



Governor's Office  
British Virgin Islands

# Quarterly Review

Implementation of the Commission of Inquiry Recommendations

4<sup>th</sup> October 2022

Governor John Rankin CMG

OFFICE OF THE GOVERNOR  
British Virgin Islands



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# Executive Summary

**This is my first Quarterly Review under the provisions of the “Framework for Implementation of the Recommendations of the Commission of Inquiry Report and Other Reforms” (“the Framework document”), covering the period June-September 2022.**

**The COI Report found serious failings of governance in successive administrations. The Government of National Unity (GNU) under the Premiership of Dr the Hon Natalio D Wheatley committed to implementing 48 of the 49 COI Recommendations in a framework with clear deadlines. The UK Government agreed that the GNU should implement these reforms, while also putting in place an Order in Council which would allow it to take action if reform failed.**

**The scale of the reform required is significant, and the deadlines are necessarily challenging. Early progress in key areas is important for establishing the pace and direction of change. Reform must be deep-rooted and sustained to ensure improvements in governance in the interests of the people of the BVI.**

**To date, as set out in this Quarterly Review, there has been good progress in a number of areas. An example of positive change is the amendment of the Audit Act to make failure to cooperate with, or impede the work of, the Auditor General a criminal offence, and related changes to the Service Commission Regulations for the public service. All but two of the reviews recommended in the COI Report have been initiated. I have also ordered the Royal Virgin Islands Police Force to conduct all the criminal investigations recommended in the COI Report, and the Auditor General is conducting the recommended audits.**

**However, there are areas where there has been less or no progress. In most cases where deadlines have been missed, there are credible reasons for delay, and I am satisfied that work is under way. An example of this is the wholesale review of the welfare benefits and assistance grants, which is now in progress.**

**But it is vital that the overall pace of reform is maintained, and that the change is far-reaching and deep-seated. This requires continued commitment and hard work from both elected officials and the public service. While the overall approach of the Premier and Cabinet has been one of constructive engagement and partnership in delivery of the reforms, there are some areas where I have concerns about the level of commitment to meaningful reform. These include some continued use of tender waivers for Government contracts, the resistance that was encountered to broadening membership of the Constitutional Review Commission, and the amending of the Register of Interests Bill to limit severely public access to the**



**records of interests of Members of the House of Assembly. It is essential that the areas of concern are addressed and that new governance issues do not arise.**

## **Background**

1. The Commission of Inquiry (COI) was established in January 2021 to inquire into whether serious dishonesty in relation to public officials may have taken place in BVI and to make recommendations for improving the standards of governance and the operation of the agencies of law enforcement and justice in the Territory. The Commissioner's Report, running to over 900 pages, was published on 29 April 2022.
2. In his report the Commissioner, Sir Gary Hickinbottom, concluded that in terms of governance the people of the BVI have been very badly served in recent years. He said that, almost everywhere, the principles of good governance such as openness, transparency and the rule of law had been ignored. He found that the elected government, in successive administrations, had sought to avoid good governance. He also concluded that it was highly likely that serious dishonesty may have taken place across a broad range of government and that a substantial number of elected officials might be involved. The Commissioner made 49 recommendations, including four "primary recommendations".
3. Following the arrest in the US of former Premier Andrew Fahie, a Government was formed under the premiership of Dr the Hon Natalio D Wheatley. The Government of National Unity committed to full implementation of all the COI recommendations, with the exception of recommendation A1 (partial suspension of the Constitution) and made a proposal to UK Ministers setting out an implementation plan for the 48 recommendations and other reforms. As I announced in my statement of 8 June 2022, UK Ministers agreed to the proposal, set out in the document "Framework for the Implementation of the Recommendations of the Commission of Inquiry Report and Other Reforms", known as the Framework document.
4. At the same time, the UK Government also put in place arrangements to take action to protect the interests of the people of the BVI if the Government of National Unity, or any subsequent government, failed to deliver the commitments to reform without reasonable justification, or if progress was being frustrated. That was done through the passing of an Order in Council which allows the Foreign Secretary to provide the Governor with the powers needed for corrective action, including the possibility of temporary suspension of the House of Assembly and Cabinet, and a temporary Governor-led administration.



