UKOTA Annual Report to Political Council

27th November 2017

UK OVERSEAS TERRITORIES ASSOCIATION

UKOTA

PREPARED BY MEMBERS OF THE ASSOCIATION

Chairman: Government of Bermuda London Office, 6 Arlington St., London, SW1A 1RE
Tel: +44 207 518 9900; fax +44 207 518 9901 email: londonoffice@gov.bm
Members: Anguilla • Bermuda • British Virgin Islands • Cayman Islands • Falkland Islands • Gibraltar • Montserrat • Pitcairn • St Helena • Tristan Da Cunha •Turks & Caicos Islands

1. Foreword

The United Kingdom Overseas Association (UKOTA) was founded in 1994 and exists to promote both the interests of the Territories and cooperation between them, whilst also working to ensure good collective and individual relationships between Territories and the United Kingdom Government. The Association's work is governed by regular meetings of the Representatives of the Overseas Territories who are based in the United Kingdom.

The head of the Government of the Chairman of the Association is the President of the Political Council and the President of the Association. With the appointment of Bermuda as Chairman, **The Hon David E. Burt JP, MP** is the President of the Political Council. The Political Council is the highest body of the Association, consisting of the individual representatives of each Member Government, which sets the policies of the Association and approves the decisions requiring its approval. All prerogatives necessary to the achievement of the Association's aims are vested in the Political Council.

Full Members are represented in the bodies of the Association by individuals duly appointed by their Governments to represent their interest in the United Kingdom, referred to as UK Representatives.

2. Mission Statement

The Association exists to promote the interests of the United Kingdom Overseas Territories and cooperation between them. Specifically the Association demonstrates the collective and individual partnerships between the Territories and HM Government of the UK. The inhabited Territories are entitled to be Full Members of the Association.

3. The Annual General Meeting and Secretariat

UKOTA's Annual General Meeting was held on Thursday 26th of January 2016 at the BVI Government London Office. Officers were elected as follows:

Chairman: Kimberley Durrant, UK Representative for the Government of Bermuda

Honorary Secretary: Sukey Cameron MBE, UK Representative for the Falkland Islands Government

Hon. Treasurer: Chris Carnegy, UK Representative for the Government of Tristan da Cunha

In accordance with the offer made by the British Virgin Islands Government at the previous Political Council to provide a secretariat role to UKOTA, this assistance was provided for the first part of the year. After BVI, the Government of Bermuda London Office has provided continued support to present day. This arrangement will continue until the forthcoming AGM.

It cannot be overstated how important it is to the work and effectiveness of UKTOA to have a dedicated official serving its meetings and coordinating its work amongst Members. It remains a longer term aspiration of UKOTA to have its own independent and separately funded Secretariat. However, for the foreseeable future, this must remain an aspiration given the financial constraints and pressures upon all the Territories.

4. Constitutional Review/Strategy

The UKOTA constitution builds a framework through which Members of the Association recognise their shared values and collective interests. These Articles express our commitment to cooperation and to upholding our principles to work on an equal basis irrespective of our diverse constitutions, population, size and economic status. To work together as Governments of British Overseas Territories.

On the direction of the Chairman there is a need to review the constitution in its current form. This has been recognised by Members as long overdue amid the ever- changing pressures and demands placed on British Overseas Territories.

A revised constitution will be presented to the Political Council when a comprehensive and collaborative review is completed.

5. Pre-Joint Ministerial Council

At the Political Council held on 31st October 2016, it was confirmed by Members to appoint the Pitcairn Government as Chairman of the Pre-JMC Meeting hosted in London on the 11th July 2017. At the same Political Council an offer was presented by the Falkland Islands Government to host the 2018 Pre-JMC in the Falkland Islands. This offer was kindly acknowledged, however the Chairman in consultation with the Falkland Islands Government agreed that it is more effective to host a Pre-JMC in London to coincide with UK's obligation to host a mid-year JMC (EN). The 2018 Pre-JMC will be hosted in London by UKOTA. It is not yet confirmed who will chair that meeting.

The Association welcomes discussions on two items to be decided upon:

1. President of UKOTA Chairs the 2018 Pre-JMC or
2. Nominations by Governments to Chair the 2018 Pre-JMC

6. The Work of UKOTA

Throughout the year UKOTA has held 11 meetings, including a number of meetings with Parliamentarians such as the All-Party British Overseas Territories Group, and with officials across Whitehall Departments including the Foreign& Commonwealth Office.

The work of UKOTA this year focused on the following areas through Sub-Committees:

Discrimination of BOTCs - Prior to July 2006, those born out of wedlock were ill-used in British nationality law: The relationship between a father and child was taken to exist only between a man and any legitimate child born to him, as stipulated under the Section 50(9) of the British Nationality Act 1981. In effect, this precluded the automatic acquisition of any class of British nationality to children whose relationship with their father was considered 'illegitimate'.

For a child born in a British Overseas Territory, where the child's father was able to transmit nationality by virtue of being a British Overseas Territory Citizen ('BOTC') or by virtue of being settled in that territory, the child so born did not acquire BOTC status unless born legitimate in accordance with Sections 15(1) and 50(9) of the 1981 British Nationality Act or subsequently legitimated by the marriage of their parents to each other in accordance with Section 47.

