



## **The Government Minute**

**The Government's Updated Responses as at September 2021 to the Report of the Standing Public Accounts Committee on the Report of the Auditor General:**

**Efficiency of Summary Courts (November 2019)**

**Updated: September 13, 2021**

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## **BACKGROUND**

Section 77(7) of the Legislative Assembly Standing Orders (2018 Revision) states that the Government Minute shall be laid on the Table of the House within three months of laying of the report of the Standing Public Accounts Committee and of the report of the Auditor General to which it relates.

The Government Minute constitutes the Government's response to the Report of the Standing Public Accounts Committee tabled in the Legislative Assembly on 1 July 2020 on the following Report prepared by the Auditor General:

1. Efficiency of Summary Courts (November 2019)

## EFFICIENCY OF SUMMARY COURTS – NOVEMBER 2019

The Public Accounts Committee (“the Committee”) noted that the importance of an efficient and effective justice system in promoting a fair and democratic society and contributing to the economic growth is well documented. Fair, accessible, and efficient courts serve to create positive relations among citizens and between the individual citizen and the state, helping to build public trust and confidence in the courts. The objective of the Office of the Auditor General’s audit was to evaluate the efficiency of the Cayman Islands judicial system in handling Summary Court (including Traffic Court) cases.

In their report, the Committee endorsed the 9 recommendations of the Office of the Auditor General (“OAG”) report and encourages Judicial Administration and the Government to implement these as soon as possible:

### **OAG Recommendation 1**

Judicial Administration, together with all the criminal justice partners, should establish a performance management framework for the criminal justice system that includes measures and agreed standards, including the time taken for cases to proceed through the courts, the number of outstanding trials and the views of court users. Progress against these measures and standards should be a monitored and reported regularly.

*Responsibility – The Chief Officer/ Chief Justice/ GC Rules Committee*

### **Government Update September 2021:**

In a court context, performance management within a criminal justice system as it relates to criminal justice partners is largely governed by court rules and practice directions. This is not the sole remit of administration. Accordingly, formulation of court policy as it affects the courts and the administration of justice lies with the Chief Justice and to some extent the Grand Court Rules Committee. The Chief Officer will provide input on policy issues and implement final policy directives as and when they are provided.

In 2020, the Hon. Chief Justice introduced Grand Court Rules governing Criminal Case Management to govern the Grand Court and has invited the Summary Court to review the Rules with a view to adopting similar standards for the movement of criminal cases through the Summary Court. It is expected that Summary Court Case Management Rules will be established by the end of 2021.

Under the leadership of Chief Magistrate this area is currently under review and appropriate stakeholder engagement will be taking place with a view to introducing a Summary Court case progression rules to support improves case progression management within that division.

Further standards will also be monitored with the support of a newly procured Court Database which allows Judicial Administration to use analytics to support its case management against established organizational standards.

With the establishment of the rules and implementation of the new Court Management database, improved trial management can occur along with monitoring and updating of key performance standards.

Judicial Administration therefore considers this recommendation as having been addressed.

### **OAG Recommendation 2**

Judicial Administration should, with justice partners, monitor and evaluate the use of out-of-court disposals with a view to increasing their use in the justice system in the longer term if found to be efficient and effective.

*Responsibility – Hon. Chief Justice in his capacity as Head of Judicial Administration*

#### **Government Update:**

To the extent it is able to do so, the Judicial Administration already emphasizes the use of “out of court” disposal by way of a well-established mediation program.

The realization of the widest potential of the recommendation as proposed by the OAG will require a bespoke legislative framework to establish a suite of out of court disposals in various areas of the criminal justice system.

Whilst Judicial Administration is regarded as a key stakeholder on any wider government reform that is to take place to widen the scope of out of court disposals through legislation, such initiatives are likely to be led by the Hon. Attorney General through the Law Reform Commission to assess what out of court disposal options could be introduced into the legislative justice framework that does not currently exist.

The judiciary, through the Honourable Chief Justice, will continue to provide judicial input on any recommendations raised through such an initiative.

### **OAG Recommendation 3**

Judicial Administration should develop a risk register and change management plan for the implementation of AMANDA JEMS and identify success measures for the project, including how it will monitor progress in order to demonstrate value for money.

*Responsibility – Chief Officer*

#### **Government Update:**

In August 2021, a standing ICT Steering Committee was established within Judicial Administration to oversee all IT related projects that occur within the organization.

This Committee oversees all IT related change management initiatives including the approval of Change Management Plans.