5. If the Government of the BVI delivers on the commitments in the Framework document, then the Order in Council will be kept in reserve and will not need to be used.
6. The Framework document sets out the respective responsibilities for delivering reform. The Premier and Cabinet have overall responsibility for the implementation of the COI recommendations in their areas of constitutional responsibility, and for driving the legislative agenda on reform. Ministries and the House of Assembly also have responsibilities set out in the Framework document. As Governor, I have responsibility for monitoring the overall implementation of the COI recommendations, in addition to leading implementation of recommendations in my areas of constitutional responsibility.
7. The Framework document includes the following provision under section VIII "Accountability":

"The Governor will conduct quarterly reviews over the course of the reform process. This will include consideration of: (i) implementation of the COI Report recommendations; (ii) the written quarterly reports from all the individuals leading reviews, investigations and audits arising from the COI recommendations; (iii) other reforms enacted; and (vi) the political culture exhibited in the day-to-day running of the government. The Governor will publish his quarterly reviews."
8. This is the first of my Quarterly Reviews, covering the period from June-September 2022. I will conduct further Quarterly Reviews throughout the period of COI implementation, which is estimated to be two years.

### **Implementation of the COI Recommendations**

9. The table at Annex 1 shows a summary of progress against deadlines for implementation of the COI Recommendations.
10. According to the deadlines in the Framework document, work should have started on 48 of the 49 COI recommendations. In most cases work has started, but there have been some delays. The missed deadlines include: a wholesale review of assistance grants (B7/10); publication of a protocol for the appointment and removal of statutory board members (B28); and a review of the law enforcement and justice systems and modern powers for prosecution (B38 and B41). Recommendations B38 and B41 are related to law enforcement and fall under the Governor's areas of constitutional responsibility. The delay in implementation of these recommendation is covered below in this review.



11. There have also been delays in other areas, for example the House of Assembly to approve additional resources to publish the laws of the territory in full (B44).
12. There have been some minor delays to the appointment of reviewers to review discretionary powers (A3), statutory boards (B24) and the COI Act (B1) which may have a knock-on effect on the reviews being published and any required further actions or legislative changes. There will need to be further consultation with the public service on the extension of the register of interests to include public officials (B4). Other delays are minor and currently are not of significant concern.

### **Investigations and Audits**

13. On 12 May 2022 I announced that, in line with my responsibilities under the Constitution, I had instructed the Royal Virgin Islands Police Force Commissioner of Police to undertake a number of criminal investigations as recommended in the Report. These are set out in the table below.

<b>Recommendation</b>	<b>Description</b>
B14	Criminal investigation into the conduct of the Premier's Office (under the previous Premier) in obstructing the Director of the Internal Audit Department in respect of her audit of the COVID-19 Assistance Programmes
B20	Criminal investigation and/or investigations into the recovery of the public money expended on the Sea Cow Bay Harbour Development project and the Virgin Islands Neighbourhood Partnership project
B32	Criminal investigation and/or investigations into the recovery of the public money expended in the disposal of Parcel 310 of Block 2938B, Road Town Registration Section
B40	Investigation into possible corruption within HM Customs

14. With regard to Recommendation B21, criminal investigations were already underway in relation to the Elmore Stoutt High School perimeter wall project and the BVI Airways project. One person has already been charged in relation to the school perimeter wall project.
15. The COI Report also recommended a number of audits. These are set out in the table below.

