Fax: (284) 494-3549 • Email: premier@gov.vg

- Tender waivers are exceptions to the normal tendering process that should only be done for legitimate reasons that are clearly explained in the decision.

Public Registers of Beneficial Ownership

- Please see attached letter to His Excellency the Governor dated 14th June, 2019.

Transparency and Accountability

- Government of the Virgin Islands remains concerned that the numerous questionable actions by the past administration in terms (i.e. BVI Airways deal, Pier Park development where sufficient evidence exists but legal actions not pursued to date by the responsible authorities).
- Lack of accountability and transparency by the previous administration should not go unaddressed by law enforcement.
- As discussed, ALL actions deemed necessary to re-establish and strengthen transparency and accountability will be explored and implemented by my Government. However this must be done in concert with the requisite authorities sending a strong message that questionable actions of the past administration will not be tolerated

Modern Partnership

- Premier and Governor will work to improve their current relationship

Where these issues are a shared priority, my Government looks forward to working with UK colleagues.

Mr. Merrick, you have my highest assurances that my Government will follow-up on the matters above. I look forward to seeing you again in the Cayman Islands at the UK/OT International Trade Summit toward the end of the month.

Sincerely,

Andrew A. Fahie
Premier and Minister of Finance

Cc. Lord (Tariq) Ahmad, Minister of State for Commonwealth and United Nations at the Foreign and Commonwealth Office
His Excellency, Augustus Jaspert, Governor of the British Virgin Islands

ANNEX H

Foreign, Commonwealth & Development Office

Ben Merrick
Director Overseas Territories
King Charles Street
London, SW1A 2AH

020 7008 3604
Ben.Merrick@fcdo.gov.uk

The Hon. Andrew Fahie
Premier
Government of the Virgin Islands
33 Admin Drive, Road Town
Tortola VG1110
British Virgin Islands

24 June 2021

Dear Premier Fahie,

Thank you for your letter of 30 April to the Foreign Secretary regarding the Drugs (Prevention and Misuse) Amendment Act, 2020 (DPMA) and the Cannabis Licensing Act 2020. The Foreign Secretary has asked me to reply on his behalf as the Director of Overseas Territories in the Foreign, Commonwealth and Development Office.

The Foreign Secretary set out his position on the DPMA in his letter of 9 April, and was clear on the reasoning behind his decision. I am glad to hear that you share the Foreign Secretary's concern about the recent seizures in the Virgin Islands and are mindful of the broader international context. Different measures can be used to measure impact in jurisdictions of different size, but it is clear that illegal drugs are a global threat. Drugs devastate lives, ruin families and damage communities all across the world. The UK Government's policy in this area is clear and anchored in education to reduce demand; tough and intelligent enforcement to restrict supply; evidence-based treatment to aid recovery; and coordinated global action. In January the Home Secretary and Health Secretary announced a £148 million package aimed at dismantling the organised criminal gangs who encourage this terrible trade, helping those in drug treatment and recovery to stop drug-related crime, and dealing with the significant health-related harms drugs pose in the UK. Whilst recognising the undoubted successes of law enforcement as you do in your letter, both in the BVI and the UK, there will always be more to do.

In the UK, the Home Secretary commissioned a major independent review in 2019, led by Dame Carol Black, to inform the Government's thinking on what more can be done to tackle the harm that drugs cause. The first part of that review was published last year and provides a detailed analysis of the challenges posed by drug supply and demand, including the ways in which drugs fuel serious violence. Part two of the review is focusing on prevention, treatment services and recovery. The Review findings will feed into wider cross-Government work to tackle the serious harms caused by substance misuse.

Regarding the Cannabis Licensing Act 2020, as the Governor highlighted in his statement of 10 December 2020, the necessary next step before consideration of assent, is for technical discussions to take place between the UK Home Office and the BVI government. This is important given it is the UK Government that is a Party to the 1961 Single Convention on Narcotic Drugs.

I understand that you wrote to the Home Office (Marcus Starling, Head of Drugs Misuse and Firearms Unit) on 9 March 2021 and Mr Starling responded the next day via email offering an initial discussion on a path forward. The Home Office have not yet received a response to that email. They remain keen to assist your government in making progress, particularly in respect to international regulations (including relevant obligations under Articles 23 and 28 of the 1961 Single Convention). Part of these discussions will address the need to provide the necessary assurances to the International Narcotics Control Board (INCB) about safeguards against potential diversion of cannabis to the illicit market. You mention that your proposed controls will conform to international best practice; that is hugely positive and will put BVI in a good position to make progress.

