



THE CAYMAN ISLANDS LAW REFORM COMMISSION



ANNUAL REPORT NO. 15

1st APRIL, 2019/31st MARCH, 2020



Mr. Hector Robinson, QC
Chairman

CHAIRMAN'S OVERVIEW

I am pleased to present to the Honourable Attorney General the Fifteenth Annual Report of the Cayman Islands Law Reform Commission (“the Commission”). The Report covers the activities of the Commission for the period 1st April, 2019 to 31st March, 2020.

Let me begin by extending congratulations to Commissioners Ms. Reshma Sharma and Mr. Patrick Moran on their appointments as Solicitor General and Director of Public Prosecutions, respectively.

Ms. Sharma’s appointment as Solicitor General, which took effect 1st August, 2019 and Mr. Moran’s appointment as Director of Public Prosecutions, which took effect 1st December, 2019, indeed reflect an affirmation of their breadth of experience, professional integrity and excellence in and knowledge of their discrete specialisations in public law and criminal law. These two esteemed attorneys are extremely well placed to serve within the justice system of the Cayman Islands. The Law Reform Commission is fortunate to be the benefactor of their expertise.

During this 2019/2020 reporting period the Commission continued its work on a range of projects, all of which have direct bearing on the needs of the contemporary Cayman Islands society.

The Commission submitted three final reports to the Honourable Attorney General. The first is its Final Report entitled “*A Review of Litigation Funding in the Cayman Islands – Conditional and Contingency Fee Agreements*”. The Report is supported by the “Private Funding of Litigation Bill, 2019” and the “Private Funding of Litigation Regulations, 2019”. The Commission’s decision to examine this project was based on a referral from the Honourable Attorney General who requested that the Commission undertake a review of the law relating to conditional or contingency fee agreements.

Litigation funding is the term used to describe the funding of legal action in return for a share of the settlement or court-awarded payout. With the cost of litigation prohibitively high for many individuals and businesses, litigation funding can provide a means of financing the pursuit of legal claims by persons who might otherwise be unable to do so, and in so doing, facilitate greater access to justice.

It is to be noted that while an examination of the law had been requested, litigation funding agreements have been in use in the Cayman Islands for more than a decade. Our

recommendations are therefore intended to provide a legislative and regulatory framework to govern the use of such agreements.

The Commission is pleased in the knowledge that its Final Report on litigation funding has been approved by Cabinet and that legislative drafting instructions have been issued to finalise the supporting Private Funding of Litigation Bill and the Private Funding of Litigation Regulations for eventual debate in the Legislative Assembly.

The second Final Report submitted to the Honourable Attorney General is entitled “*Contempt of Court*” which is supported by the Contempt of Court Bill, 2020 and the Penal Code (Amendment) Bill, 2020. The review by the Commission of this subject endeavoured, through its three consultations papers, to educate the public and to solicit responses to one of the most fundamental but complicated areas of the judicial system.

Our research suggests that most of the law should be dealt with by the common law which would permit greater growth and development than codification. As such, the proposed Contempt of Court Bill, 2020 seeks to codify the strict liability rules along the lines of the UK Contempt of Court Act, 1981 but with modifications to reflect the procedural law of the Islands. It is hoped that the Government accepts our approach and learning in this area and proceeds to bring some clarity and reform in the areas addressed in the draft legislation.

The third Final Report submitted for the consideration of the Honourable Attorney General is that relating to the issue of the decriminalisation of suicide. This issue was examined by the Commission in response to a referral by the Honourable Attorney General requesting that the Commission review the penal laws dealing with suicide and, in particular, to consider whether the offence of suicide should be decriminalised. The Commission carried out comprehensive research in order to formulate for public consultation a Discussion Paper entitled “*Decriminalisation of Suicide*”. The Commission received a significant number of responses to the paper and after deliberation recommended the amendment of the Penal Code to provide for the decriminalisation of suicide.

The Commission undertook two public consultations during the review period. These related to (a) anti-bullying in schools and (b) severance of joint tenancies.

- (a) The Commission published for consultation the draft Education (Amendment) Bill, 2019 and the draft Anti-Bullying (Schools) Regulations, 2019. These pieces of legislation were formulated in response to several comments received since the publication of the Commission’s Issues Paper entitled “Bullying: Legislation, Policy or Both?” The legislative proposals seek to impose obligations on schools providing compulsory education to put in place policies to prevent all forms of bullying amongst students attending a school.
- (b) In relation to the severance of joint tenancies the Commission sought comments from stakeholders on its draft Registered Land (Amendment) Bill, 2019 and draft Registered Land (Amendment) Rules, 2019. The legislation seeks to amend the Registered Land Law (2018 Revision) and the Registered Land Rules (2018 Revision), respectively, in order to change how joint proprietorships may be

severed. The aim of the proposals is to provide for severance of a joint tenancy without needing the consent of the other party or the Court.

The Commission has received responses from several stakeholders on these two publications and is in the process of examining the responses with a view to formulating final recommendations, and thereafter submitting a Final Report to the Honourable Attorney General for consideration.

Since the publication of our discussion paper entitled “*The Enforcement of Mortgage-Type Security Over Real Estate: Is Reform of the Law Necessary?*”, the Commission has received several comments on this area but far fewer than anticipated, given the apparent level of public interest. As the commission works towards finalizing its recommendations on this matter it is hoped that further responses will be made available so that the Commission may feel satisfied that it has benefited from the views of a broad cross-section of society.

The Commission intends to commence its review of appeals tribunals in the Cayman Islands. The review is based on a referral by the Honourable Attorney General aimed at determining whether provisions should be put in place to establish a single permanent appeals tribunal in substitution for the current arrangements for separate appeal tribunals for planning, immigration, labour and other matters.

Several other projects of the Commission are at different stages of the law reform process and include Penal Code reform, reform of the Interpretation Law and the abrogation of usury. More detailed reports on each of these projects can be found in later pages of this Annual Report.

I consider the Commission to be positioned to undertake these and other complex and contested reviews, especially in areas where there is a need for independence from government, industry and special interests. Our reviews require in-depth consultation with diverse and often opposing stakeholders who desire careful consideration of their opinions and interests, so that the Government is provided with informed advice that has thoroughly canvassed several opinions across the broadest spectrum of interests.

Even when a report of the Commission has not been implemented, its discussion of the relevant area of the law should be seen as contributing to the body of legal learning which may prove to be a valuable future resource.

With this in mind, I acknowledge the valuable contributions of my fellow Commissioners and thank them for their wisdom and expert advice in all the matters which the Commission considered over the past year.

I also thank the legal and administrative staff of the Commission who have continued to work efficiently to maintain the high quality analysis that has been the hallmark of the Commission's consultation papers and reports.

I acknowledge and thank the many persons from the legal profession, academia, industry, the private sector, government departments and the wider community for the time and careful deliberations they have put in their submissions in response to the Commission's consultation papers and reports. Their contributions help to ensure that our proposals are well informed and that they strike the right balance between competing interests and perspectives. It remains our

hope that the quality of the Commission's work reflects the breadth and the quality of these contributions.

I extend my gratitude to the Honourable Attorney General for his continued support of the work of the Commission and for seeing it fit to refer to the Commission important areas of law that require deeper examination and analysis.

The Commission looks forward to the next year and will continue to work towards advancing the law reform process in a manner which seeks to enrich the legal system of the Cayman Islands.

A handwritten signature in black ink, appearing to read "Hector G. Robinson", followed by a long horizontal line extending to the right.