<b>Recommendation</b>	<b>Description</b>
A4	Review of all areas of Government and a timetable for the audit of appropriate areas



B12	Full audit of all grants made by members of the House of Assembly and /or Government Ministries for the last three years, including applications which have not been granted
B13	Full audit of Covid-19 Assistance Programmes
B18	Full audit of all contracts valued over \$100,000 considered by Cabinet or approved by a minister over the last three years
B22	Full audit of government contracts with Claude Skelton Cline since 2019
B23	Full audit of government contracts with EZ Shipping concerning the provision of radar barges since 2019
B31	Full audit of all disposals of Crown Land over the last three years
B34	Full audit of all applications for and grants of residency and belonging status under the Fast Track scheme

16. The Auditor General is leading work on all of these audits. This represents a significant amount of work for the Auditor General and her team, and Internal Audit who are assisting. The Government of National Unity have committed in the Framework document to full cooperation with the audits, to provision of the necessary resources to the Auditor General, and to take appropriate action in response to findings of the audits.

17. I am pleased to note that, in response to COI Recommendation B16, in July the House of Assembly amended the Audit Act to make a failure on the part of any person to cooperate with or otherwise impede the work of the Auditor General a criminal offence. Also, in response to COI Recommendation B17, the Service Commission Regulations have been amended to make failure to comply with an investigation of the Auditor General or Director Internal Audit Department by any public officer or employee of a statutory board gross misconduct. It is important that these changes are now enforced as necessary to support the essential role of the audit function in good governance in the BVI.

## Reviews

18. The Commission of Inquiry recommended a large number of reviews of key areas of policy and governance. I have worked closely with the Premier to identify people in the BVI with the appropriate experience and skills to conduct reviews. To date we have made the appointments set out in the table below.



Recommendation	Description
A3	Review of discretionary powers - Ms Anthea Smith
B1	Review of the Commissions of Inquiry Act - Ms Fikile Dlamini
B5	Review of the practice of House of Assembly members contracting with government, including statutory boards – Mr Denniston Fraser
B7/10	Wholesale review of the benefits and Grants system- with the assistance of UNICEF, Social Policy Research Global, appointed to lead the review
B24/28	Review of all statutory boards and their compliance with policy and good practice - Appointment of reviewer to be confirmed
B25	Review of provisions under which statutory boards are maintained – Mr Jamal Smith
B29	Investigation into whether any appointments to statutory boards made since 2019 should be revoked - Mrs Sheila Brathwaite
B30	Wholesale review of the process for disposal of Crown Land – Mr David Abednego
B33	Review of existing belongsership policy – Appointment of reviewer to be confirmed
B38	Review of law enforcement and justice systems - His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) from the UK will lead the review panel
B39	Independent agency to conduct vetting of all officers of Customs, Immigration and if necessary Royal Virgin Islands Police Force and Prison Service – UK Police National Vetting team
B41	Panel to ensure that Royal Virgin Islands Police Force and, as necessary, other enforcement agencies have the necessary facilities and powers – Initial work to be covered by panel for B38

19. I am grateful to all those who have agreed to contribute to this important work, which will help to deliver the necessary reforms and improve governance. I look forward to receiving their reports and recommendations.

### **Reports from Individuals Leading Reviews, Investigations and Audits**

20. The Enhanced Monitoring section of the Framework document provides for:





“Submission of written quarterly reports from all individuals leading reviews, investigations and audits arising from the COI Report recommendations to the Governor. This will include evaluation of progress made and level of cooperation encountered.”

21. In some cases, the start of work by reviewers was delayed due to delays in their appointment and/or because of lack of administrative support, including provision of documents. It is essential that all reviewers receive the necessary support and cooperation. I trust that with the establishment of the Implementation Unit, and full cooperation from Ministers and the Public Service, the reviewers will from now on receive the support necessary to complete their work. I will continue to monitor closely progress in this regard.
22. While it would not be appropriate to go into detail on matters related to the investigations, audits and reviews are which ongoing, I can state that, from the quarterly reports received, in general there has been a satisfactory level of cooperation. However, I note with concern that several reviewers and investigators have reported difficulty accessing relevant documents from the public service. I have asked the Deputy Governor to remind public servants of the need to prioritise cooperation with COI implementation. If there is evidence that access is being deliberately blocked, action will be taken in respect of the relevant officers. I trust that this will no longer be a concern by the time of my next Quarterly Review.