Finally, I would like to address some of the misconceptions regarding UK industry that you raise in your letter, where you quote information from an online news article. Such reporting highlights the intricacies of international regulations in this area and is a useful example of why I am keen to encourage constructive dialogue between our respective officials. The UK has a long and proud history of pharmaceutical innovation and enabling that through licensing with robust, yet proportionate control. The UK does not cultivate or export "medical marijuana/cannabis". Cannabis cultivation in the UK is solely for the purpose of extracting controlled cannabinoids to produce licensed medicines (those which hold a 'Marketing Authorisation'). It is these medicines that are exported. INCB reporting systems necessitate that the active content (the 'base drug') of these medicines are expressed in terms of their starting cannabis content. The INCB's 'Yellow List' contains the full list of internationally controlled narcotics drugs under the 1961 Convention, including conversion factors for calculating the base-drug content. To take one example, Sativex, a medicine licenced for use to alleviate symptoms of multiple sclerosis, is a liquid in the form of an oromucosal spray. For reporting purposes, every 1kg of cannabis extract is considered equivalent to 12.5kg of cannabis; therefore reported exports of cannabis are not exports of botanical material (cannabis flower or leaf).

This is a multifaceted area of international law, and it is incorrect to equate our desire to help build a similarly robust industry in BVI as a form of oppression, or as hypocritical. It is precisely because the UK Government wishes to ensure BVI meets the same international standards that we are keen to offer assistance in navigating this complex area. The UK's obligations as a Party to the 1961 Single Convention are also relevant. I sincerely hope that you will consider permitting your officials to open a dialogue with the Home Office on these issues, in order that we can make progress on this issue.