The Committee will also have the responsibility to monitor and assess all risks and to liaise with the Risk Manager on the development and Maintenance of a Risk Register regarding IT projects.

For the purpose of this response, the implementation of the new court database will be managed under the auspices of the ICT Steering Committee.

The establishment of a Risk Register and ongoing monitoring of success measures and risks will form a part of the change management and implementation plan.

Judicial Administration therefore considers this recommendation as having been addressed.

#### **OAG Recommendation 4**

Judicial Administration and the other criminal justice organisations should work together to ensure that their IT systems enable effective sharing of information to avoid duplication and reduce the risk of errors in data input.

*Responsibility –Inter Agency Cooperation/ Chief Officers*

#### **Government Response:**

In principle this recommendation is supported by Judicial Administration.

A fundamental part of Judicial Administration's introduction of new technology incorporates compatibility assessments and dialogue with key stakeholders, in particular the RCIPS where there is a significant amount of data that is shared between the entities.

With respect to the new court database, stakeholder discussions with the RCIPS regarding the scope of information sharing is to commence with discussions between the two organisations.

Of immediate urgency is the introduction of an Electronic Traffic Ticket system. Ongoing collaboration between the two entities (RCIPS and Judicial Administration) has been taking place for a number of years. Renewed engagement is currently taking place in consultation with the Hon. Chief Justice as this area of business has a significant impact on the business of the courts and court efficiency as a whole.

It is expected that from these renewed discussions, meaningful movement in this area will take place.

On a much wider front, as Judicial Administration IT projects are overseen by the Judicial Administration ICT Steering Committee, a formal invitation has already been made to the Computer Services Department as a key stakeholder to sit on the committee, as that agency will play an ongoing part in providing technical support to the various inter agency information sharing mechanisms to take place between the Judicial Administration IT system and the other government IT systems. A formal response is still being awaited on their participation on the committee.

This recommendation is being addressed by the Judicial Administration to the extent of its limited remit to do so.

**OAG Recommendation 5**

Judicial Administration should undertake financial analyses to identify the current costs of different types of cases being processed through the Summary Courts. This can be used as a baseline to track the impact of future measures to improve efficiency.

*Responsibility – Chief Officer*

**Government Update:**

Whilst performance management and efficiency measures are being introduced within the court system, there is currently no plan to extend such measurement to include a cost exercise for each case.

**OAG Recommendation 6**

Judicial Administration should, as a matter of urgency, engage with all court users to ensure that the design of the new court buildings takes into account the current and future needs of all stakeholders.

*Responsibility – Chief Officer & Appointed OBC Team*

**Government Update:**

This recommendation is supported to the extent that when the OBC team reviews the expansion of the court plant renewed engagement with stakeholders will take place. Earlier engagement occurred in 2015/2016 with stakeholder groups, but due to the passage of time, there is an opportunity to update stakeholder input.

**OAG Recommendation 7**

Judicial Administration should ensure that the Outline Business Case for the new court building is in line with good practice, including a clear evidence base that demonstrates the need for investment.

*Responsibility – Ministry responsible for retaining Price Waterhouse Coopers / Cabinet*

**Government Update:**

This recommendation is agreed. A professional firm has been retained through an open procurement process and the government's expectation continues to be that industry standards on the preparation of the Outline Business Case will continue to apply.

This recommendation is considered to have been addressed.

**OAG Recommendation 8**

Judicial Administration should develop a workforce plan that identifies the number of staff required to ensure that Summary Courts and other courts operate efficiently and effectively in the future.

*Responsibility – Chief Officer in consultation with the Chief Officer of the Portfolio of the Civil Service and the Hon. Deputy Governor*

**Government Update:**

This initiative is currently being undertaken by the organisation. Notwithstanding this taking place, like other government entities the implementation of the workforce plan is largely dictated by availability of funding through the budget process.

In keeping with the statutory constitutional requirement in section 107 of the 2009 Constitution Order, during the 2022 budget preparation process and moving forward a new and more collaborative approach to negotiating and settling the Judicial Administration budget has begun.

It is expected that continued engagement on this front will support future workforce planning initiatives of the organisation to ensure that the Summary Courts and other courts operate efficiently and effectively in the future.

Judicial Administration therefore considers this recommendation as having been addressed.

**OAG Recommendation 9**

The Government should set up a senior strategic justice group that includes Chief Officers from all the organisations involved in delivering criminal justice in the Cayman Islands.

*Responsibility – Chief Officer/Clerk of Court (Administration) Internal Boards/Committees*

**Government Update:**

Criminal justice is a broad topic which covers many bespoke areas beyond that of court administration.