## **Significant implementation issues in the first quarter**

### **Statutory Boards**

23. Chapter 7 of the COI Report examined Statutory Boards, in particular the processes by which members of Statutory Boards have been appointed, the extent to which the Boards complied with the principles of good governance, and whether there had been deliberate political interference. The Commissioner concluded that there had been “overt manipulation by the executive of institutions which are established by the Legislature to perform identified public functions as bodies independent of the executive government.” The Commissioner also concluded that: “Without clear direction and decision, I am unconvinced that properly open and transparent competition for statutory board membership will be adopted in the near (or even foreseeable) future.” The Commissioner made several recommendations for audits and reviews, which were reflected in the Framework document.
24. The Framework document contains the following commitment: “The Government publishes a protocol for the appointment and removal of statutory board members, as set out in Recommendation B28”, with a deadline of 1 July 2022. While I



understand that work is underway on this protocol, it was not completed by the deadline, and so was not in force for the appointment of boards over the summer, for example the Airports Authority, Ports Authority and Tourism Boards. Although it is clear that the processes used for appointments to these Boards - involving advertisements for candidates and consideration of applicants by selection boards - were an improvement on previous practice, these processes were not wholly consistent or clear. Without a protocol in place, pending a revised system of governance for the Statutory Boards which sets principles and standards for appointments, it is not possible to have complete confidence in the way in which appointments were made to these important bodies. Nor has consistency been applied to the level of stipends for membership of the various Boards.

25. It is regrettable that finalisation and implementation of the protocol was not prioritised to ensure that it was in place in time for the latest round of appointments. It is vital that work on the protocol is completed as a matter of urgency, and that the protocol sets rigorous and consistent standards for the process of appointments to these public bodies which have important responsibilities.

### **Assistance Grants**

26. Chapter 5 of the COI Report dealt with assistance grants. The Commissioner found that grants were distributed by House of Assembly members in a “legally arbitrary and unlawful manner”, with no proper guidance or audit in place to ensure accountability and concluded that “corruption, abuse of office or other serious dishonesty may have taken place in recent years” through this grants system. He reached the same conclusion in relation to grants made at the unfettered discretion of Government Ministers. He also identified irregularities with respect to specific programmes, including Covid-19 Assistance programmes. He made a number of recommendations, including for a number of criminal investigations and audits, all of which I have ordered, as set out above.
27. To implement COI Recommendations B8 and B9, the Framework document committed to the transition of House of Assembly Members’ Assistance Grants and Government Ministries’ Assistance Grants to the Social Development Department, with a deadline of 30 June. On 27 June the Minister for Health and Social Development announced the launch of the Transition Grant Programme, and this has been followed by the transition of the budgets for House of Assembly and Ministers’ Grants to the Social Development Department and the issuing of public notices about how to apply for social assistance programmes.
28. In addition, to implement COI Recommendations B7 and B10, the Framework document provides for a “wholesale review of the Virgin Islands welfare benefits and grants system...with a view to moving towards an open, transparent and single (or, at least, coherent) system of benefits, based on clearly expressed and



published criteria without unnecessary discretionary powers" with a deadline of 30 June 2022 for the start of the review.

29. The Ministry of Health and Social Development have secured valuable assistance from UNICEF to conduct this important review and a team from Social Protection International (SPRI Global), contracted by UNICEF, visited the Territory in September to gather information for the review. Although this was past the deadline, I welcome the efforts made in this complex area for reform and I am satisfied that there has already been significant progress in changing the previous system which was open to abuse, as the COI Report identified, and expert reviewers have been appointed to conduct the broader review.