Yours Sincerely,

Ben Merrick
Director, Overseas Territories

	2017				2018				2019				2020			
	BUDGET ESTIMATE	ACTUAL	$ change	% change	BUDGET ESTIMATE	ACTUAL	$ change	% change	BUDGET ESTIMATE	ACTUAL	$ change	% change	BUDGET ESTIMATE	ACTUAL	$ change	% change
TOTAL RECURRENT REVENUE	**323,112,630.98**	**295,193,992.57**	**(27,918,638.42)**	**-8.6%**	**311,042,715.28**	**387,899,534.22**	**76,856,818.93**	**24.7%**	**361,832,059.98**	**363,916,421.19**	**2,084,361.21**	**0.6%**	**362,888,440.20**	**360,181,867.82**	**(2,706,572.37)**	**-0.7%**
TAX REVENUE	**302,018,130.26**	**279,366,092.46**	**(22,652,037.80)**	**-7.5%**	**278,921,082.84**	**354,141,507.35**	**75,220,424.51**	**27.0%**	**342,464,339.89**	**343,581,599.07**	**1,117,259.18**	**0.3%**	**340,873,868.42**	**300,043,303.53**	**(40,830,564.88)**	**-12.0%**
Income Tax	-	132,517.33	**132,517.33**	**0.0%**	-	17,641.94	**17,641.94**	**0.0%**	-	88,512.41	**88,512.41**	**0.0%**	-	117,528.63	**117,528.63**	**0.0%**
Payroll Tax	51,620,577.29	46,225,316.18	**(5,395,261.11)**	**-10.5%**	36,687,459	50,322,065	**13,634,606.93**	**37.2%**	50,527,312	54,801,823	**4,274,511.40**	**8.5%**	52,360,210	47,981,462	**(4,378,747.62)**	**-8.4%**
Taxes on Property	2,762,814.62	1,918,632.01	**(844,182.61)**	**-30.6%**	1,382,433	3,020,016	**1,637,583.15**	**118.5%**	2,720,622	3,041,911	**321,288.59**	**11.8%**	2,898,399	3,228,822	**330,423.41**	**11.4%**
Taxes on Goods and Services	194,699,056.19	191,022,774.93	**(3,676,281.26)**	**-1.9%**	206,184,191	251,343,229	**45,159,038.36**	**21.9%**	244,137,393	229,674,071	**(14,463,321.67)**	**-5.9%**	224,717,515	205,626,680	**(19,090,834.94)**	**-8.5%**
Taxes on international trade and transcations	47,713,144.92	32,201,757.73	**(15,511,387.19)**	**-32.5%**	27,291,210	39,692,723	**12,401,512.80**	**45.4%**	40,172,657	51,352,355	**11,179,698.15**	**27.8%**	49,902,108	35,927,325	**(13,974,782.44)**	**-28.0%**
Other taxes	5,222,537.24	7,865,094.28	**2,642,557.04**	**50.6%**	7,375,791	9,745,832	**2,370,041.34**	**32.1%**	4,906,356	4,622,926	**(283,429.69)**	**-5.8%**	10,995,637	7,161,485	**(3,834,151.92)**	**-34.9%**
GRANTS	-	-	-	**0.0%**	**5,000,000.00**	**5,013,197.17**	**13,197.17**	**0.3%**	**2,816,254.00**	**1,210,214.44**	**(1,606,039.56)**	**-57.0%**	**5,000,000.00**	**42,030,191.25**	**37,030,191.25**	**740.6%**
OTHER REVENUE	**21,094,500.72**	**15,827,900.11**	**(5,266,600.61)**	**-25.0%**	**27,121,632.44**	**28,744,829.70**	**1,623,197.26**	**6.0%**	**16,551,466.09**	**19,124,607.68**	**2,573,141.59**	**15.5%**	**17,014,571.78**	**18,108,373.04**	**1,093,801.26**	**6.4%**
Property Income (interest and rent)	570,631.93	539,331.62	**(31,300.31)**	**-5.5%**	528,007.96	995,579.45	**467,571.49**	**88.6%**	489,073.64	689,767.06	**200,693.42**	**41.0%**	690,145.79	1,781,672.84	**1,091,527.05**	**158.2%**
Sales of goods and services	19,715,023.50	13,469,210.45	**(6,245,813.05)**	**-31.7%**	13,927,475	14,547,377	**619,901.69**	**4.5%**	15,593,329	17,063,598	**1,470,269.75**	**9.4%**	15,195,660	14,655,042	**(540,618.21)**	**-3.6%**
Fines, penalties and forfeits	458,856.29	1,520,043.53	**1,061,187.24**	**231.3%**	677,450	724,247	**46,797.17**	**6.9%**	230,271	674,650	**444,379.58**	**193.0%**	362,077	1,216,203	**854,125.69**	**235.9%**
Voluntary transfers (DOM)	-	-	-	**0.0%**	-	300,000	**300,000.00**	**0.0%**	-	308,700	**308,700.00**	**0.0%**	-	1,680	**1,680.00**	**0.0%**
Other Receipts	249,220.09	78,946.50	**(170,273.59)**	**-68.3%**	11,877,841	11,586,731	**(291,110.37)**	**-2.5%**	209,688	139,744	**(69,943.95)**	**-33.4%**	103,911	189,876	**85,964.67**	**82.7%**
Miscellaneous Revenue	100,768.92	220368.01	**119,599.09**	**118.7%**	110,858	590,895	**480,037.28**	**433.0%**	29,105	248,148	**219,042.79**	**752.6%**	662,778	263,900	**(398,877.94)**	**-60.2%**
TOTAL RECURRENT EXPENDITURE	**301,826,990.82**	**292,646,003.00**	**(9,180,987.82)**	**-3.0%**	**359,796,464.37**	**313,303,378.91**	**(46,493,085.46)**	**-12.9%**	**339,093,986.09**	**308,779,045.43**	**(30,314,940.66)**	**-8.9%**	**388,560,660.02**	**357,273,141.60**	**(31,287,518.42)**	**-8.1%**
Employee Compensation	121,290,089.01	119,476,569.00	**(1,813,520.01)**	**-1.5%**	123,112,775	111,722,435	**(11,390,340.51)**	**-9.3%**	120,356,032	114,954,607	**(5,401,425.21)**	**-4.5%**	116,053,044	110,234,085	**(5,818,958.57)**	**-5.0%**
Good and Services	82,478,047.24	73,648,186.00	**(8,829,861.24)**	**-10.7%**	84,255,681	63,542,346	**(20,713,335.39)**	**-24.6%**	80,330,048	65,606,233	**(14,723,814.63)**	**-18.3%**	138,861,548	122,013,208	**(16,848,340.38)**	**-12.1%**
Finance Cost	3,120,181.34	5,119,474.00	**1,999,292.66**	**64.1%**	8,103,800	5,662,845	**(2,440,954.65)**	**-30.1%**	5,507,400	6,921,518	**1,414,117.65**	**25.7%**	6,325,955	5,919,848	**(406,106.64)**	**-6.4%**
Subsidies	179,745.00	161,435.00	**(18,310.00)**	**-10.2%**	534,210	406,758	**(127,451.70)**	**-23.9%**	221,000	124,546	**(96,453.91)**	**-43.6%**	648,200	540,355	**(107,844.95)**	**-16.6%**
Grants	67,389,524.86	66,744,541.00	**(644,983.86)**	**-1.0%**	109,344,086	99,706,413	**(9,637,672.62)**	**-8.8%**	95,077,534	91,937,116	**(3,140,417.63)**	**-3.3%**	85,775,278	79,302,063	**(6,473,214.84)**	**-7.5%**
Social Benefits	13,747,809.39	13,841,502.00	**93,692.61**	**0.7%**	15,172,674	14,887,018	**(285,656.15)**	**-1.9%**	16,745,185	15,730,421	**(1,014,763.93)**	**-6.1%**	17,586,535	16,616,972	**(969,563.18)**	**-5.5%**
Other Recurrent Expenditure	13,621,593.98	13,654,296.00	**32,702.02**	**0.2%**	19,273,238	17,375,564	**(1,897,674.44)**	**-9.8%**	20,856,788	13,504,605	**(7,352,183.00)**	**-35.3%**	23,310,100	22,646,610	**(663,489.86)**	**-2.8%**

GOVERNMENT OF THE VIRGIN ISLANDS

PROTOCOLS FOR EFFECTIVE FINANCIAL MANAGEMENT



Signed on 23rd April, 2012

by

Dr. the Hon. D. Orlando Smith, OBE
Premier and Minister of Finance

His Excellency the Governor
Mr. Boyd McCleary, CMG, CVO

Mr. Henry Bellingham, MP
Parliamentary Under Secretary of State
and Minister for the Overseas Territories

GOVERNMENT OF THE VIRGIN ISLANDS:
PROTOCOLS FOR EFFECTIVE FINANCIAL MANAGEMENT

PREAMBLE

1. The Virgin Islands having financial services and tourism as its two main industries must be customer focused, efficient, relevant and responsive if its economy is to be vibrant and sustainable in the long term.