Mr. Hector Robinson, QC
Chairman

3rd April, 2020

TABLE OF CONTENTS

OVERVIEW OF THE LAW REFORM COMMISSION	7
LAW REFORM COMMISSION – COMMISSIONERS	9
LAW REFORM COMMISSION - LEGAL AND ADMINISTRATIVE STAFF	10
YEAR IN REVIEW - PROJECTS OF THE LAW REFORM COMMISSION, 1ST APRIL, 2019 TO 31ST, MARCH, 2020	11
MEETINGS OF THE LAW REFORM COMMISSION	11
COMPLETED PROJECTS	11
A. Litigation Funding	11
B. Contempt of Court	14
C. Decriminalisation of Suicide	16
CURRENT PROJECTS	18
(a) Anti-Bullying Legislation	18
(b) Severance of Joint Tenancy Agreements	20
(c) Foreclosures	21
(d) Penal Code Reform	22
(e) Interpretation Law Modernisation	23
(f) Usury	24
NEW REFERRALS	25
Appeals Tribunals	25
DISCONTINUED PROJECTS	25
Computer Misuse	25
CONCLUSION	26
APPENDIX – PUBLICATIONS/PAPERS	27

OVERVIEW OF THE LAW REFORM COMMISSION

The Commission was established by the Law Reform Commission Law No. 6 of 2005 and commenced operations on 16th September, 2005.

In accordance with the Law, the Commission's mandate is to study and keep under constant review the statutes and other laws comprising the laws of the Cayman Islands with a view to its systematic development and reform, including in particular —

- (a) the modification of any branch of the law as far as that is practicable;
- (b) the elimination of anomalies in the law, the repeal of obsolete and unnecessary enactments and the simplification and modernisation of the law;
- (c) the development of new areas in the law with the aim of making them more responsive to the changing needs of Cayman Islands society;
- (d) the adoption of new or more effective methods for the administration of the law and the dispensation of justice; and
- (e) the codification of the unwritten laws of the Cayman Islands.

The Commission, in the performance of its functions, may —

- (a) review and consider any proposals for the reform of the law which may be referred to it by any person or authority;
- (b) prepare and submit to the Attorney General from time to time, a programme for the study and examination of any branch of the law with a view to making recommendations for its improvement, modernisation and reform;
- (c) initiate and carry out or direct the initiation and carrying out of, studies and research necessary for the improvement and modernisation of the law;
- (d) undertake, pursuant to any such recommendation approved by the Attorney General, the formulation and preparation of drafts in the form of Bills or other instruments for consideration by the Cabinet and the Legislative Assembly;
- (e) provide, at the instance of Government departments and other authorities concerned, advice, information and proposals for reform or amendment of any branch of the law; and
- (f) with the approval of the Attorney General appoint or empanel committees, whether from among members of the Commission or from among persons outside the Commission or both, to study and make recommendations to the Commission on any aspect of the law referred to it by the Commission.

The work of the Commission is conducted by six Commissioners and the staff of the Commission, which consists of two full time attorneys-at-law (the Director and Senior Legislative Counsel), a Paralegal Officer and an Administrative Secretary. The Commission is a department of the Portfolio of Legal Affairs but it acts independently in its review of matters. Its recommendations are based on its own research and analysis of ideas submitted by stakeholders and by the public.

The Honourable Attorney General refers matters to the Commission but the Commission may initiate and carry out studies and research necessary for the improvement and modernisation of any area of the law of the Cayman Islands based on comments from the public, on recommendations from interest groups or on the Commission's research.

The law reform process is a time consuming one and comprises of extensive consultation, legal research and writing. The Commission usually prepares two publications during the course of a project. The first publication, which is the Discussion or Consultation Paper, sets out the Commission's preliminary suggestions for reform. The preliminary suggestions are usually made after legal research is carried out by the staff of the Commission and after such research has been considered by the Commissioners. The Commission either publishes the Discussion or Consultation paper on www.lrc.gov.ky and www.gov.ky or it submits the Consultation paper to identified stakeholders for comments.

The second publication is a Final Report, which is submitted to the Attorney General. It contains the final recommendations of the Commission and, in most cases to date draft legislation.

The Commission makes its final recommendations after it takes into account the responses it receives to the Discussion or Consultation Paper. Since its establishment the Commission has produced several project papers, final reports and fourteen annual reports which are listed in the Appendix.

THE CAYMAN ISLANDS LAW REFORM COMMISSION

COMMISSIONERS



CHAIRMAN
Hector Robinson, QC
Partner at Mourant Ozannes



COMMISSIONER
Honourable Justice Alexander Henderson, QC
Senior Counsel at Dentons



COMMISSIONER
Vaughan Carter, Attorney-at-Law
Partner at Etienne Blake



COMMISSIONER
Abraham Thoppil, Attorney-at-Law
Partner at Maples and Calder



COMMISSIONER
Reshma Sharma, Attorney-at-Law
Solicitor General



COMMISSIONER
Patrick Moran, Attorney-at-Law
Director of Public Prosecutions

THE CAYMAN ISLANDS LAW REFORM COMMISSION

LEGAL AND ADMINISTRATIVE STAFF



DIRECTOR
José Griffith, Attorney-at-Law



SENIOR LEGISLATIVE COUNSEL
Karen Stephen-Dalton, Attorney-at-Law



PARALEGAL OFFICER
Katherine Wilks



ADMINISTRATIVE SECRETARY
Lourdes Pacheco

YEAR IN REVIEW

PROJECTS OF THE LAW REFORM COMMISSION

1st APRIL, 2019 TO 31st MARCH, 2020

MEETINGS OF THE COMMISSION

The Commission met five times between 1st April, 2019 and 31st March, 2020 on the following dates —

- (a) 11th July, 2019;
- (b) 8th August, 2019;
- (c) 28th November, 2019;
- (d) 10th March, 2020; and
- (e) 31st March, 2020.

COMPLETED PROJECTS

During the 2019/2020 reporting period the Law Reform Commission completed Final Reports in relation the following projects —

- (a) Litigation Funding;
- (b) Contempt of Court; and
- (c) Decriminalisation of Suicide.

A. Litigation Funding

On 30th September, 2019 the Commission submitted to the Honourable Attorney General its Final Report on Litigation Funding – Conditional and Contingency Fee Agreements. The report is supported by the Private Funding of Litigation Bill, 2019 and Private Funding of Litigation Regulations, 2019.

By way of background, on 27th February, 2012, the Attorney General requested that the Commission undertake a review of the law relating to conditional or contingency fee agreements with a view to its reform. This referral was made following the case of *Latoya Barrett v the Attorney General (2012 Vol.1, C.I.L.R 127)* in which the Honourable Justices called for an examination of the law relating to conditional fee agreements in the Cayman Islands as such agreements are not regulated in the Islands.

A conditional fee agreement is an agreement where an attorney-at-law accepts the client's normal fee, with an agreed uplift amount, only if the action is successful. The agreed uplift amount is added in the event of success so as to compensate the attorney-at-law for the risks of not being paid in the event of failure.

A contingency fee agreement is one in which an attorney-at-law retains an agreed percentage of the client's recovery, and is paid nothing if the action is unsuccessful. It should be noted however that in

the literature the nomenclature is not settled but these are the definitions which the Commission believes best encapsulates the two types of agreements.

Both types of agreements have been viewed by proponents over the years as fundamental routes to access justice by lower income persons. It is noted nevertheless that while an examination of the law had been requested, conditional fee agreements have been in use in the Cayman Islands for more than a decade. The validity of such agreements has been acknowledged by the courts of the Cayman Islands in several cases to the extent that the court has provided guidelines which attorneys-at-law must follow in concluding such agreements with clients. This is notwithstanding the fact that the common law offences of maintenance and champerty have never been repealed and therefore still form a part of the law of the Cayman Islands. Maintenance is the ancient crime and tort of assisting a party in litigation without lawful justification. Champerty is an aggravated form of maintenance, in which the maintainer receives something of value in return for the assistance given.