### **Contracts**

30. Chapter 6 of the Commission of Inquiry Report on Government procurement found evidence of "flagrant widespread disregard of the good governance provisions by both the current regime and past administrations," with no open tender in two-thirds of projects. The Commissioner made a number of recommendations, including for audits and criminal investigations, all of which I have ordered. The Commissioner also noted the passing of new procurement legislation, but stated he had "no confidence in this [the Fahie administration] or successor governments implementing the new regime with any more rigour than they have implemented the current regime."
31. The Framework document commits to a number of changes in the procurement process aimed at preventing the failings set out in the COI Report. These include the provision of request for tender waivers to the Director of IAD in advance so that she can make observations on the appropriateness of a tender waiver; publication of Cabinet documents proposing a tender waiver; and mandatory pre-review by the Governor of any contract worth \$100,000 or more pending entry into force of new procurement legislation. In the Section III of the Framework document the responsibilities of Cabinet include ensuring that "tender waivers are only agreed in exceptional, unavoidable cases, and which must be explained publicly."
32. The Public Procurement Act was passed by the House of Assembly on 3 November 2021, and assented on 6 December 2021. Cabinet approved the Public Procurement Regulations 2022 on 20 July, to operationalise the legislation. The Act therefore came into force on 6 September. Nevertheless, in view of the evidence in the COI Report and the commitments made by the GNU to implement COI recommendations and other measures set out in the Framework document, it would be reasonable to expect a significant change in the Government's approach to procurement following the publication of the COI Report and the commitments made in the Framework document. Such a new approach should have included an end to proposals for tender waivers apart from in the most exceptional of cases.



Unfortunately, this has not been the case. Proposals for tender waivers are still being presented for consideration by Cabinet, often with insufficient and poorly-presented justification. Some of these proposals date from contractual commitments made by the previous administration. But even in these cases, the GNU has in many cases failed to take action to launch tender processes before the expiry of the current contract, and has proposed waivers for contract extensions without evidence of value for money. I have referred several of these for further audit investigation. I have also used the provision in the "Enhanced Supervision" section of the Framework for mandatory pre-review by the Governor of contracts worth \$100,000 or more to challenge some proposals for tender waiver before they reached Cabinet. It is disappointing that, although the new procurement legislation has only fully come into force on 6 September, the principles and practices from that legislation have not been applied earlier.

33. Although I have repeatedly reminded Cabinet of the requirement under the Framework document to publish documents related to tender waiver proposals, none have to date been published. This is regrettable, and a failure to provide the transparency and public accountability that publication of the documents would support.
34. The Public Procurement Act 2021 uses the term Single Source Justification rather than tender waiver and makes clear that the use of this procurement route should be only in exceptional circumstances which are defined in the legislation. It is important that this is enforced rigorously. I expect that the Cabinet waiver for publication of documents will also apply to Single Source Justification contracts in line with the intention of the Framework document.
35. I trust that with full entry into force of the new legislation we will see a prompt improvement in this important area of delivery of quality and value for the BVI public.

### **Law Enforcement and Justice**

36. In addition to recommending an investigation into possible corruption in HM Customs, which I have ordered, the Commission of Inquiry Report made several recommendations related to the broader structures and functioning of law enforcement agencies. These fall within the Governor's area of constitutional responsibility.
37. Recommendation B39, reflected in the Framework document, is that all serving HM Customs and Immigration Department Officers, and, if necessary officers of the Royal Virgin islands Police Force and the Prison Service, should undergo full



vetting. The deadline for appointment of an independent agency to conduct the vetting was 31 July 2022. The UK National Police Vetting team were appointed before the deadline, and have paid two visits to the BVI in September to conduct a scoping study for a new vetting system. Another team of UK officers will come to the Territory to conduct the vetting of all serving officers and establish a permanent vetting system. The UK Government has agreed to fund the scoping study and the initial vetting pending the establishment of the permanent system to be run by BVI Government.