2. As a result of the requirement to be customer focused, its reputation as a jurisdiction of high repute is critical to its success. To achieve this, the Virgin Islands recognizes that its practices in regards to governance, transparency, and accountability of its leadership is of paramount importance. In addition and due to the fact that it is a territory that is involved in a global market, its social and infrastructural development and security must be to levels commensurate with what is required to facilitate the industries which drive its economy, in addition to providing a high and constantly improving standard of living for its people. This requires that it is able to plan responsibly in the medium to long term using information that accurately represents the state of play, using recognized methods and to internationally recognized standards.

3. The Virgin Islands government also recognizes and appreciates the context of its constitutional relationship with the United Kingdom, the consequential extended relationships with its allies and members states in the European Union, and thus commits itself to a pattern of governance that is consistent with global standards and best practice.

4. Bearing this in mind the Government of the Virgin Islands is committed to creating an environment in which people and businesses can plan for the future, and growth in income and employment can be sustained by:

    a. delivering macroeconomic and fiscal sustainability, and financial stability; and
    b. establishing a medium to long term strategy that sets out a comprehensive fiscal plan to deliver the most effective, efficient and sustainable allocation of resources.

5. Transparency in the management of the public finances is consistent with the highest standards of governance and democracy. The Government of the Virgin Islands recognizes that the Public Finance Management Act 2004 in its role to adhere to these standards is limited in its scope and mandated requirements, and hence will amend its provisions to ensure that it is fit for purpose, by mandating strong provisions (to be specified in an enhanced Public Finance Management Act) to provide for the following core principles as statutory requirements:
    a. Medium Term Planning
    b. Transparency through regular reporting in the House of Assembly on fiscal and economic matters
    c. Measurements of fiscal and economic performance with timely and accurate statistical data.
    d. Value for money through recognized and standardized procedures and the application of objective and credible assessments for project development, procurement and implementation.
    e. Proactive and comprehensive management of risk, including but not exclusive to debt management

6. The Government of the Virgin Islands has therefore committed to ensure that the enhanced Public Finance Management Act is adhered to at all times. In the event that the Act's provisions are violated, action to correct these deficiencies will be taken immediately. Subject to the agreement of the House of Assembly and the assent of the Governor, the enhanced Public Finance Management Act will enter into force by August 2012.

7. The Government of the Virgin Islands and the Government of the United Kingdom reaffirm their commitment to work in partnership and to respect the rights and responsibilities specified in these Protocols and the enhanced Public Finance Management Act. References to the Public Finance Management Act henceforth in this agreement are to an enhanced Public Finance Management Act with at minimum the provisions specified in the Premier's letter of 21 March 2012.

POLICY PRINCIPLES

8. The Government of the Virgin Islands is committed to the following principles:

a. Effective **medium-term planning**, to ensure that the full impact of fiscal decisions is understood;
b. Putting **value for money** considerations at the heart of the decision making process;
c. Effective **management of risk;** and
d. Delivering improved **accountability** in all public sector operations.

IMPROVING MEDIUM TERM PLANNING

Medium term fiscal plan

9. The Government of the Virgin Islands will assess the impact of all proposals and decisions on expenditure, revenues, and borrowing in the context of a medium term fiscal plan (MTFP) covering a period of at least three fiscal years. This MTFP will be used as the primary guide for fiscal and economic management by the Government of the Virgin Islands. The MTFP will include as a minimum the information defined in the Public Finance Management Act.

DELIVERING VALUE FOR MONEY

10. The Government of the Virgin Islands recognizes that achieving value for money is central to the appropriate use of public funds. Central government and other public sector bodies will therefore ensure that when utilizing public funds effective processes are in place to ensure: project suitability, effectiveness and quality; and prudent management of funds.

Projects

11. There are four key stages that will be undertaken by the Government of the Virgin Islands in the planning, development and execution of a capital project:

    a. **Appraisal and Business Case**: The Government of the Virgin Islands will ensure that all projects, however funded, are suitably appraised before the procurement stage to ensure value for money and that a robust cost-benefit analysis has been carried out. This appraisal must be used by Cabinet to

determine whether or not the project should be initiated and if so on what terms.