Pursuant to the referral, the Commission conducted a review. The Judiciary, the legal associations and members of the public were consulted in the review.

The Private Funding of Litigation Bill, 2019 (“the Bill”) and Private Funding of Litigation Regulations, 2019 (“the Regulations”) seek to give effect to the recommendations set out in the Final Report. The Bill and Regulations provide for contingency fee agreements which comprise the US style i.e. “no win, no fee” agreements, as well as the conditional fee style agreement with the success fee. Also, provided for is third party litigation funding. It is proposed under the Bill that the Grand Court will be able to review such agreements upon application by the attorney-at-law or the client.

Clause 5 of the Bill sets out in detail the form and content of a contingency fee agreement. It was agreed however that, bearing in mind the need to ensure that the form and content of contingency fee agreements could be easily amended with the evolution of the law, regulations would be the more appropriate legislative tool to set out in greater detail such form and content.

Clause 5 of the Bill provides, *inter alia*, that a contingency fee agreement —

- (a) shall be in writing;
- (b) shall state the matters prescribed by this Law and the regulations; and
- (c) shall be signed by —
 - (i) the client concerned;
 - (ii) the client’s appointed guardian, trustee or attorney-at-law under a power of attorney;
 - (iii) if the client is not a natural person, the client’s authorized representative; and
 - (iv) by the attorney-at-law representing such client.

The Regulations provide for the content of contingency fee agreements in regulations 4 and 5. Regulation 6 further provides that an attorney-at-law shall not include in a contingency fee agreement a provision that —

- (a) requires the consent of the attorney-at-law before a claim may be abandoned, discontinued or settled at the instructions of the client; or
- (b) prevents the client from terminating the contingency fee agreement with the attorney-at-law or changing the client’s attorney-at-law.

The Bill and the Regulations also provide for the maximum fees which may be charged in contingency fee agreements. Clause 4 of the Bill provides, *inter alia*, as follows-

“(1) Subject to subsection (2), if a contingency fee agreement is an agreement under which the attorney-at-law is entitled to a success fee for any legal services rendered, the success fee shall not exceed the normal fees of the attorney-at-law by more than one hundred per cent.

(2) In the case of claims sounding in money, the total of any such success fee payable by the client to the attorney-at-law, shall not exceed the prescribed percentage of the total amount awarded or any amount obtained by the client in consequence of the proceedings concerned, which amount shall not, for purposes of calculating such excess, include any costs.

(3) If a contingency fee agreement involves a percentage of the amount or of the value of the property recovered in an action or proceedings, the amount to be paid to the attorney-at-law shall not be more than the maximum percentage, if any, prescribed by regulations, of the amount or of the value of the property recovered in the action or proceeding, however the amount or property is recovered.”.

It should be noted that notwithstanding the proposed provisions, an attorney-at-law may enter into a contingency fee agreement where the amount paid to the attorney-at-law is more than the prescribed maximum percentage of the amount or of the value of the property recovered in the action or proceeding or where the success fee exceeds either of the percentages set out in the proposed section 4(1) or (2). This can happen if, upon joint application of the attorney-at-law and the client, which application shall be brought within ninety days after the agreement is executed, the agreement is approved by the Grand Court.

The Bill also abolishes the torts and offences of maintenance and champerty. However, while the torts and offences would be abolished, the Bill provides that the abolition of criminal and civil liability under this legislation for maintenance and champerty will not affect any rule of that law as to the cases in which a contract is to be treated as contrary to public policy or otherwise illegal.

Clause 16 provides for another type of agreement called a litigation funding agreement which is an agreement —

- (a) under which a funder agrees to fund in whole or in part the provision of legal services to another person (“a client”) by an attorney-at-law;
- (b) which relates to the provision of legal services; and
- (c) under which the client agrees to pay a sum to the funder in specified circumstances.

By such agreements third parties could fund litigation in return for a share of the proceeds. Based on the research of the Law Reform Commission it seems that such agreements are well known and growing in popularity in the United Kingdom (UK). They are regulated by a Code of Conduct. In accordance with the Code of Conduct, a litigation funder must have access to funds immediately within its control, including within a corporate parent or subsidiary or it must act as the exclusive investment advisor to an entity or entities having access to funds immediately within its or their control.

Further, the Code of Conduct provides that a litigation funder must fund the resolution of disputes within the jurisdiction and such funding should include funds to enable the litigant to meet costs, including pre-action costs, of resolving disputes by litigation, arbitration or other dispute resolution procedures. A litigation funder receives a share of the proceeds if the claim is successful, as defined in the agreement and must not seek any payment from the litigant in excess of the amount of the proceeds of the dispute that is being funded, unless the litigant is in material breach of the provisions of the funding agreement.

The Commission advised that the Cayman Islands should follow the UK precedent and allow for self-regulation of litigation funding via a Code of Conduct.

The Commission is pleased that Cabinet's approval has been given to the Final Report on Litigation Funding – Conditional and Contingency Fee Agreements; and that drafting instructions have been issued to finalise the Private Funding of Litigation Bill, 2019 and the Private Funding of Litigation Regulations, 2019.

B. Contempt of Court

On the 31st March, 2020, the Commission completed for submission to the Honourable Attorney General its Final Report on Contempt of Court together with, the supporting Contempt of Court Bill, 2020 and Penal Code (Amendment) Bill, 2020. As was discussed in the 2018/2019 Annual Report of the Commission, the review of the law of contempt was one of the longer projects of the Commission.

Several Law Reform Commissions and Committees over the years have undertaken the task of reforming the law of contempt, an area of the law seen by many as vague and difficult to understand. Some argue that the law of contempt contravenes normal legal principles in that it requires a judge to act, not merely as a judge, but also as a witness and prosecutor, in contravention of normal legal principles. The Law Reform Commission of Hong Kong (“the Hong Kong Commission”) was of the view that the reason for this lack of understanding in Hong Kong and other jurisdictions may arise from the fact that only some of the law is in statutory form and many provisions are scattered over a number of legislative enactments.

The Commission endeavoured, through its three Consultations Papers, to educate the public on this topic and to solicit responses to one of the most fundamental but complicated areas of the judicial system.

After lengthy research and consideration the Commission's recommendations are as follows —

- (a) We do not recommend any changes to the substantive law relating to contempt in the face of the court. The concept of what conduct can be described as having been committed “in the face of the court” has been stretched so far that there must be some doubt as to whether it serves any useful purpose to treat this as a separate category. We also note that many acts which could be said to fall within this category are also covered by some statutory contempt-like offences.
- (b) We recommend restricting and codifying the strict liability rule along the lines of the sections 1 to 7 of the UK Contempt of Court Act, 1981, but with modifications to

reflect the procedural law of the Cayman Islands and to take account of more recent developments.

