

DRAFT Address by the Honourable D. Kurt Tibbetts, JP
Leader of Government Business

Official Opening of the Freedom of Information Unit Office
Wednesday 26th September 2007
Elizabethan Square Building, George Town, Grand Cayman

Salutations: Your Excellency et al

Thank you all very much for attending this small ceremony to mark another significant milestone in our steady march towards the maturing of our democracy and the advancement of liberty and openness in the Cayman Islands.

Ladies and gentlemen – this occasion marks the official opening of the Freedom of Information Unit of the Cabinet Office, although I am reliably informed that it has been operational for some months now. Indeed the work of the Unit is already evident, having begun in earnest and with significant progress having been made towards implementation of a freedom of information (or right to information) regime across the wider public service. No doubt the Coordinator of the FOI unit will also elaborate on some of this work and the significant readiness efforts to be done in her presentation.

As many of you will no doubt know, the Freedom of Information Law, 2007 was passed on the 31st August following an extensive period of public consultation and review which began following the tabling of the original discussion draft document in November 2005.

I take this opportunity to again thank the many people and organizations both public, private and civil society groups both domestic as well as internationally for taking the time to provide us with the extensive feedback we received. This very worthwhile feedback did not go unheeded and we listened to the people. Our consultative approach

to governance does sometimes cause inevitable delays, however, it is worth the extra effort to keep the public abreast of important issues and allow their active participation.

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The new FOI law now provides a legislative framework for strengthening our constitutional democracy by improving government accountability, allowing greater transparency and openness, as well as encouraging more public participation in national decision making. You will agree that these are indeed very worthwhile objectives for any jurisdiction to pursue and value.

It might also be worth mentioning here that this new piece of legislation is but only one of several government initiatives aimed at creating better governance in these beloved Islands, as you will no doubt be aware, the Cabinet Office is also actively engaged in the modernization of another piece of legislation – our Constitution, but more on that I will leave for another occasion.

Ladies and gentlemen, freedom of information legislation is nothing new, countries in Scandinavia and the USA were among the first to have legislated this important and fundamental right of the people, indeed over 70 countries now have some form of FOI regime. This being said, The Cayman Islands is one of the first, if not the first UK Overseas Territory to enact its own domestic FOI legislation. I am proud of this achievement. This type of legislation is also widely recognized as a mechanism to help prevent corruption and/or inappropriate behavior in public service and to greatly assist in allowing for better national decision making.

Again, the Government also recently tabled Anti-Corruption Legislation which when passed, will help strengthen our systems of governance, by holding people accountable for their actions, but perhaps more importantly, helping avoid and prevent situations where questionable practices might otherwise have been employed.

Getting the legislation approved is however only the first step in the process, now the more challenging work really begins – making our community aware of these new rights and preparing the public service both in terms of human capacity building as well establishing the necessary support infrastructure to ensure they are adequately equipped to satisfactorily handle, implement and meet the new statutory requirements. Some countries who enacted legislation, did not put in place adequate mechanisms and as a result there have been few FOI requests being made or in the few cases little or no response has been forthcoming. This will not be the situation in the Cayman Islands.

Ladies and gentlemen, the Government is not just paying lip service to improving governance; we are very serious about improving the public participation in our decision making and the development of public policy. If we are conducting the peoples' business properly, we should have nothing to hide or fear from greater openness and transparency.

As sensible people, we also likewise understand that whether it be in private business or in Government, there is a need to protect certain information for example, national security, commercial interests and personal privacy, and as such, a careful balance has been struck to ensure that these legitimate interests are not compromised. For obvious reasons also, the FOI law does not apply to certain aspects of governance as in the case of the judicial functions of the Court.

It is however important to note that the FOI law makes provision to allow for as much information to be released as possible and generally requires public bodies to make their best efforts to ensure that decisions and the reasons for those decisions, are made public. This provision is there to ensure increased transparency through proactive public disclosure even before a request has to be made. Further, when entities are considering the release of information and where the factors in favour of disclosure are equal, the doubt shall be resolved in favour of disclosure but subject to what is in the public interest.

Often the position taken is that public records are considered secret unless a decision is taken otherwise, but essentially what this new legislation provides for the situation to be the other way round – in other words - public records are considered open unless otherwise determined under the provisions of law. The burden of proof will now lie on the government to demonstrate why the information cannot legitimately be released.

Ladies and gentlemen, even as I speak these words, I realize the profound and fundamental changes that this law will bring to the traditional way we have governed and our need to acknowledge the important paradigm shift as we tackle the significant culture change that will be required to effectively implement FOI. I can assure you, for this initiative to be successful in the long run, it will require consistently open and transparent political leadership over time, to allow, foster and promote the positive environment needed within the civil service and our community as a whole.

The government has set a target date of January 2009 for the FOI law to come fully into affect and this means a whole lot has to be done between now and then. It will take our collective efforts of the wider public service, but we have established under the direction of the Cabinet office, the new FOI Unit to help lead and coordinate the extensive and comprehensive efforts needed to bring about successful implementation. I am sure you will hear a little today about how the Unit expects to tackle this significant task within the tight timeframe given.

At this time I would like to acknowledge the work of the Cabinet Office in this initiative, the FOI working group members, the National Archives, Legislative Drafting, the Legal Department, the FOI Unit and all the members (representing both public and private sectors) of the various sub committees that have now been set up to coordinate this government wide effort.

My deepest gratitude is extended to all the people who have believed in this just cause and have helped us get to this point and are still working hard in taking us forward through the significant period of readiness and change that lies ahead.

Ladies and gentlemen, may the good ship Cayman forever be crewed by decent, hardworking and God fearing people.