

# Gender Equality Tribunal

established under the Gender Equality Law, 2011

## Annual Report 2013/14

8th September 2014  
George Town, Grand Cayman

## INTRODUCTION

The *Gender Equality Law, 2011* (“the Law”) came into effect on 31st January 2012 and seeks to eliminate direct and indirect discrimination in employment, training and recruitment on the basis of sex, marital status, pregnancy and gender. The Law also requires that employers pay equal remuneration to male and female employees who perform work of equal value and aims to protect against discrimination in other related areas, such as access to goods, services and facilities; job advertisements, application forms and interviews; professional partnerships, qualifying and vocational training bodies, and employment agencies; and sexual harassment in the workplace and work-related contexts.

The Gender Equality Tribunal (“the Tribunal”) is established under section 23 of the Law to hear and determine discrimination complaints. The Tribunal is currently made up of five members appointed by the Governor in Cabinet on 31st January 2014 for a two-year term.

As required by the Law, the Chairperson is an attorney-at-law and the four other members have relevant experience and qualifications in gender, social development, human rights, labour and related fields. The five current Tribunal members are—

- Sheridan Brooks-Hurst, Chairperson
- Karie Bergstrom
- Vaughan Carter
- Nick Dunne
- Tammy Ebanks



In hearing and determining discrimination complaints, the Tribunal acts independently and shall not be subjected to the direction or control of any other person. Members shall act in the public interest to carry out the purposes of the Law and not based on personal or business interests. The Tribunal will also adhere to the rules of natural justice and procedural fairness in all of its operations. The Tribunal receives administrative and secretarial support from the Ministry responsible for Gender Affairs.

This Annual Report is presented to the Honourable Minister for Education, Employment & Gender Affairs and provides a summary of the Gender Equality Tribunal’s operations during the period 1st July 2013 through 30th June 2014, including general activities and discrimination complaints received and heard. It also sets out the expected scope of the Tribunal’s operations for the upcoming financial year.

## GENERAL ACTIVITIES

The Tribunal met six (6) times during the year to discuss matters relevant to the operation of the Gender Equality Law and handling of discrimination complaints. Having finalised a Complaint Form, Frequently Asked Questions and Policies and Procedures in its first year, the Tribunal continued to consider ways in which it can ensure that it carries out its functions effectively and in accordance with the Law.

To maintain the independence of the Tribunal and ensure that neither the Tribunal nor any of its members are perceived to be biased in any way, the Ministry responsible for Gender Affairs continues to carry out public education and awareness activities pertaining to the Law and Tribunal. As necessary, the appointed Secretary to the Tribunal also provides procedural assistance and answers general inquiries from members of the public and parties to discrimination complaints. Throughout the year, in addition to correspondence in relation to on-going complaints, the Secretary dealt with two (2) inquiries relating to complaints to the Tribunal and thirteen (13) additional inquiries relating to the Law more generally.

### Meetings with the Honourable Minister, Chief Officer and Deputy Chief Officer

Following the general elections in May 2013, the subject area of Gender Affairs was transferred to the new Ministry of Education, Employment & Gender Affairs effective 1st July 2013. During a meeting on 15th July 2013, members met briefly with the Minister responsible for Gender Affairs, the Honourable Tara Rivers, JP, who expressed her support for the Tribunal and its work.

At a meeting on 14th October 2013, members also met with Chief Officer Mary Rodrigues and Deputy Chief Officer Christen Suckoo to discuss activities of the Tribunal. The issue of securing suitable facilities for hearings without incurring costs was raised, as the Government Administration Building has two spaces that can be used but each has some drawbacks. Further, other agencies also use these facilities and they may therefore be unavailable for the Tribunal to use for a hearing, particularly if multiple full days are required. The Ministry undertook to identify facilities managed by other government agencies that could be suitable for the Tribunal's requirements. During the year, one hearing was conducted at the Department of Community Rehabilitation Conference Room and the Tribunal is most grateful to the Department and its Director for the use of that facility over the course of the four-day hearing.

### Recommended Amendments to the Gender Equality Law

As noted in the Annual Report for 2012/13, the Tribunal identified a few potential amendments to the Gender Equality Law that would provide further clarity on the submission and determination of discrimination complaints. On 14th October 2013 the Tribunal submitted a letter to the Honourable Minister for Education, Employment & Gender Affairs outlining its recommendations in this regard.

With more practical experience, the Tribunal has also identified a couple of additional complex issues that could be addressed through legislative amendments and may make further recommendations.

## Amendments to the Gender Equality Tribunal Policies and Procedures

Following practical experience and a general review of the complaint processes, Version 4 of the *Gender Equality Tribunal Policies & Procedures* was released 14th October 2013. Two amendments provide for the following procedures for clarification and to remove undue restrictions on the Tribunal's discretion:

- Discrimination complaints may be automatically closed administratively if the complainant withdraws the complaint in writing prior to the issuance of a Notice of Hearing. The procedures also now explicitly call for written notification of the withdrawal being sent to the respondent.
- Verbatim transcripts of oral hearings may be provided to parties on request.