- (c) We do not recommend any changes to the substantive law concerning juror contempt largely because of the modification of the traditional judicial warning to cover the risk referred to in paragraph 1 above.
- (d) Despite its abolition as a separate category of contempt in the UK, we do not recommend abolishing contempt by scandalising the court.
- (e) Acts interfering with the course of justice is, in effect, a rag-bag for all contempts which do not fall conveniently into any other category. We do not recommend any changes to the substantive law.
- (f) We see no need for any changes in respect of civil contempt of court, that is, the failure to comply with a court order, usually an injunction, or to honour an undertaking given to the court.
- (g) One of our more important recommendations is the introduction of a provision to ensure that, on an application for committal or where the court acts of its own motion, it will not proceed to consider the guilt or otherwise of the alleged contemnor, unless it is first satisfied that the contemnor is, or has been, accorded certain protections which, in effect, replicate the relevant provisions of section 7 of the Bill of Rights. This will affect the way in which common law contempts are disposed of including all of the different categories referred to above. We also recommend the introduction of maximum penalties for common law contempt.
- (h) As it relates to statutory contempt-like offences, we draw a distinction between those which effectively by-pass the Criminal Procedure Code by giving the court summary powers of disposal similar to those exercised by the Grand Court in dealing with common law contempts and those which create statutory offences *stricto sensu*, the prosecution of which is governed by the Criminal Procedure Code. The former needs to be made compliant with section 7 of the Bill of Rights.
- (i) With regard to tribunals, there can be no doubt that the Grand Court, in the exercise of its supervisory jurisdiction, can punish contempts committed before, or in relation to, those tribunals which possess the characteristics of a court of law. We do not propose any changes in this regard.
- (j) Generally, our research has determined that most of the law should be dealt with by the common law which would permit greater growth and development than codification. Accordingly, the Contempt of Court Bill, 2020 seeks to codify the strict liability rules along the lines of section 1 to 7 of the UK Contempt of Court Act, 1981 but with modifications to reflect the procedural law of the Cayman Islands and to take account of more recent developments.

The Contempt of Court Bill, 2020 and the Penal Code (Amendment) Bill, 2020 propose the amendment or repeal of certain existing statutory contempt-like offences. The relevant provisions are section 27 of the Grand Court Law (2015 Revision), section 39 of the Summary Jurisdiction Law (2019 Revision) and sections 107 and 111 of the Penal Code (2019 Revision).

It is hoped that the Government accepts the approach and learning of the Commission in this area so that some clarity and reform can be brought to the areas addressed in the draft legislation.

C. Decriminalisation of Suicide

On 31st March, 2020, the Commission completed for submission to the Honourable Attorney General its Final Report on “The Decriminalization of Suicide”. The issue of the decriminalisation of suicide was examined by the Commission in response to a referral by the Honourable Attorney General, dated January, 2019, requesting that the Commission review the penal laws dealing with suicide and, in particular, to consider whether the offence of suicide should be decriminalised. The referral comes against the background of a submission made to the Commission by the Legal Committee of the Alex Panton Foundation (“the Foundation”) proposing the decriminalisation of suicide.

The Commission noted from the literature that every forty seconds a person dies by suicide somewhere in the world and many more attempt suicide. The key risk factors for suicide are mental disorders such as bipolar, schizophrenia, or personality disorders and depression as a result of stressful life events. Those who attempt suicide are at a high risk of future attempts and effective prevention measures should include, among other things, treatment for mental disorders. Essentially, people who attempt suicide are in need of help rather than punishment in view of association with a high psychiatric or psychological morbidity. However, the perception of suicide and suicidal ideations as criminal creates a barrier that prevents people from seeking appropriate treatment. In light of this, the issue of suicide and treatment for suicide is a public health concern that needs to be managed in a sensitive manner.

Notably, among young people 15-29 years of age, suicide is the second leading cause of death globally. A recent national survey of all children and youth at the Cayman Islands public and private schools, including the University College of the Cayman Islands students, undertaken by the National Drug Council in collaboration with the Foundation, produced statistics which suggest that the rates of suicide are continuously rising in the Cayman Islands, particularly amongst our children and young people as one in three children surveyed reported suicidal ideation and 13% reported actual attempted suicide. The survey also suggested that only 5% of these children in need are seeking treatment.

The Commission carried out a comprehensive research and examination of the common law and the provisions in the Penal Code (2019 Revision) (the “Penal Code”) and the Interpretation Law (2015 Revision) that save suicide as a criminal offence and make attempted suicide and assisted suicide criminal offences. A review of the relevant provisions of the Penal Code against the relevant provisions of the laws of various jurisdictions including England and Wales, Canada, India, Ireland and Singapore was carried out by the Commission. In addition, the Commission consulted the Alex Panton Foundation and the Mental Health Commission.

The research findings of the Commission were relied upon in the formulation of the Discussion Paper entitled “Decriminalisation of Suicide”, dated 12th August, 2019 (the “Discussion Paper”) which sets out Commission’s initial recommendations regarding the decriminalisation of suicide and related matters.

The Discussion Paper was published for an initial two month public consultation period on the 16th August, 2019 with a deadline set at 21st October, 2019. In addition to general media and website publication, the paper was sent directly to the Alex Panton Foundation, Mental Health Commission, Cayman Ministers' Association and Cayman Islands Legal Practitioners Association. Thereafter, based on a request, from the Cayman Ministers' Association, the consultation period was extended to 31st October, 2019.

The Commission has received substantive responses from one member of the public and three of the stakeholders to whom the report was submitted. The Commission considered the comments and views received in response to the Discussion Paper and having regard to the responses the Commission recommended the amendment of the Penal Code to provide for the decriminalisation of suicide. Accordingly, the Commission prepared the draft Penal Code (Amendment) Bill, 2020 which follows the England and Wales model and proposes to insert in the Penal Code a new section 186A to provide for the abrogation of the rule of law which makes it a crime for a person to commit suicide.

The Commission also recommended the retention of the offence of assisted suicide and consequently the draft Penal Code (Amendment) Bill, 2020 proposes to insert in the Penal Code a new section 186B which provides for criminal liability for complicity in another's suicide. Under the proposed new section 186B, a person who does an act capable of encouraging or assisting the suicide or attempted suicide of another person and the act was intended to encourage or assist suicide or an attempt at suicide commits an offence and is liable on conviction to imprisonment for a term of fourteen years.

A person may commit the offence whether or not a suicide occurs, or where there is an attempt at suicide, and the person convicted of such an offence is liable to imprisonment for a term of fourteen years. The new section 186B also provides that if on the trial of an indictment for murder or manslaughter it is proved that the deceased person committed suicide, and the accused committed an offence under that section in relation to that suicide, the accused may be found guilty of the offence. Further, proceedings may not be instituted for an offence under the proposed new section 186B except by or with the consent of the Director of Public Prosecutions.

In light of the recommendation to amend the Penal Code to decriminalise suicide and retain the offence of assisted suicide, the Commission also proposes consequential amendments to the Health Care Decisions Law, 2019 which gave legislative effect to the policy of the Cayman Islands Government regarding assisted suicide and euthanasia by expressly providing that the Law does not authorise euthanasia or assisted suicide. Therefore, the Commission prepared the draft Health Care Decisions (Amendment) Bill, 2020 which amends section 2 of the Health Care Decisions Law, 2019 to insert definitions for the terms "assisted suicide" and "euthanasia". The term "assisted suicide" is defined to mean suicide undertaken by a person with the encouragement or assistance of another person and the term "euthanasia" is defined to mean the painless killing by a registered practitioner of a person suffering from an incurable and painful disease or a coma.

Having regard to mental disorders being identified as the key risk factors for suicide and attempted suicide, the Commission considers that the relevant provisions of the Mental Health Law, 2013 of the Cayman Islands are adequate to deal with persons who attempt suicide and as such no recommendations as to amending that law are made in that regard.

The Commission hopes that the recommendations regarding the decriminalisation of suicide made in the Commission's Final Report will receive the approval of the Government.

