

Attorney General's Chambers



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27 November 2024

FOI Reference: 111803

Dear Mr. Lindsay,

By email only: alric.lindsay@gmail.com

Re: Freedom of Information Request

1. I write with reference to your application under the Freedom of Information Act (2021 Revision) (“the Act”) dated 28 October 2024 and received by the Portfolio of Legal Affairs (“the Portfolio”) on the same date.
 2. You requested records reflecting the following:
 - i. Breakdown of number of Caymanians and non-Caymanians contracted to work as lawyers for the Portfolio of Legal Affairs, including title of posts.
 - ii. Breakdown of number of Caymanian and non-Caymanian articulated clerks working for the Portfolio of Legal Affairs.
 - iii. Total number of senior personnel and/or other persons contracted to work as lawyers for the Portfolio of Legal Affairs who are physically present in Cayman.
 - iv. Total number of senior personnel and/or other persons contracted to work as lawyers for the Portfolio of Legal Affairs who are not physically present in Cayman and title of post.
 - v. Reasons why any persons in 4 above are not physically present in Cayman while being paid by the Cayman Islands Government.
 - vi. Salary grade and range of salary for all senior personnel in the Portfolio of Legal Affairs.
 3. On 29 October 2024 we wrote to you for clarification with respect to paragraph 6 of your request (namely the salary grade and salary range for all senior personnel within
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the Portfolio). You confirmed by return email that you were seeking access to records relating to all persons (meaning both legal and non-legal personnel) in grades A to K in the Portfolio.

4. We have set out our responses with respect to each limb of your request below. Please note that whilst a request under the Act is strictly a request for records, and the Portfolio is not obliged to respond to questions or requests for information, on this occasion we are content to provide certain clarification on a voluntary basis.

i. Breakdown of number of Caymanians and non-Caymanians contracted to work as lawyers for the Portfolio of Legal Affairs, including title of posts

5. Since there is no definition of who is a 'lawyer' for these purposes, it may first be helpful for me to clarify that we have interpreted your request as including, within its scope, roles for which a qualification as an attorney at law is considered either essential or highly desirable. To give an example of the sorts of roles we have in mind, we have some 'hybrid' legal/policy roles, such as the role of Senior Legal and Policy Analyst within the Anti-Money Laundering Unit, for which the job advertisement reflected that the Portfolio was looking for a person with a qualification as an attorney at law but that favourable consideration would be given to a person with an LLM or Master's degree in Finance or Economics with 4 years' relevant professional experience or, in the alternative, a Bachelor's degree in law together with 5 years' relevant experience. We have included that post within our response along with other posts with similar requirements as regards legal qualifications. We have not, however, included Truman Bodden Law School teaching staff, who are also contracted by the Portfolio.
6. We have also included within our response both roles in which the post holder is working under a contract of employment with the Portfolio, and roles for which the current post holder is providing services to the Portfolio under a contract for services (whether directly or through an agency).
7. In respect of this first limb of your request, and in accordance with the requirements of the Act and the Freedom of Information (General) Regulations (2021 Revision) ("the Regulations"), I was obliged to consult with members of the Portfolio. I have set out the explanation for why that consultation was necessary in the paragraphs which follow.
8. Section 23(1) of the Act provides that a record is exempt if its disclosure would involve the unreasonable disclosure of personal information of any individual, whether living or dead. Section 23(4) of the Act makes clear that the extent to which third party rights are to be protected is to be set out in regulations made under the Act.
9. Regulation 11(1) of the Regulations provides as follows:

11. (1) *Where an information manager intends to grant access to a record which the information manager believes contains third party personal information relating to a living individual, the information manager shall, within fourteen calendar days of receipt of the application, send the third party written notice of the application for access.*
(emphasis added)

10. “Personal information” is defined in regulation 2 of the Regulations to mean information (including information forming part of a database) or an opinion, whether true or not, about an individual, whether living or dead, whose identity is apparent, or can reasonably be ascertained, from the information or opinion, and includes the particulars set out in Schedule 1. (emphasis added).¹
11. Whilst you have not asked for the identity of individual post holders, your request was clear that you wished to establish the breakdown of Caymanians and non-Caymanians by reference to post. In the case of posts for which there is only one post holder, if we were to release the requested records it would be possible to establish the Caymanian/non-Caymanian status of the individuals whose identity could reasonably be ascertained by reviewing the records alongside other information already in the public domain (such as LinkedIn profiles or published articles). Even for positions where there is more than one post-holder, such as ‘Crown Counsel’, in circumstances where all the persons in that particular role are Caymanian or, conversely, non-Caymanian, it will inevitably be possible to discern the status of individuals occupying these roles.
12. Whether or not a particular individual is Caymanian or non-Caymanian constitutes “personal information” for the purposes of the Regulations. For that reason, I was obliged by regulation 11(1) of the Regulations to consult with those affected and send written notice in accordance with regulation 11(2). A copy of my email of 31 October 2024 to those affected is attached for reference at **Annex A** to this letter (the 29 persons affected were ‘blind’ copied). On 18 November 2024 I sent a further email seeking a response from those who were yet to reply. A copy of that email is also attached at **Annex B** (redacted to protect the identities of individual post holders).
13. To date I have received four objections from persons who are not content for personal information consisting of their Caymanian status / non-Caymanian status to be released under the Act. I am still awaiting responses from a small number of consultees.
14. I had initially requested responses from consultees by 15 November 2024 but, as a matter of law, and in accordance with regulation 11(2)(d), persons who are consulted

¹ Paragraph 2 of Schedule 1 to the Regulations makes clear that where an individual occupies, or has occupied, a position in a public authority, certain information relating to them (such as the general terms on which they are employed) would not fall within the scope of “personal information”, whether a person in a position in a public authority is Caymanian/non-Caymanian would not be excluded from the scope of “personal information” for the purposes of the Regulations and the Act.

with respect to the release of their personal information have 28 days from the date on which they received notice from me (that is to say until tomorrow, Thursday 28 November 2024) to give their response.