For capital projects with a lifetime value above five per cent (5%) of forecast annual recurrent revenue, and funded from the recurrent surplus or conventional borrowing, independent expert advice such as (but not limited to) accounting, legal, financial, economic and environmental advice will be sought from parties outside the public sector. The Minister of Finance, subject to the Public Finance Management Act and after consultation with the Financial Secretary, may determine that such external advice is not required.

b. **Tendering and Procurement**: All projects must be subjected to a Tendering and procurement process that guarantees the highest levels of transparency and fairness practicable, and must at all times comply with the provisions of the Public Finance Management Act. For projects with a lifetime value of above five per cent (5%) of annual forecast revenue and funded from the recurrent surplus or conventional borrowing, the external advice provision set out in paragraph 11.a. applies.

c. **Contract Management**: Contracts shall be administered in all instances, by individuals who have the required technical background and experience to do so.

d. **Evaluation**: In-depth evaluations pursuant to Clause 11.a, shall be done on all projects that exceed five percent (5%) of the forecast annual recurrent revenue budget of the year in which it was commenced, or in the case of a capital project that spanned over several years, five percent (5%) of the average of the annual budgets over the period in which it was implemented. This evaluation will be made publicly available to ensure that the lessons learned are fed back into the decision-making processes.

12. Any references in these Protocols to projects with a lifetime value more than five per cent (5%) of forecast annual recurrent revenue are subject to the provisions of paragraph 3 of Annex D.

PPP financing of projects

13. Where Public Private Partnerships (PPPs) or any other form PPP financing is being considered for a project the Government of the Virgin Islands will ensure that the same four key stages are followed as for any other capital project. This includes an appropriate appraisal process before the procurement stage to ensure value for money. The appraisal process should include as a minimum a capital investment analysis and a cost-benefit analysis. This will ensure that an informed decision can be made on whether or not to proceed to the procurement stage.

14. Public Private Partnerships (PPPs) or any other form of PPP financing will only be considered:

    a. where there is a sound appraisal underpinning the proposed project before financing means have been determined;
    b. where a financial appraisal demonstrates improved value for money against a conventionally financed alternative;
    c. where the long term affordability case has been assessed by the Government of the Virgin Islands;
    d. where the correct accounting treatment of the public accounts has been utilized and agreed upon by an independent qualified accountant; and
    e. where the Government of the Virgin Islands commissions external and independent technical advice on the project, such as in terms of accounting, legal, financial, economic and environmental implications.

15. PPPs or any other form of PPP financing will not be considered by the Government of the Virgin Islands for:

    a. projects with a lifetime value of less than twenty million dollars (US$20m) and therefore too small to justify the transaction costs; or
    b. projects where the fast pace of change in the sector makes it difficult to effectively define the outputs it requires in a long term contract (such as Information Communication Technology projects).

16. All proposed capital projects will be incorporated in the published MTFP.

Processes

17. The Government of the Virgin Islands will adhere to the robust process of financial management and reporting as laid out in the Public Finance Management Act.

RISK MANAGEMENT

18. The Government of the Virgin Islands will adopt risk management protocols in order to minimize the liabilities of the Government of the Virgin Islands. These protocols and strategies will be supported by the MTFP, and assessments done according to the timetables set out in the Public Finance Management Act to identify and quantify the risks to the Government of the Virgin Islands. These risks are to include all financial risks and contingent liabilities.

Debt

19. Unless in exceptional circumstances different arrangements are agreed in writing by the Government of the Virgin Islands and the Secretary of State, the Government of the Virgin Islands will borrow only to fund capital expenditure where:
    a. the proposed project is forecast to yield sufficient revenues to fund the additional debt service costs; or

    b. the Government has sufficient surplus operating cash flows to fund the additional debt service costs which arise from borrowing to finance such capital expenditure.

20. To ensure that the level of debt is affordable and consistent with the delivery of macroeconomic and fiscal sustainability and financial stability in the short, medium and long term as outlined in the MTFP, the Government of the Virgin Islands will comply with the borrowing limits defined in Annex B no later than the date specified in paragraph 2 of Annex D;

ACCOUNTABILITY and TRANSPARENCY

21. Reports will be published as per the schedule and in the format stipulated by the Public Finance Management Act.

PARTNERSHIP with the UNITED KINGDOM

22. In support of the commitments to deliver fiscal responsibility made by the Government of the Virgin Islands, the Government of the United Kingdom will:

    a. undertake an annual assessment of the economy of the Virgin Islands, including the state of the public finances;
    b. monitor compliance with the protocols and subsequently the Public Finance Management Act;
    c. provide support in identifying and procuring sources of expertise at the request of the Government of the Virgin Islands.

Exchange of information

23. Consistent with the partnership between the Government of the Virgin Islands and the Government of the United Kingdom, the Government of the Virgin Islands commits to supply the Government of the United Kingdom with available information on fiscal, economic or project appraisal matters, prepared for the purpose of compliance with the Public Finance Management Act including but not limited to the information specified in Annex C and the Public Finance Management Act.

Consideration of representations

24. The Government of the Virgin Islands will consider fully any representations made by the Secretary of State on the information provided.