CURRENT PROJECTS

The Commission, during this 2019/2020 reporting period, undertook several public consultations and advanced other projects. These projects related to —

- (a) Anti-Bullying Legislation;
- (b) Severance of Joint Tenancies;
- (c) Foreclosures;
- (d) Penal Code Reform;
- (e) Interpretation Law Modernisation; and
- (f) Usury.

A. Anti-bullying Legislation

The Commission, on 17th July, 2019, published for consultation the Anti-Bullying (Schools) Regulations, 2019 and the Education (Amendment) Bill, 2019. The proposed Bill and Regulations are formulated in response to several comments received since the publication of the Commission's Issues Paper entitled "Bullying: Legislation, Policy or Both?" The focus of the paper was to determine whether a comprehensive strategy for addressing the incidence of bullying in schools should be grounded in appropriate legislation, formulating policies or a combination of both.

The proposed legislation includes provisions which —

- (a) require every school to formulate an anti-bullying policy;
- (b) require that an anti-bullying policy include provisions which —
 - (i) prohibit bullying;
 - (ii) prohibit retaliation against a person who reports incidents of bullying;
 - (iii) provide for disciplinary penalties to be imposed against a student who engages in bullying or retaliation;
 - (iv) set out procedures for the provision of counseling or referrals to appropriate services;
 - (v) provide for programmes, interventions and other support mechanisms to be delivered by social workers, psychologists or other professionals who have relevant training;
 - (vi) provide for students to anonymously report bullying or retaliation;
 - (vii) impose disciplinary penalties against a student who knowingly makes a false accusation of bullying;
 - (viii) provide for the education of parents and guardians about bullying, the anti-bullying policies of the school and how parents and guardians can provide support and reinforce such anti-bullying policies at home;
 - (ix) provide for the education of students on bullying, the anti-bullying policies of the school, the systems for the anonymous reporting of acts of bullying or

- retaliation;
 - (x) promote a positive school climate that is inclusive and accepting of all students irrespective of sex, race, colour, language, religion, political or other opinion, national or social origin, association, age, mental or physical disability, property, birth or other status;
 - (xi) require the utilisation of surveys to collect information on school bullying from its students, school staff, parents and guardians of the students at least once every year;
 - (xii) require the organisation of annual professional development programmes to educate teachers and school staff about bullying prevention and strategies for promoting a positive school climate;
 - (xiii) require the maintenance of a record of relevant information and statistics on acts of bullying or retaliation in school and reports of bullying; and
 - (xiv) contain any other prescribed requirements;
- (c) hold the school leader responsible for the implementation and oversight of the regulations and any policies made thereunder to address bullying;
 - (d) require a member of the school staff as soon as reasonably practicable to report to the school leader any act of bullying or act of retaliation witnessed by that member of the school staff, or that has come to the attention of the member of the school staff;
 - (e) require a student to immediately report to the school leader any act of bullying or act of retaliation directed towards or witnessed by that student, or that has come to that student's attention;
 - (f) require the school leader on receiving a report on bullying or retaliation to notify —
 - (i) the parent or guardian of the student and the parent or guardian of the student who is alleged to have engaged in the bullying or retaliation; and
 - (ii) the police, if the school leader is of the opinion that the behaviour falls within the scope of the criminal law;
 - (g) require the school leader to communicate the results of the investigation to the person who made the report unless, in the school leader's opinion, it would not be appropriate to do so;
 - (h) prohibit a school from being registered to operate unless it provides the Department with a copy of its anti-bullying policy which is in compliance with the legislation ;
 - (i) require a school leader, on a quarterly basis, to submit a written report to the Department which contains details of —
 - (i) all reported incidents of bullying;
 - (ii) the outcomes of the bullying investigations;
 - (iii) the measures utilised to counsel the person who was bullied and the person who engaged in the bullying; and
 - (iv) the measures and outcomes of the measures employed to prevent a recurrence of the bullying;
 - (j) require school deregistration where there is a failure to comply with its anti-bullying policy; and

- (k) imposes disciplinary penalties against a school leader of any school or a member of the school staff who acts in contravention of the legislation or any anti-bullying school policy.

These proposals have solicited vibrant comments from several stakeholders including the Alex Panton Foundation, the Mental Health Commission, the Cayman Islands Legal Practitioners Association, the National Drug Council, Colours Cayman, Government Primary School Principals, the United Against Bullying Foundation and Cayman Prep and High School.

The Commission welcomes the submissions of all these stakeholders and will no doubt carefully examine the submissions with a view to informing the final legislative recommendations on this important issue.

B. Severance of Joint Tenancy Agreements

The Commission, on 5th August, 2019, finalized for stakeholder consultation the Registered Land (Amendment) Bill, 2019 and the Registered Land (Amendment) Rules, 2019 both of which seek to amend the Registered Land Law (2018 Revision) in order to change how joint proprietorships may be severed.

This matter was raised during the family law review carried out by the Commission. It was posited that divorcing spouses should be able to sever a joint tenancy without needing the consent of the other spouse or of the Court. It was further argued that severance by registration of declaration of unilateral severance reduces cost, complexity and time but does not derogate from the primacy of the Register.

At present, a joint tenancy may only be severed in accordance with section 100(3) of the Registered Land Law (2018 Revision). Section 100(3) provides that joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever the joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common in equal shares and by filing the instrument. In accordance with the Law, proprietors must agree to severance. There are other methods to sever a joint tenancy but most must be done via a court order.

This amendment will provide that such agreement will not be necessary as in most countries legislation has long provided for severance by notification and it is irrelevant that agreement is not reached.

The law in this area was changed in the UK in 1925 by the Law Property Act. The amendment in clause 2 of the Registered Land (Amendment) Bill, 2019 provides for severance by the service of an instrument of declaration of severance and by the registration of the declaration in the Land Registry. The form of this instrument of declaration is provided in the proposed amendment to the rules.

The Commission has since received responses to this consultation from the Cayman Islands Legal Practitioners Association, the Cayman Islands Real Estate Brokers and Agents and the Lands and Survey Department and is in the process of considering all responses with a view to making its recommendations.

C. Foreclosures

The Commission, in November 2018, published its discussion paper entitled – “*The Enforcement of Mortgage-Type Security Over Real Estate: Is reform of the law necessary?*”. This Discussion Paper was prepared in response to a referral by the Honourable Attorney General, dated 30th January, 2018, requesting that the Commission review and consider whether it is necessary to reform the law relating to the enforcement of mortgage-type security over land and, in particular, over residential properties.

The consultation period of the Commission expired April, 2019 but was subsequently extended on a number of occasions at the request of several stakeholders, the latest of such requests being September, 2019.

The Commission however noted that the responses were few in number and mainly originated from organisations. These included responses from representatives of the Royal Bank of Canada, the Cayman National Bank and the Cayman Islands Legal Practitioners Association. Responses were also received from five individuals.

Following upon the 22nd November, 2019 sitting of the Finance Committee of the Legislative Assembly, the Commission complied with a request to provide Honourable Members of the Legislative Assembly with the various press releases concerning the Commission’s work on the issue of foreclosures and the Commission’s discussion paper. Subsequently, the Court Administrator, on behalf of the Honourable Chief Justice, requested a copy of the Commission’s Discussion Paper on this matter for comment.

The Commission hopes to have the benefit of the views of the Honourable Members and the Judiciary on this important issue as we wish to have as many views as possible on this matter which will shape the Commission’s final recommendations.

The general thrust of the feedback from respondents was that there was no support for the public view that the number of residential foreclosures is inordinately or increasingly high, nor that such proceedings generally occur in a manner which is unduly aggressive or unfair.