Version 5 of the *Gender Equality Tribunal Policies & Procedures* was released on 31st January 2014 to reflect the current membership following new appointments by Cabinet.

## The Sexual Harassment Bill, 2013

The Tribunal has been following the progress of the Law Reform Commission's project on sexual harassment and its recommendations, including introduction of the *Sexual Harassment Bill, 2013*.

Section 7 of the Gender Equality Law prohibits sexual harassment in the workplace or in connection with the performance of or recruitment for work, defining such conduct as sex discrimination for the purposes of the Law. The Sexual Harassment Bill addresses sexual harassment in a larger number of contexts and proposes to repeal this section of the Law and provide for complaints of sexual harassment under that law to be heard by the Gender Equality Tribunal. The Tribunal is willing to take on this function and looks forward to receiving additional information from the Ministry responsible for Gender Affairs.

## Member Appointments

The five members initially appointed to the Tribunal on 31st January 2012 were Sheridan Brooks-Hurst (Chairperson), Karie Bergstrom, Shaun Cockle, André Ebanks and Tammy Ebanks. These initial appointments by the Cabinet were in accordance with the Law and for two-year terms.

Due to personal commitments, Shaun Cockle and André Ebanks were unable to serve another term and therefore notified the Chairperson on 14th October 2013 and 9th January 2014, respectively, that they would not be available for re-appointment in 2014 should Cabinet consider them.

Effective 31st January 2014, Sheridan Brooks-Hurst was re-appointed as a member and Chairperson and Karie Bergstrom and Tammy Ebanks were re-appointed as members by Cabinet. Nick Dunne and Vaughan Carter were also appointed as new members with relevant experience and qualifications.

The Tribunal is grateful for the dedicated service of Shaun Cockle and André Ebanks during their tenure.

## DISCRIMINATION COMPLAINTS

No discrimination complaints were received by the Tribunal during the financial year. One (1) complaint received in 2012/13 was determined and there were no complaints in progress as of 30th June 2014.

### GET/1201

The first discrimination complaint was received 13th December 2012 and determined on 30th May 2013 following an oral hearing on 16th May 2013. Neither party appealed the Tribunal's determination that the complainant's allegation was unsubstantiated or its decision to not award costs in the matter.

### GET/1301

The second discrimination complaint was received 6th March 2013 and determined on 27th December 2013 following four (4) days of oral hearing 9th-10th September and 18th-19th November 2013.

The complainant alleged that she had been denied or limited access to opportunities for advancement and to other benefits, facilities or services associated with her employment on the basis of pregnancy. Following a lengthy written pre-hearing stage and complex oral hearing, the Tribunal determined that the complainant's suspicions were incorrect and awarded costs to the respondent pursuant to the Law.

The complainant appealed the Tribunal's decision and filed a Notice of Originating Motion with the Grand Court on 23rd January 2014. That appeal remained before the courts as of 30th June 2014.

### Determinations

Once a discrimination complaint has been heard and determined pursuant to the Law, the Tribunal will generally communicate its decision, the reasons for that decision, and any directions and/or orders to both parties in writing within twenty-eight (28) days of the hearing.

The Tribunal will also endeavour to publish a brief, summarised version of each determination for public access. The Summary Determinations for complaints GET/1201 and GET/1301 are available online at [www.genderequality.gov.ky/complaints/determinations-reports](http://www.genderequality.gov.ky/complaints/determinations-reports).

Summary Determinations enhance the transparency of the Tribunal's operations and provide a general overview of its decisions. These documents will not identify any party, witness or other individual and all information that has been received by the Tribunal will continue to be maintained in accordance with the confidentiality provisions in the Gender Equality Law and in the Tribunal's Policies and Procedures.

## LOOKING FORWARD

The Tribunal will handle any complaints that are filed during the upcoming year in accordance with its Policies and Procedures. As is to be expected, the work of the Tribunal remains quite unpredictable at this stage and will be largely dependent on the number and complexity of complaints that are received.

Members of the Tribunal all remain committed to the objectives of the Gender Equality Law and to providing their time and expertise to carry out the Tribunal's functions effectively.

Dated this 8th day of September 2014



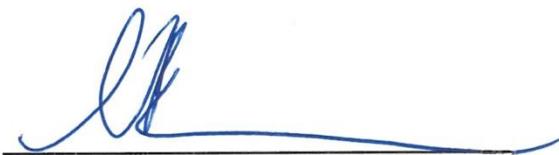
SHERIDAN BROOKS-HURST, CHAIRPERSON



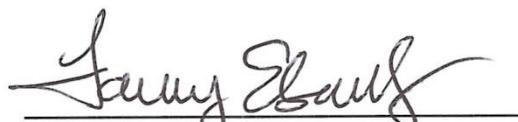
KARIE BERGSTROM, MEMBER



VAUGHAN CARTER, MEMBER



NICK DUNNE, MEMBER



TAMMY EBANKS, MEMBER