15. **As things stand as of today, therefore, I will need to seek an extension of our deadline to provide a final decision with respect to the first paragraph of your request. That is to allow for any final responses from those who have been consulted with respect to the release of their personal information. I am requesting an extension of 30 calendar days but in practice expect to be able to issue a final decision much sooner than that.**
16. For the avoidance of doubt, it does not necessarily follow from the fact that I have received objections from third parties that my ultimate decision will be that the responsive records are to be withheld. What it means is that I will need to undertake an assessment of whether disclosing the responsive records would be contrary to the Data Protection Act (2021 Revision)(“the DPA”) or would otherwise give rise to an *unreasonable* disclosure of personal information such that those records would be exempt under section 23(1) of the Act. Please rest assured that I am mindful that there is a legitimate interest (reflective of a wider public interest) in understanding the make up of the Portfolio in terms of Caymanian and non-Caymanian staff.
17. **Pending receipt of all final responses arising from my consultation of 31 October 2024, I have considered whether there are any records (or, failing there being a responsive record, any information) which can be released to you *without* revealing the personal information of third parties who have already objected, or who may yet object. With that in mind, and in the interests of providing you with a partial response to your request, I have set out below a breakdown of the number of Caymanians and non-Caymanians contracted to work in legal roles for the Portfolio by grade, rather than by post as you had requested. I have explained which roles are comprised within that grade. There are currently 15 Caymanians and 14 non-Caymanians contracted to work in legal roles.**

Grade	Roles included at that grade	Number of Caymanian/non-Caymanian staff
B	Attorney General	1 Caymanian
C	Solicitor General	1 Non-Caymanian
E	First Legislative Counsel Deputy Solicitor General x 3 Director of Law Reform Commission	2 Caymanian and 3 Non-Caymanian
F	Senior Crown Counsel (Civil) x 2 Senior Legislative Counsel x 2 Senior Legislative Counsel (Law Reform) Law Revision Commissioner/Senior Legal and	2 Caymanian and 5 Non-Caymanian

	Policy Advisor Legal Advisor (FRA)	
H	Crown Counsel (Civil) x 4 Legislative Counsel x 2 Senior Legal and Policy Analyst Articled Clerk (in a dual role as Articled Clerk and Sanctions Coordinator)	3 Caymanian and 5 Non-Caymanian
I	Crown Counsel II Crown Counsel II (Law Reform)	2 Caymanian
K	Articled Clerk x 2 Legislative Editor	3 Caymanian
N/A	External contractor x 1 External consultant x 1	2 Caymanian

- ii. **Breakdown of number of Caymanian and non-Caymanian articled clerks working for the Portfolio of Legal Affairs.** There are three (3) Caymanian articled clerks and zero (0) non-Caymanian articled clerks.
- iii. **Total number of senior personnel and/or other persons contracted to work as lawyers for the Portfolio of Legal Affairs who are physically present in Cayman.** See our response to question (iv) below. All but one of those contracted to work in a legal role within the Portfolio is physically present in Cayman.
- iv. **Total number of senior personnel and/or other persons contracted to work as lawyers for the Portfolio of Legal Affairs who are not physically present in Cayman and title of post.** Only one (1) of the members of the Portfolio contracted to work in a legal role is not physically present in Cayman. The title of that person's role is Deputy Solicitor General (there are three Deputy Solicitors General in total).
- v. **Reasons why any persons in 4 above are not physically present in Cayman while being paid by the Cayman Islands Government.** Having consulted with the Human Resources Manager for the Portfolio, there are no records specifically recording why the person is not physically present in the Cayman Islands. There is a record outlining the reasons why that person's contract with the Cayman Islands Government was to be extended but it does not specifically address the reasons why the person is not in the jurisdiction and is not, therefore, responsive to your request.
- vi. **Salary grade and range of salary for all senior personnel in the Portfolio of Legal Affairs.** See Table at **Annex C**. Please also note the enclosed CIG Salary Scale document at **Annex D** which elucidates the pay scale for each grade as at the date of your request

and as at the date of this response. Please be advised that there is a new, and recently published, salary scale which will be effective as of 1 January 2025.

18. If you are content with the information provided in the table at paragraph 17 above, please do let me know as that will obviate the need for me to take any further steps in terms of consultation with, and notice to, third parties. If, on the other hand, you would like to maintain your request for records outlining the breakdown of Caymanians/non-Caymanians by post then, as outlined at paragraph 15 above, I will need further time before I am able to render my decision. Should you have any queries in relation to this letter in the meantime, please contact me, quoting the reference number cited above.

Yours sincerely,



Heather Walker
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