It was stated that whilst the forced sale of a residential property is a serious matter which requires and deserves close scrutiny, such sales are also a necessary and an inevitable feature of a functioning property market. It has been argued that at the most basic level, an inability on the part of lenders to effectively enforce, within a reasonable time, their security rights in the event of default would inevitably severely restrict the availability of financing to purchasers, which would in turn have an adverse effect on sales. As such the view posited is that the law is not in need of fundamental reform.

There were however, certain proposals put forward by stakeholders with the intent of making the foreclosure procedure more efficient and transparent.

The proposals are as follows —

- (a) there should be consideration of the introduction of an accelerated right of possession;
- (b) provide plainly drafted prescribed form Notices;

- (c) clarity on the timing of service of the Notices;
- (d) provision for more modern and efficient modes of service;
- (e) distinction between the procedures for residential and commercial loans;
- (f) introduction of a Protocol for residential mortgages would create uniformity;
- (g) clarify the definition of public auction and amend the law relating to the enforcement of mortgage-type security over land and, in particular, over residential properties to allow sale by private treaty;
- (h) Section 77 of the Registered Land Law should be repealed;
- (i) remove time Orders as they create uncertainty of contract and could affect lending; and
- (j) incorporate EU Directives into existing regulatory frameworks.

The Commission is in the process of considering all comments with a view to formulating proposals which will streamline the mortgage procedure.

D. Penal Code Reform

The Commission continues its review of the Penal Code (2020 Revision) (the “Penal Code”) for human rights compatibility, to remove obsolete provisions and to modernize archaic provisions. The review is based on a referral by the Honourable Attorney General in 2017.

The Commission, at its 6th November, 2018 meeting, confirmed that the review of the Penal Code would be carried out in phases and that, in the first instance, the Commission would examine the compatibility of the Penal Code’s provisions with the Bill of Rights. An Action Plan was prepared by the Law Reform Commission which sets out the scope and depth of the proposed law reform project to review the Penal Code for compatibility with the human rights principles, including the research and consultation envisaged, the method of and approach to research and consultation and the time allocated for each stage of the law reform process.

Since its introduction in 1975, the Penal Code has not undergone a comprehensive review. With the adoption of the Constitution of the Cayman Islands (“the Constitution”) it is imperative that the provision of all laws, including the Penal Code are compatible with the fundamental human rights principles enshrined in the Bill of Rights, Freedoms and Responsibilities (“the Bill of Rights”) set out in the Constitution.

The Bill of Rights protects the fundamental rights to life; protection against torture and inhuman treatment; protection against slavery or forced or compulsory labour; personal liberty; humane treatment of prisoners; a fair trial; no punishment without law; respect to private and family life; freedom of conscience and religion; freedom of assembly and association; freedom of expression; rights to property; marriage between opposite sexes; non-discrimination of any rights under the Constitution; protection of children and protection of the environment. These fundamental rights enshrined in the Bill of Rights are in line with international human rights law, and must be reflected in the Penal Code.

The Penal Code is primarily a consolidation of a number of pieces of legislation which were passed between the late 1800s and the mid-1900s. It is a piece of legislation which has its roots based in English Law of the Victorian Era. Since its introduction in 1975, the Penal Code has been amended

and revised primarily by the adjustment of type and length of punishments with the introduction of some new offences. However, it has not undergone a comprehensive review to determine if any of the offences are obsolete based on the change in social conditions since it was enacted. Further, with the passage of the Bill of Rights contained in the Constitution, the Penal Code needs to be examined to determine if any its provisions are in conflict with the Bill of Rights.

The Penal Code creates offences relating to public order, the administration of lawful authority, religion, morality, marriage and domestic relations, nuisances, health and defamation. The Penal Code also creates offences against the person such as manslaughter, murder, suicide pacts, kidnapping offences; offences relating, in particular to children such as cruelty to children, child pornography, and child begging; offences prohibiting gang membership and criminal activity in association with a gang and offences in relation to property and animals.

The Commission's review so far has identified provisions of the Penal Code that raises human rights issues, including provisions relating to immature age (minimum age of criminal responsibility), compulsion by spouse, insulting the modesty of a woman, procuring abortion, unnatural offences, indecent assault, incest and obeh.

A desk review of the provisions identified as raising human rights compatibility issues was carried out having regard to relevant provisions of the penal laws of various jurisdictions including, England and Wales, Jamaica, Canada, India, Bahamas and Australia.

Accordingly, the findings, comments and recommendations of the Commission on each issue together with questions on issues for consultation will be presented in a Discussion Paper.

E. Interpretation Law Modernisation

The Law Reform Commission has commenced the research phase of the law reform project to reform the Interpretation Law (1995 Revision) (the "Interpretation Law"). The reform project is aimed at modernizing and updating the provisions concerning the general principles of interpretation, gender of words, nomenclature and commencement of laws. The reform will ensure that the Interpretation Law is consistent with current standards and other legislation.

The Interpretation Law sets out basic rules and principles as to how legislation in the Cayman Islands should be interpreted. It seeks to facilitate the removal of uncertainties with respect to the meaning of particular legislative provisions by defining common expressions and it provides for a range of procedural legislative matters. It also provides a set of rules which regulate certain aspects of the operation of other legislation. It helps to simplify the law by avoiding repetition and promoting consistency in the use of language. The Interpretation Law was originally enacted in 1963 and has not undergone any substantial reform although it has been amended six times. The last amendment made to the Interpretation Law was in 1990 and the last revision of the Interpretation Law was in 1995.

The Law Reform Commission has commenced its engagement with specified stakeholders who can assist with the initial research. The Commission has already consulted the Legislative Drafting Department of the Attorney General's Office and has received the comments and recommendation of that Department. The Commission intends to consult a number of stakeholders who will give the Commission relevant insight or information regarding the Interpretation Law including, the Office of

the Director of Public Prosecutions, the Courts, the Royal Cayman Islands Police Service, the Cayman Islands Legal Practitioners Association and the general public.

During this research phase, a number of the rules of interpretation have already been identified as requiring reform based on the enactment of the Constitution and other laws such as the Police Law(2017 Revision), many of which affect the general principles of interpretation, gender of words, nomenclature, commencement of laws, penalties and various Ministers and Ministries.

F. Usury

The Commission has undertaken an examination into whether legislation exists in the Cayman Islands relating to usury at the common law, in statute or both. Evidence suggests that there is interest amongst some legal practitioners in confirming whether there exists in the Cayman Islands any prohibition against usury as they have been requested to provide opinions to their clients in this regard.

Legal commentators have expressed the view that no legislation exists in the Cayman Islands to regulate usury. The clearest statement in this regard was made by the Cayman Islands Monetary Authority (CIMA) in response to a question posed on their website that asks whether or not the Authority monitors or supervises the spread that banks charge customers. CIMA responded stating, “No, there are no usury laws in the Cayman Islands. The Authority does not have power under the Monetary Authority Law (2013 Revision) or the Banks and Trust Companies Law (2013 Revision) to prescribe the maximum or minimum interest rates that may be charged or paid by retail banks and the deposit-taking institutions.” The research of the Commission is therefore seeking to bring clarity to this issue.

The Commission reviewed the legal definition of usury from Osbourne’s, Black’s and Strouds dictionaries, and in consolidating the various definitional iterations, determined that usury means charging anything whether it is labelled as “interest” or something else for the loan of money.

Usury was forbidden by ecclesiastical law from as far back as the twelfth century and was viewed as morally wrong. From the period of 1235, A.D usury became a statutory offence under English law and legislative provisions remained in place until 1854.