25. The Government of the Virgin Islands will not proceed with any capital project on which the Secretary of State has made representations until fifteen (15) working days after a full written response has been received by the Secretary of State to those representations.

Compliance with the Protocols

26. Without prejudice to the transitional provision in Annex D, where the Government of the Virgin Islands is not in compliance with the Protocols, the Government of the

Virgin Islands will present, for the approval of the Secretary of State, a plan and modified MTFP (if necessary) to remedy the breach. The Secretary of State may require modifications to this plan which the Government of the Virgin Islands must consider, and if a disagreement exists, present for consideration to the Secretary of State alternatives to remedy the breach in full and visible consideration of the representations made by the Secretary of State. The Government of the Virgin Islands shall remedy a breach in these protocols within three fiscal years from the point at which the breach occurred, unless the Secretary of State gives express written permission for a longer period.

27. In the event of any substantive non-compliance by the Government of the Virgin Islands in the respect of the Protocols and until the breach has been rectified, the Government of the Virgin Islands will obtain, on an annual basis, written approval from the Secretary of State before:

    a. the MTFP is finalised; or
    b. any new public borrowing is undertaken;
    c. proceeding with any new project with a lifetime value of more than five (5%) of forecast recurrent revenue;
    d. using public assets as collateral as part of any new arrangement with a party external to Government of the Virgin Islands;
    e. the hypothecation of any revenue stream; or
    f. the divestment of public assets.

28. For the avoidance of doubt, a breach of the borrowing limits in Annex B will constitute a breach of this protocol agreement.

Signed: ..... Date: 27. 4. 2012

Premier, British Virgin Islands

Signed: ..... Date: 23.4.12

Governor, British Virgin Islands

Signed: ..... Date: 2/4/12

Minister for Overseas Territories, Foreign and Commonwealth Office

ANNEX A

DEFINITIONS

1. **Expenditure**, unless otherwise specified, refers to all public expenditure (inclusive of subventions, capital and recurrent expenditure).

2. **Public accounts** include all the accounts of the Government of the British Virgin Islands and of all parastatals.

3. **Public borrowing** includes:

   - conventional borrowing from commercial and concessional institutions;
   - the capitalised value of all novel financing transactions (including PFI/PPP arrangements) that will place future financial obligations (in terms of increased expenditure or reduced revenue) on the Government of the Virgin Islands;
   - the risk weighted debts and PPP/PFI arrangements of statutory authorities, government corporations and companies;
   - borrowing that is contracted by the Government of the Virgin Islands, but then on-lent; and
   - any other debt guaranteed by the Government of the Virgin Islands.

4. Public borrowing taken out to clear informal debt (including arrears) will be treated as new debt.

5. The risk weighting attached to debts and PPP/PFI arrangements of parastatals will be agreed with the Secretary of State according to the following criteria:

Risk-weighting	Description
100%	Outstanding contractual commitments to PFI or PPP arrangements of any form, agencies with a consistent demand for subventions
80%	Unstable and unpredictable level of subventions required

50%	Moderate but unpredictable level of subventions required
20%	No subventions required in the last three years

6. A list of parastatals with assigned risk-weights is attached at Annex B. Risk-weights can be updated to reflect recent financial performance at the request of either the Government of the Virgin Islands or the Secretary of State.

7. The Government of the Virgin Islands and the Secretary of State will agree risk-weights for new parastatals before any such parastatal can take on debt.

8. **Past fiscal performance**, unless otherwise specified, should be assessed on the basis of audited financial statements for the previous financial year, where available.

9. **Capital Project** includes state acquisition of capital assets or improvements and additions to these, construction and initial equipment, reconstruction, significant demolition, major alteration of any capital asset and major maintenance projects on assets that are state owned or used for state government purposes.

10. **Lifetime value** is defined as the discounted net present value of financing obligations calculated using a discount rate of 3.5%.

ANNEX B

The Government of the Virgin Islands shall ensure that on an annual basis its remains within the borrowing limits stated below.

Schedule 1:

Net Debt	80% maximum of recurrent revenue	Debt Service	10% maximum of recurrent revenue	Liquid Assets	At least 25% of recurrent expenditure

11. **Net Debt** is defined as the total outstanding value of public borrowing minus liquid assets.

12. **Debt service** is defined as annual payments resulting from public borrowing commitments and finance leases.

13. **Liquid Assets** are defined as the lowest total balance of unallocated liquid funds at the disposal of the Government of the Virgin Islands during the fiscal year. These funds should not be held against budgeted expenditure or liabilities of any form.