The Nationality, Immigration, and Asylum Act 2002 amended section 50 as described above and thereby ended discrimination by way of legitimacy for British citizens and BOTCs born after 1 July 2006. This reform applying to the acquisition of any of the six classes of British nationality, including BOTC. However, the 2002 Act made no provision to rectify the prejudice suffered by those born out of wedlock prior to July 2006. This has left those shut out of BOTC acquisition by way of legitimacy before 1 July 2006 with no recourse to citizenship.

While the Immigration Act 2014 introduced the ability to apply for registration as a British citizen so as to rectify the prejudice suffered by those born out of

wedlock, this innovation did not extend to five of six British nationality classifications including BOTCs.

This has left those who would have access to BOTC if it were not for their parents' marital status, and as a result may very well be stateless, awaiting legislative innovation. The United Kingdom Parliament is the sole authority with the power to legislate in respect of British nationality, but has left British nationality law unchanged in these regards. With the hopes of reversing such discrimination, an internal legal research briefing was produced to aid in understanding of the legislative anomaly. As a result of the understanding gained through briefing research, the Foreign and Commonwealth Office was approached with the view of initiating dialogue on the matter. The FCO has offered to facilitate dialogue between UK Representatives and the Home Office by sourcing relevant legal advisors for discussions.

Financial Services - Chaired by the UK Representative for the Cayman Islands

- The most significant achievement by UK Representatives with Financial Services was the defeat of the Amendment for Order in Council in the Criminal Finances Bill. This was achieved through effective direct engagement with Members of the House of Lords who tabled the Amendment once it fell through the Commons. Members' engagement was supported by Her Majesty's Government through direct collective dialogue with Home Office Ministers.
- Updating U.K. Parliament on the implementation of the central registers or similarly effective platforms, as agreed in the Exchange of Notes in April 2016.
- The proactive and effective lobbying of U.K. Parliamentarians to avoid the acceptance and adoption of harmful legislative amendments put forward in the House of Commons and the House Lords. The amendments, if adopted would have effectively legislated directly for the Overseas Territories and forced the implementation of public registers of beneficial ownership information.
- Enhancing the working relationship with the IFC Forum as well as the Financial Services Working Group of the Overseas Countries and Territories Association.

Environment & Climate Change – Chaired by the UK Representative for the Government of St Helena

We applaud the St Helena Representative for her support in representing the Association at the Overseas Territories Biodiversity Group and fighting for all causes relating to Environment Protection in the Overseas Territories.

We have agreed the following commitments:

- Continue to lead international action against climate change, and the degradation of habitat and loss of species.
- Maintain the commitment to spend 0.7 percent of gross national income on assistance to developing nations and international emergencies.
- Continue to use aid budget in alignment with the Sustainable Development Goals, to end extreme poverty, save children's lives, and provide an education for girls.
- Work to prevent catastrophic environmental degradation, leading the world in environmental protection.
- Continue to take a lead in global action against climate change, as demonstrated through ratification of the Paris Agreement.
- Champion greater conservation co-operation within international bodies, protecting rare species, Polar Regions and international waters.
- Work with Overseas Territory governments to create a Blue Belt of marine protection in their precious waters, establishing the largest marine sanctuaries anywhere in the world.

Public Relations/Overseas Territories Awareness – Chaired by the UK Representative for the Falkland Islands Government

- We issued one newsletter as opposed to our standard two a year. This was a result of lack of financial resources. This September 2017 edition highlighted July's Pre-Joint Ministerial Council in London, European Negotiations, Territory news and a 'wrap around' focusing on the need for sustainable response following Hurricanes Irma and Maria . The 'wrap around' included an editorial piece from the Premier of Montserrat, The Hon. Donaldson Romeo stressing the vital need for a resilient rebuild.
- As a result of Hurricanes Irma and Maria the President of the Political Council, The Hon David E Burt, JP, MP issued a statement on behalf of the Association outlining 'the explicit need for the UK to not only commit immediate resources, but also to examine and develop the long term economic self-sustainability of the Overseas Territories in a time of unprecedented devastation.'

Press inquiries were responded to by the Chair.

- UKOTA continues to maintain an informative website. The value of the website is to enhance the profile of the Association and work carried out between Governments of the British Overseas Territories.

Immunities & Privileges – Chaired by the UK Representative for the Cayman Islands Government

This committee is established to look at the issue of the position of the OT Government UK offices under the Consular Relations Act 1968. Some offices already appear under the act but others do not, it is important that all offices are afforded the same privileges and benefits.

The Immunities and Privileges extended to BOT Offices vary from tax exceptions to courtesies and inclusion in wider diplomatic functions and events.

The Political Council is recommended to instruct this committee to prepare a position paper which will set out the Privileges and Immunities in totality and seek the Political Council's approval of what courtesies should be sought for all BOT Offices in the U.K.

The Foreign Office is seeking further legal advice.