The Commission prepared a draft Discussion Paper entitled “*Usury: The Common Law and Statutory Position in the Cayman Islands.*” The Discussion Paper covered the Commissions’ findings on the statute law in the Cayman Islands, Jamaica and England. Additionally, the Paper also reviewed the common law and set out findings on whether or not the common law offence of usury is still applicable to the Cayman Islands.

The tracing of the common law and statute law portrayed a complex and perhaps uncertain picture about the status of usury in the Cayman Islands. We know that the Interpretation Law (1995 Revision) provides that laws before 1728 George II should be saved. We examined the constitutional relationship between the Cayman Islands and Jamaica and sought to establish that despite the express repeal of all acts, statutes and laws by the Usury Repeal Act, 1854, the Cayman Islands did not receive the Usury Repeal Act, 1854. The evidence suggests that the common law still existed in 1729 and was saved by the Interpretation Law (1995 Revision). The Law Reform Commission is therefore

of the view that there is strong basis to argue that the common law prohibition on usury at common law remains applicable to the Cayman Islands.

While we must acknowledge the existence of the Cooperative Societies Law (2001 Revision) and the Building Societies Law (2014 Revision), generally, one may well argue that banks rely on established commercial best practices to charge interest and as such there is no need for regulation outside of normal market forces. It could also be argued that if an institution imposes interest beyond what is considered reasonable then the court, in the exercise of its inherent jurisdiction, will intervene where it is determined that the imposition is penal in nature.

Given the views on this issue emerging from case law and legal commentators, the Law Reform Commission believes that legislative clarity would be beneficial to stakeholders operating within the commercial and financial sectors. This clarity can be achieved by the formulation of usury abrogation legislation which will seek to abrogate the rule of law in relation to usury. In formulating the provisions the legislation will not —

- (a) affect the rights or remedies of a person who is a party to the agreement;
- (b) diminish or alter the liabilities of a person who is a party to the agreement;
- (c) affect the interest payable under the agreement, whether express or implied; or
- (d) affect any debt or sum of money in respect of which interest is payable under the agreement.

The Commission intends to publish for stakeholder consultation a Discussion Paper on the common law and statutory position on usury in the Cayman Islands together with the draft *Usury (Abrogation) Bill, 2020*. Upon completion of the research and public consultation, the Commission will finalise its recommendations for the consideration of the Honourable Attorney General.

REFERRALS

Appeals Tribunals

The Law Reform Commission intends to commence its review of appeals tribunals in the Cayman Islands early in 2020. The review is based on a referral by the Honorable Attorney General aimed at determining whether a provision should be put in place to establish a permanent Appeals Tribunal in substitution for the current arrangements for separate appeal tribunals for planning, immigration, labour and other matters.

DISCONTINUED PROJECTS

Computer Misuse

The Commission noted in its previous Annual Report that cybercrime and cybersecurity continue to be major concerns for law enforcement in the Cayman Islands and that the Commission had already prepared an Issues Paper on Cyber Security Policy and Legislation in 2017. The Commission also noted that it intended to focus on computer misuse and rely on the expertise of Utility Regulation and Competition Office (OfReg) to deal with cybersecurity.

Based on the Action Plan prepared by the Commission at the beginning of 2019, the Commission completed its initial task of engaging in comprehensive research to determine the status of the law relevant to computer misuse in the Cayman Islands and to identify gaps, problems and deficiencies in the legal framework that would hinder the prevention of cybercrime and responses to cybercrime. This included comparative research to examine international and regional standards, strategies and conventions and national legislation of other countries that seek to deal with the issues under consideration in respect of the legislative framework for counteracting cybercrime. Accordingly, the Commission prepared a Gap Analysis in the form of a comparative table that takes into account the Budapest Convention on Cybercrimes, legislation of the United Kingdom, Kenya and Jersey and the work done by the International Telecommunications Union HIPCAR Project relating to cybercrimes.

However, with the mandate from Cabinet that a working group be established to address the cybercrime issue and given the priority attached thereto, the Commission believes that this project may be dealt with more appropriately outside its law reform processes. The Commission has therefore opted not to take this project forward as one falling under its auspices but has assisted the Ministry of Commerce, Planning and Infrastructure by providing the Gap Analysis and guidance on the matter to the Ministry.

CONCLUSION

The approach of the Law Reform Commission to the next year will continue to be one where the Commission seeks to stimulate reflection on the laws in our society and make sound recommendations which inform the required legislative reforms. In informing these reforms, the Commission will maintain its commitment to comparative legal research in order to evaluate whether there are lacunas in our laws in light of local experiences and the experiences of other jurisdictions. Amongst the objectives of the Commission is ensuring that the quality of the Commissions' reports represent a standard which can be relied upon as reference tools.

APPENDIX

PUBLICATIONS/PAPERS

ISSUES PAPERS

- Enforcement of Foreign Judgments and Interim Orders – 6th March, 2012
- Directors’ Duties: Is Statutory Codification Needed? – 16th January, 2014
- Conditional Fees: Legislative Recognition and Regulation in the Cayman Islands – 3rd September, 2015
- Bullying: Legislation, Policy or Both? – 19th January, 2016
- Cybersecurity: Strategic Policy and Legislation – 29th November, 2017

DISCUSSION/CONSULTATION PAPERS

- Review of the Legal Aid System in the Cayman Islands (Preliminary Paper) – 28th March, 2006
- Review of the Law of Landlord and Tenant (Discussion Paper) – 30th September, 2006
- Review of the Law of Landlord and Tenant (Consultation Paper) – 29th January, 2007
- Review of the Law regulating legal practitioners in the Cayman Islands – 29th January, 2007
- Review of Corporate Insolvency Law in the Cayman Islands and Recommendations for the Amendment of Part V of the Companies Law (2004 Revision) – 20th July, 2007
- Review of the legal aid system in the Cayman Islands – 14th December, 2007
- Enduring Power of Attorney, Preliminary Paper (Draft) – 19th January, 2009
- Regulation of Charitable Non-profit Organisations in the Cayman Islands – 26th January, 2009
- Review of the Arbitration Laws of the Cayman Islands – 11th May, 2009
- Review of the Law of contempt of court in the Cayman Islands (Part 1) Contempt in the face of the court - September 2010
- Tort Reform - Caps on Non-Economic Damages and Reducing the Limitation Period – 22nd October, 2010
- Family Law Reform (Part 1) - Review of the Matrimonial Causes Law (2005 Revision) – 18th February, 2011
- Modernisation of the regulation of Strata titles in the Cayman Islands (Part 1) – Management of Strata Schemes – 4th April, 2011
- Introduction of the office of the Administrator-General in the Cayman Islands (Preliminary Paper) – 2nd June, 2011

- Introduction of the office of the Administrator-General in the Cayman Islands – 22nd March, 2012
- Modernisation of the regulation of strata titles in the Cayman Islands (Part 2) -Review of the creation, management and termination of strata schemes - 3rd January, 2013
- Family Law Reform (Part 2) – Review of the Matrimonial Causes Law (2005 Revision), the Maintenance Law (1997 Revision) and the Family Property (Rights of Spouses) Bill, 2013 – 9th July, 2013
- Contempt of Court -10th January, 2014
- Contempt of Court: The Sub Judice Rule, 21st March, 2014
- Legislative Protection of Whistle Blowers - an Examination of the Legislation in the Cayman Islands and other Jurisdictions - 14th April, 2014
- The Way Forward for Regulation of Timeshares in the Cayman Islands – 15th September, 2014
- Consumer Protection: Entrenching Consumer Supremacy in the Cayman Islands, 27th November, 2015
- Litigation Funding Review – Discussion Paper – 29th December, 2015
- Contempt of Court – 15th January, 2016
- Contempt of Court – 15th July, 2016
- Trusts Law Reform – 5th April, 2017
- Regulation of Queen’s Evidence: Immunity from prosecution & reduced sentences – 25th September, 2017
- Enforcement of Mortgage-type Security over Real Estate: Is Reform of the Law Necessary – 23rd November, 2018
- Decriminalisation of Suicide – 16th August, 2019