To that extent, where necessary, the Chief Officer for Judicial Administration (or her designate) from time to time participates in various boards or strategic working groups depending on the relevant area of criminal justice.

Internally, however, as it affects judicial administration specifically, there are a number of bodies that have been formally established to facilitate specific outcomes that positively impact the administration of justice within a court setting.

The Criminal Justice Reform Committee (“CJRC”) established by the Chief Justice was led by Justice Quin and is now led by Justice Richards. It is a standing committee of the Courts, and its membership includes all stakeholders in the criminal justice system. The CJRC is charged with the responsibility of making recommendations for sentencing reform, as well as general



improvements in the law and procedures for the administration of criminal justice.

At present there is also an appropriately established Criminal Justice Board group, headed by the Chief Magistrate, to discuss and maintain open lines of communication on specific Summary Court related criminal justice matters. This board consists of the Chief Magistrate and senior agency stakeholder who specialize in providing services to the court, such as probation, social services, prisons, RCIPS.

Fluid and continuous engagement between key senior officer stakeholders i.e. the Court Administrator, Commissioner of Police and Director of Public Prosecution and Director of Prisons take place regularly with a view to shared strategic decision making that affects the smooth running of the administration of justice.

### **PAC Recommendation 2**

The Committee is concerned about the volume of court adjournments and the lack of information on the reason for adjournment. The Committee recommend that Judicial Administration collects information on the reason for adjournments and uses this to inform decision making and improve practices.

*Responsibility – The Chief Officer*

#### **Government Response:**

The Judicial Administration accepts this recommendation. The New Court database will address this issue and support improved case management.

### **PAC Recommendation 3**

The Committee is concerned about progressing with the development of a new court facility when it does not appear to have a strong up-to-date Outline Business Case that justifies the investment needed. The Committee recommends that Judicial Administration, working with the Government's Major Projects Office, ensures that the Outline Business Case for the project is updated to include long-term projections of demand. These projections should include potential case load, the implications of plans to remove traffic cases from the court process, and potential new ways of working that have been adopted during the recent COVID-19 pandemic.

*Responsibility – The Chief Officer in consultation with the Major Projects Office*

#### **Government Response:**

This is accepted. MPO and the Business Case team continues to work together with a view to wrapping up the OBC.

Justification for the expansion has been well established, however, updating of the full scope of the long term needs will be updated as recommended by the Auditor General's report.

#### **PAC Recommendation 4**

The Committee is concerned that the accountability arrangements for Judicial Administration appear to be blurred, and in particular the role of the Court Administrator, as Chief Officer, and to whom she is accountable. The Committee recommends that the Government make clear the reporting and accountability relationships between the Court Administrator, the Chief Justice, and the Deputy Governor.

*Responsibility – The Deputy Governor, in consultation with the Chief Officer of Judicial Administration, the Chief Officer of the Portfolio of the Civil Service, and the Chief Justice in his capacity of Head of the Judiciary*

#### **Government Response:**

The accountability of the Chief Officer is twofold:

To the Deputy Governor for all things that impact wider government policy and legal compliance with the Public Service management Act and the Public Management and Finance Act.

To the Hon. Chief Justice: As the head of Judicial Administration which is an independent branch of government, policy decision making is exclusively his responsibility and cannot be passed to the administrative head of the organisation.

To the extent that the Court Administrator is obliged to implement policy established by the Chief Justice as Head of the Judiciary that will have an impact on judicial administration, the Court Administrator discharges this obligation through various initiatives to be carried out and implemented by the civil service.

To this extent the recommendations made by the Auditor General that will impact the administration of justice must, as a result of the constitutional responsibility and separation of powers of the judiciary, have input and direction of the Hon. Chief Justice as the head of the judiciary.

#### **PAC Recommendation 5**

The Committee was concerned to hear that the Government had announced cost of living awards for all civil servants without the additional cost of these being factored in to Judicial Administration's budget. The Committee recommends that the Government properly budgets for pay awards to civil servants, factors these in to budgets and provides appropriate funding to entities.

#### **Government Response:**

When Cabinet makes the decision to award a cost of living adjustment (COLA), it does not always coincide with the preparation of the Budget – which is prepared every two years. Therefore, the cost of a COLA is not always included in the Budget.

Before a COLA award is made, the Ministry of Finance is consulted and the Ministry ensures that there are sufficient savings within the Government's overall Budget to cover the full cost of the COLA. Where a Department does not have sufficient savings within their individual budget, savings are transferred from where savings have been identified to the Department that needs additional funding.