38. The deadlines for implementation of recommendations B38 and B41, on a review of the law enforcement and justice system and the facilities and powers which the agencies have to detect crime and prepare matters for prosecution, were missed. This was due to the complexity of the review and the need to secure a panel with the expertise to ensure a professional, independent review. However, I am pleased that His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) has agreed to lead the review, which the UK Government has agreed to fund. A panel led by the UK HM Inspectorate will visit the Territory in the coming months to carry out the work, in cooperation with the law enforcement and justice agencies.
39. In line with the Framework document, a memorandum of understanding was agreed between the relevant agencies and approved by the NSC in June on division of responsibility for security of all ports and airports, under the command of the RVIPF, until security concerns have been effectively addressed and new constitutional and legal arrangements have been considered. Although in the relatively early stages, the agreement under the MOU is so far working well, with additional officers due to be deployed. Additional RVIPF access and responsibility for security at ports and airports, working with other agencies, will enhance protection for the BVI.

### Prison Service

40. In Chapter 12 (Law Enforcement and Justice) of the COI Report the Commissioner noted that a comprehensive independent review of security arrangements at the prison, directed by the National Security Council, was under way. He expressed confidence in the independent review and, on the basis that the matter was in hand, deemed it unnecessary to make any specific recommendations. However, the Commissioner did note that the Prison Service should be included as part of the wider review of law enforcement agencies (Recommendation B38).
41. The Prison Security Review consisted of four members, including the Superintendent of HM Prison Anguilla and two former Chief Inspectors of the RVIPF. The objective was to conduct a comprehensive review of the security



arrangements at HMP Balsam Ghut. The review concluded that “the estate had been neglected for many years”, “physical security at the prison was poor”, procedural security was “virtually non-existent”, and morale of staff was very low. The review made more than 50 recommendations, covering security and repairs; prison operations; procurement; staffing and oversight; and rehabilitation.

42. To implement the recommendations a Prison Security Review Implementation Committee was established, co-chaired by the Governor and the Minister for Health and Social Development, who currently share responsibility for the prison. This Committee meets at working level every month and with the Governor and Minister each quarter.
43. To date, a number of urgent repairs have been carried out at the prison, and CCTV is being installed. The UK deployed three UK prison officers for three months to HMP Balsam Ghut, who helped the Superintendent write and update operating procedures. The UK has also provided a range of new equipment, including mattresses, prisoner uniforms, handcuffs, and other basic essentials; as well as body worn cameras and training for staff on how to use them. The Ministry of Health and Social Development has completed urgent security repairs at the prison and provided some infrastructure upgrades. In September a senior former UK Prison Governor arrived in BVI for six months. He is working alongside the Prison Superintendent to help implement the remaining recommendations, together with the Prison Security Review Implementation Committee.
44. As noted elsewhere in this review, the work for the vetting system under COI Recommendation B39 will include staff at HMP Balsam Ghut.

### **Residence and Belonger Status**

45. The Commission of Inquiry Report found that the BVI Government had been applying an unlawful policy by requiring 20 years of residency before an application for belongingship could be lodged. The Framework document states that “Cabinet commits to follow existing legislation on residency threshold (minimum of 10 years) pending completion of the review under Recommendation B33”, with a deadline of 1 June 2022. The Premier recommitted to applying this policy in a public statement on 21 July 2022.
46. I am aware that a number of individuals have experienced difficulties with applications made since June, including not being given receipts for submission. I have raised this with the Premier as the Minister responsible for Immigration. I understand that the increase in the number of applications received in the period under review has posed some challenges for the Immigration Department.





Nevertheless, it is important that the Government fully implements its commitment to follow existing legislation on the residency threshold, and to accept and process applications on that basis, pending completion of the review under COI Implementation B33. I am not currently fully satisfied that this is happening. I will continue to monitor this issue over the coming months.