FINAL REPORTS

- Review of the Corporate Insolvency Law and recommendations for the amendment of Part V of the Companies Law - 12th April, 2006
- Review of the Law Regulating Legal Practitioners in the Cayman Islands – May 2007
- Review of Corporate Insolvency Law in the Cayman Islands and recommendations for the Amendment of Part V of the Companies Law (2004 Revision) – 15 July 2007
- Review of the Law Regulating the Relationship of Landlords and Tenants in the Cayman Islands – July 2008
- Review of the Legal Aid System in the Cayman Islands – July 2008
- Is there a need for enduring Powers of Attorney in the Cayman Islands – 30th April, 2009
- Protection against Domestic Violence – 31st March, 2010

- Review of the Law regulating Charitable Organisations in the Cayman Islands – 31st March, 2010
- Tort Reform – 26th November, 2010
- Arbitration Law Review – Final Report 4th January 2012
- Introduction of the Office of the Administrator-General in the Cayman Islands – 8th August, 2012
- Enforcement of Foreign Judgments and Interim Orders Part I: Interim Orders in Aid of Foreign Proceedings – 8th March, 2013
- Enforcement of Foreign Judgments and Interim Orders Part II: Enforcement of Foreign Judgments – 8th March, 2013
- Sexual Harassment – 1st May, 2013
- Review of Legislative Protection for Whistleblowers in the Cayman Islands – 3rd December, 2014
- Legislative Protection of Whistle Blowers - an Examination of the Legislation in the Cayman Islands and other Jurisdictions – 5th December, 2014
- Stalking Legislation – 5th February, 2015
- The Way Forward For the Regulation of Timeshares in the Islands – 24th August 2015
- Review of the Matrimonial Causes Law (2005 Revision) and the Maintenance Law (1997 Revision); the Family Property (Rights of Spouses) Bill, 2016 – 24th August, 2015
- Modernisation of the Regulation of Strata Titles in the Cayman Islands – 9th November, 2016
- Directors Duties: Is Statutory Codification Needed – 30th March, 2017
- A Review of Litigation Funding in the Cayman Islands - Conditional and Contingency Fee Agreements – 26th January, 2018
- Regulation of Queen’s Evidence: Immunity from Prosecution and Reduced Sentences – 20th March, 2018
- Trusts Law Reform – Final Report, 1st May, 2018
- Contempt of Court – Final Report – 23rd January, 2019
- Litigation Funding – Final Report – 30th September, 2019
- Contempt of Court – Final Report – 31st March, 2020
- Decriminalisation of Suicide – Final Report – 31st March, 2020

BILLS

- Legal Aid Bill, 2005
- Companies (Amendment) Bill, 2006
- Draft Residential Tenancies Bill, 2006

- Companies (Amendment) Bill July, 2007
- Legal Practitioners Bill, 2007
- Residential Tenancies Bill, 2008
- Draft Charities Bill, 2009
- The Trusts (Amendment) Bill - 26 June, 2009 (Draft)
- Protection Against Domestic Violence Bill, 2009
- Arbitration Bill, 2012
- Strata Titles Registration (Amendment) Bill, 2011
- Administrator-General Bill, 2012
- Foreign Judgments Reciprocal Enforcement (Amendment) Bill, 2012
- Grand Court (Amendment) Bill, 2012
- Sexual Harassment Bill, 2012
- Family Property (Rights of Spouses) Bill, 2013
- Foreign Judgments Reciprocal Enforcement (Scheduled Countries and Territories) Order, 2013
- Foreign Judgments Reciprocal Enforcement (Amendment) Bill, 2013
- Grand Court Amendment Bill, 2013
- Maintenance Bill, 2013
- Sexual Harassment Bill, 2013
- Charities Bill, 2014
- Penal Code (Amendment) Bill 2014 – Consultation Draft
- Protected Disclosures Bill, 2014
- Strata Titles Bill, 2014
- Timeshare Bill, Draft 2014
- Stalking (Civil Jurisdiction) Bill, 2014
- Funding of Litigation Bill, 2015
- Legal Aid Bill, 2015
- Whistleblower Protection Law, 2015
- Penal Code (Amendment) Bill, 2016
- Contempt of Court Bill, 2016
- Matrimonial Causes Bill, 2016
- Timeshare Bill, 2016

- The Tourism (Timeshare) (Amendment) Bill, 2016
- Plea Bargains Bill – Discussion Draft - August 2017
- Draft Consumer Protection and Guarantees Bill, 2017
- Draft Trusts (Amendment) Bill, 2017
- Contempt of Court Bill, 2018
- Criminal Justice (Offenders Assisting Investigations and Prosecutions) Bill, 2018
- Trusts (Amendment) Bill, 2018
- The Private Funding of Legal Services Bill, 2018
- Contempt of Court Bill, 2019
- Penal Code (Amendment) Bill, 2019
- Anti-Bullying (Schools) Bill, 2019
- Private Funding of Legal Services Bill, 2019
- Private Funding of Litigation Bill, 2019
- Registered Land Law (Amendment) Bill, 2019
- Penal Code (Amendment) Bill, 2019
- Health Care Decisions (Amendment) Bill, 2019
- Penal Code (Amendment) Bill, 2020
- Contempt of Court Bill, 2020
- Education (Amendment) Bill, 2020

REGULATIONS

- Legal Aid Regulations, March, 2006
- Accountant's Reports Regulations, May 2007
- Legal Aid Regulations, 2015
- Private Funding of Legal Services Regulations, 2018
- Private Funding of Legal Services Regulations, 2019
- Private Funding of Litigation Regulations, 2019
- Anti-Bullying (Schools) Regulations, 2020

ANNUAL REPORTS

- Annual Report no. 1 – 16th September, 2005/31st March, 2006
- Annual Report no. 2 – 1st April, 2006/31st March, 2007
- Annual Report no. 3 – 1st April, 2007/31st March, 2008

- Annual Report no. 4 – 1st April, 2008/31st March, 2009
- Annual Report no. 5 – 1st April, 2009/31st March, 2010
- Annual Report no. 6 – 1st April, 2010/31st March, 2011
- Annual Report no. 7 – 1st April, 2011/31st March, 2012
- Annual Report no. 8 – 1st April, 2012/31st March, 2013
- Annual Report no. 9 – 1st April, 2013/31st March, 2014
- Annual Report no. 10 – 1st April, 2014/31st March, 2015
- Annual Report no. 11 – 1st April, 2015/31st March, 2016
- Annual Report no. 12 – 1st April, 2016/31st March, 2017
- Annual Report no. 13 – 1st April, 2017/31st March, 2018
- Annual Report no. 14 – 1st April, 2018/31st March, 2019



**The Cayman Islands
Law Reform Commission**

**The Cayman Islands
Law Reform Commission
Portfolio of Legal Affairs
4th Floor Government Administration Building
133 Elgin Avenue, George Town,
P.O. Box 136, KY1-9000
Grand Cayman, Cayman Islands**

Telephone: (345) 946-0022
Email: cilawreform@gov.ky
Website: www.lrc.gov.ky