Parliamentary Affairs – Chaired by the UK Representative for the Falkland Islands Government

- In partnership with the Commonwealth Parliamentary Association the Association has begun a series of breakfast briefings open to all Members of Parliament. The briefing has attracted senior front benchers as well cross-party interest. This is a useful new avenue for UKOTA Parliamentary direct engagement

- UKOTA organised a formal evidence session with the House of Lords European Union Select Committee, chaired by Baroness Verma on behalf of Lord Boswell of Aynho. All Territories participated in the evidence session apart from Cayman and Ascension. As a result of the evidence session the Committee through Lord Jay of Ewelme wrote a formal letterto the UK Government to The Rt Hon David Davis MP. The letter outlined the impact of Brexit upon Britain's Territories. A response is expected from the UK Government within two months of issuing the letter.

- An informal meeting is scheduled with two House of Commons Committees: the Committee on Exiting the European Union, Chaired by Hilary Benn MP, and the Foreign Affairs Committee, Chaired by Tom Tugendhat MP, during the week of JMC. Interested members of the International Trade Committee will participate during the session with the Foreign Affairs Committee.

- It was bought to our attention that citizens from the Overseas Territories have difficulty in joining the Armed Forces in the UK due to the residency requirements. We have spoken to a number of MPs about this issue, arguing that residence in the OTs should count towards being resident in the UK (as it does for university fees for OT students). We have a group of MPs who are taking this matter up on our behalf and we hope to have a resolution to the matter in the New Year.

- We continue to support the All-Party British Overseas Territories Group.

Pensions - UKOTA continues to press the issue of frozen pensions in the Overseas Territories and has attended two meetings of the Frozen Pensions APPG. The members of the group and petitioners from Australia, Canada and the Caribbean are very supportive of our campaign. As agreed at the pre JMC in June, a paper setting out our position and arguments, which was written by the former Attorney General of the Falkland Islands, Mr. Peter Judge, was sent to the new Minister at the Department for Work and Pensions, Guy Opperman MP, along with a request to meet with Leaders around the time of the JMC. Unfortunately the reply to the letter was not hopeful and reiterated previous statements from HMG that they have no plans to change their policy.

An excellent article highlighting the issue appeared in the Guardian in March and there was Parliamentary debate on the subject in April, during which the case of citizens affected in the OTs was raised. A meeting was held with the Shadow Minister for Pensions, Alex Cunningham MP, and he put down a question in the House, again that elicited the same response - that no change in the policy was being proposed.

However, this is not the end of the campaign and we will continue to pursue the issue.

Health - Chaired by UK Representative for the Government of Montserrat

Discussions with the Department of Health were initiated to explore the possibility of a cross-OT shared workspace and forum for the use of Chief Medical Officers (CMOs). This would enable CMOs in the Overseas Territories to communicate with each other in a comprehensive manner, sharing both information and best practice across jurisdictions.

The proposed use of 'DH exchange' was discussed as the workspace allows users to share documents and data, as well as post blogs, host online surveys and hold discussions in a secure an efficient manner. The workspace also allowed for CMO-specific forums, through which particular issues and areas of practice could be discussed. This initiative has fallen in line with CMO desires, as CMOs have previously suggested to the Department of Health that they would like to have more options to collaborate as well as more arenas to host discussions.

EU Engagement - Chaired by the UK Representative for the Government of Montserrat

The Turks and Caicos Islands Government was elected chair of the EU Overseas Countries and Territories Association ('OCTA') at the 15th Ministerial Conference that took place in Aruba on 23rd February 2017. Three members of UKOTA were elected onto the OCTA Executive Committee.

UKOTA members continue to engage with the FCO and other relevant HMG departments to ensure that their concerns are taken into consideration in the Brexit negotiations. The Territories' concerns were identified by Leaders at the two JMC (OT-EN) meetings convened by UKOTA and the FCO in February and July of this year.

UKOTA & RMG (Royal Museum Greenwich) Student Engagement - Organised by OT Student Planning Group (Officials within UK / OT Offices)

The working group was formed to organise the 2nd Overseas Territory Student Conference which was jointly sponsored by UKOTA and the Royal Museum Greenwich. The purpose of the day long event of activities was to support students of the UK Overseas Territories in their professional development and

social and cultural engagement in Britain and encourage cross-OT networking of young professionals.

The event was hosted on Saturday 11th March 2017 at the National Maritime Museum/Royal Museum Greenwich

7. UKOTA Financial Statement

Eleven Territories each contributed funding to UKOTA in the year of the current annual subscription of £900; one has not contributed so far. The year brought further additional costs related to (i) the pre-JMC held in London, (ii) the student event, and (iii) the second academic report on Brexit. The Association's cash balance declined by over £4,000 and now stands at ***£10,750****. A proposal will be made to Political Council to raise more subscription income in the coming year.*

Membership fees become payable each year at the Annual General Meeting. Any Member whose membership fees remain unpaid for one year (from the date of the AGM) automatically loses their membership.

Acknowledgment

The Chairman wishes to acknowledge the support of all Members in working together during a challenging year for our Territories. As Members our hearts are with those Territories impacted by Hurricanes Irma and Maria.