PARASTATAL RISK-WEIGHTS

Statutory Authority/Government Company	*Risk Weight*
Tourist Board	*100%*
BVI Health Authority	*80%*
H L Stoutt Community College	*80%*
Prospect Reef Management Company	*80%*
BVI Airport Authority	*50%*
National Bank of the Virgin Islands	*20%*
BVI Electricity Corporation	*20%*
Financial Services Commission	*20%*
Port Authority	*20%*
Social Security Board	*20%*

Annex C

MONITORING

The Government of the Virgin Islands will provide the following information to the Government of the United Kingdom:

Annually

(i) The Government of the Virgin Islands MTFP, accompanied by a written request for any approvals that may be necessary over the course of the next fiscal year owing to the Government of the Virgin Islands non-compliance with the Protocols. Both should be submitted to the United Kingdom Government no later than two months before the MTFP is due to be published.

Monthly: Requests for information that is mandated by the Public Finance Management Act.

On request:

(i) Details of the composition of debt, currency, date and origin of issue, maturity, and interest rate structure.

(ii) Updates on capital project progress.

(iii) Details of proposed capital investments, PFI, PPP and alternative forms of private finance, an independent accounting opinion on the IFRS accounting treatment and the capitalised value of the arrangement, and implications for public expenditure.

(iv) Completed investment appraisals.

(v) Such other information as may reasonably be requested.

Annex D

TRANSITIONAL PROVISIONS

1. The unprecedented global financial crisis has forced the Government of the Virgin Islands to operate beyond the liquid assets ratio defined in Annex B.

2. The Government of the Virgin Islands will return to full compliance with all the borrowing limits by the no later than the end of the 2015 financial year.

3. During the transitional period or a period of non-compliance with the Protocols all references to the threshold of five (5%) percent of forecast recurrent revenue are reduced to four (4%) percent.

Foreign &
Commonwealth
Office

The Hon Andrew Fahie
Premier, Office of the Premier
Government of the Virgin Islands
33 Admin Drive, Road Town
Tortola VG1110
British Virgin Islands

29 April 2020

Dear Premier

I would like to thank you for your kind messages of support for the Prime Minister. My colleagues and I are very pleased that he has made a full recovery, and we are delighted with the happy news today that he has a new baby boy.

I am responding to your letter of 6 April regarding the British Virgin Islands Government's economic response to COVID-19 and following a number of statements made in the BVI press regarding the Protocols for Effective Financial Management (PEFM).

Thank you for the update on the hard work that you and your team have put in preparing the COVID-19 economic response plan, a copy of which was received in draft by my officials last week. Just as the UK is doing, we are looking to Overseas Territories to make full use of their financial resources in order to address the needs of their people. It is therefore encouraging to see the steps you are proposing to take. My officials are currently reviewing the plan and will work with your team on the detail to understand how best the UK Government can support the people of the BVI in these unprecedented times.

Protocols for Effective Financial Management

Prior to the COVID-19 crisis, my officials were working with your Financial Secretary to modernise the calculations of the borrowing ratios within the Protocols for Effective Financial Management (PEFM), to align them to regional best practice and promote effective cash and debt management. During our recent call, I committed to giving you a firm answer on this issue and I am pleased to say that I have agreed to these changes. A summary of these changes is appended to this letter.

I note from your letter that your Government feels it is necessary revoke provisions of the PEFM. As UK Ministers and senior officials have previously highlighted, by continuing to follow the PEFM, which has been in place since 2012, the BVI Government is making a visible commitment to the policy principles of effective economic planning, value for money, risk management and accountability. The PEFM is based on widely accepted best practice and other Overseas Territories in the region have the same arrangements in place. I therefore would have significant concerns about a move to revoke the provisions.

The PEFM should not hamper your ability to respond to issues or to design a long-term economic plan; rather, it provides the framework for ensuring that any borrowing is sustainable over the long run. Further, I hope the changes I have agreed to with respect to the calculation of the ratios support the BVI Government's response to COVID-19.

Though should your Government's plans mean that the ratios would be breached, including after the changes are taken account of, I propose that our Governments agree a pathway - including a timeline - to a return to compliance. This is the same approach that the UK Government has taken with other Overseas Territories when a breach of the ratios is envisaged.

I noted from your press conference on 15 April that you have asked your Financial Secretary to hold discussions with the UK Government on the PEFM. I hope this letter has clarified the UK's position. My officials stand ready to discuss further with the Financial Secretary.

The Recovery and Development Agency Act

Your letter noted that the Recovery and Development Agency Act is a constraint to your Government on developing a COVID-19 economic response plan. As you know, the Act was passed by the BVI Government in light of the need to execute a comprehensive Recovery to Development Plan, following the devastating hurricanes of 2017.

The Recovery and Development Agency, whose roles and responsibilities are set out in the Act to deliver the BVI Government's recovery plan, is central to a number of elements of the UK Government's hurricane recovery support package. I do not see that there is a link between the Act and your Government's response to COVID-19 and I would be disappointed if the legislation were brought forward to repeal it.

I look forward to continued close work between our Governments and to speaking with you again in due course, and thank you once again for your team's work to help the people in the British Virgin Islands deal with the impacts of COVID19.

Yours sincerely,



BARONESS SUGG
Minister for Sustainable Development and the Overseas Territories

Appendix 1: Changes in the calculation methodology of the three borrowing ratios

The UK Government acknowledges the proposals made by the BVI Government to update the methodology in calculating the three borrowing ratios, stipulated in the Protocols for Effective Financial Management, to align it to regional good practice and promote effective cash and debt management. The UK Government agrees to the following:

1. **Liquid Assets: at least 25% of recurrent expenditure**
   The Protocols define Liquid Assets as "the lowest total balance of unallocated liquid funds at the disposal of the BVI Government during the fiscal year. These funds should not be held against budgeted expenditure or liabilities of any form".
   The proposed calculation should include only liquid funds meeting this definition, including bank balances, Term Deposits (TDs) and Certificates of Deposit (CDs) within the Funds listed below (provided the TDs and CDs can be converted into cash within ninety (90) days if the BVI Government so requires:

i. Consolidated Fund;
ii. Reserve Fund;
iii. Contingency Fund; and
iv. Emergency Fund.

Cash held in the "Dormant Accounts" category may also be included provided that such amounts are not held in trust and are freely available to be added to the Reserve Fund by the BVI Government.

2. **Debt Service: maximum 10% of recurrent revenue**
   The Protocols define Debt Service as "annual payments resulting from public borrowing commitments and finance leases."

The proposed calculation should include the following components in the calculation of Debt Service:

i. All payments of principal and interest;
ii. Other payments associated with the debt such as repayment penalties, arrangements fees, and commitment fees;
iii. Contributions to any Sinking Fund set up for the purpose of repaying debt;
iv. Less:
a. any drawdowns of loans to the extent used to refinance debt at maturity or mid-term (such drawdowns will be included in the calculation of Net Debt); and
b. withdrawals from any Sinking Fund to the extent used to repay debt.

3. **Net Debt: 80% maximum of recurrent revenue**
   The Protocols define Net Debt as "the total outstanding value of public borrowing minus liquid assets."

The proposed calculation of Net Debt shall deduct Liquid Assets as calculated under bullet point 1, above.

Should there be any doubt in future with respect to the interpretation or calculation of the borrowing ratios, the BVI Government should seek advice from the UK Government, at its earliest convenience, to resolve the matter.

Office of the Governor
Government House
P. O. Box 702
Road Town, Tortola
Virgin Islands

Telephone: (284) 468-3512

6 December 2021

Sir Gary Hickinbottom
Commissioner
BVI Commission of Inquiry

Dear Commissioner

UK FUNDING FOR BVI

At the end of my hearing at the Commission on 23 November, you requested a letter explaining the funding provided by the UK Government to the British Virgin Islands over recent years. I hope that this letter provides the information that you require.

Following hurricanes Irma and Maria in 2017, the UK provided emergency recovery support and funding to the affected Overseas Territories totaling £72m. As well as the cost of emergency work and military support provided across the affected OTs, this £72m included more than £13m to directly fund projects in BVI, such as a housing programme, repairs to the prison and a temporary Magistrates court.

Following the immediate response, the need for longer-term support was clear and the UK Government committed to a £10m recovery programme for BVI, funded through the Conflict, Stability and Security Fund (CSSF). The CSSF also has programmes that work across the Overseas Territories. Where projects are delivered in multiple OTs, the contribution assigned to BVI is a reasonable approximation.

Overall, the UK spent £13.3m of funding on projects in BVI from FY2018 to FY2020. We expect to spend an additional £4.4m this year (FY2021), leading to a total of £17.7m (approximately $23m) since 2018.

Of the £17.7m:

- £6.5m has been spent on hurricane recovery activities, including funding of and via the Recovery and Development Agency
- £4.7m has been invested in security, justice and law enforcement activities.

- £2.2m has been spent on a range of governance issues, from Public Financial Management, to child protection training to election observation.
- £2.4m has been invested in environment and environmental governance projects.
- £200k has been spent on disaster management training and equipment
- £1.7m has been spent on Covid-19 support including vaccines, PPE, testing and laboratory equipment.

In total, approximately £2.14m of the above funds has been put towards public sector capacity building since 2018. The remainder is made up of equipment and expertise, which also have a role in contributing to the improvement of the public service.

The £2.14m is made up of projects across a large range of areas. Some are given in the list above e.g. public financial management and child protection training. Other examples include RVIPF Marine Unit boat training, the Public Service Transformation programme (funding for PAI reports), Search and Rescue training, capacity building for maritime regulation, mental health first aid 'train the trainers' scheme and training of BVI Judges.

In addition, the UK funds the Darwin Plus scheme for environmental programmes. The scheme is applied for directly by implementers and has provided £3.2m to projects in BVI (based on a reasonable estimation for multiple territory projects). BVI also benefited during this period from European Development Fund (EDF) projects through the UK's membership of the EU and UK contributions to the EU.

Yours sincerely

[redacted]

John J Rankin CMG
HM Governor