47. As noted above, the appointment of a reviewer to “lead a review of the existing policy and processes for granting residency and belonging status, including the open discretion of Cabinet to grant such statuses and the length of residence required for belonging, among other things” to implement COI Recommendation B33 has yet to be confirmed. I continue to consult with the Premier on the appointment for this important work.

## **Other Reforms**

### **Implementation Unit**

48. The Framework document set a deadline of 15 July for the establishment of an Implementation Unit, as a “critical” preparatory step for implementation of the COI recommendations. The Government experienced some delays in securing staff for the Unit, and this has hampered various aspects of implementation work, for example cross-Government monitoring and support to the reviewers. I am pleased that with the appointment of the head of the Unit at the beginning of September it is now functioning, and should be able to play an important role in the coordination and facilitation of key reforms.
49. The Framework document commits to the holding of “monthly tripartite policy dialogue meetings between each Minister of Government, joined by the Premier, and their Permanent Secretaries, with the Governor.” The first tripartite meeting, which was held jointly with all ministries, was on 12 August. Now that the Implementation Unit is functioning, these meetings must be held according to the monthly schedule.
50. Along similar lines, according to the Framework document each ministry should submit monthly delivery reports for review by the Governor and Premier. While the reports for June and July were received, they were late and, for example, the July reports were not available in time for the 12 August tripartite meeting. The Implementation Unit must ensure timely submission of the reports by ministries in future, including to inform the tripartite meetings.
51. Several other commitments under the Enhanced Monitoring and Cooperation provisions of the Framework document have not been met. Statutory Boards are



supposed to provide quarterly updates to the Premier and the Governor for review. In September I received a summary of which statutory bodies have met their financial reporting deadlines, which showed that a significant number were not meeting their responsibilities in that respect. However, I have written to the Premier to request that in future the reporting should come from the statutory boards themselves and cover activity and governance issues as well as financial compliance to enable us to fulfil the enhanced monitoring role. Also, the commitment to early circulation of draft Cabinet papers related to reform has not been implemented in many cases. Instead, too often Cabinet papers are still being submitted very late, sometimes without the full relevant information. This is not consistent with the good governance which the reform programme is intended to achieve.

### **Political culture**

52. In addition to the plan for implementation of 48 of the 49 COI recommendations, the Framework document includes a number of important broader commitments from Cabinet, for example full cooperation with audits and investigations; taking action on results of audits and investigations; public support for COI recommendations; no use of Ministerial discretion to override or circumvent agreed policies.
53. Overall, I can report that the approach of the Premier and Cabinet has been one of constructive engagement and partnership in delivery of the letter and the spirit of the COI recommendations and the reform plan in the Framework document. I welcome the constructive working relationship and regular dialogue I have had with the Premier since his appointment. I have been frank with him, and with other members of Cabinet, when I have had concerns about implementation of the COI recommendations. This has included discussions when reforms are not progressing according to target.
54. However, in addition to areas highlighted above, there have been two specific issues on which I have had concerns about the level of commitment to the level of meaningful reform required.

### **Constitutional Review Commission membership**

55. The COI Commissioner recommended that the membership of the Constitutional Review Commission should be reconsidered, and the Framework document states that the Governor and Premier should jointly agree the membership. In addition, the Framework document states that Cabinet will ensure “support for the broadest possible participation from across Virgin Islands society in the Constitutional





Review process..." The membership was agreed in June and has been broadened, and I believe strengthened, by the additional experience and diversity which the new members bring. I was disappointed that some proposals for changes to the membership met with strong resistance which in my view was unjustified and ran counter to the importance of the Commission being representative of the BVI as a whole. However, I am pleased that the terms of Reference have been agreed and the Commission has started its important work under the chairmanship of Ms Lisa Penn-Lettsome.

### **Register of Interests**

56. Under the BVI Constitution and statute law, members of the House of Assembly are required to register their interests. The COI established beyond doubt that, despite the best efforts of the Registrar of Interests, supported by Governors, members (across all political parties) had failed to do so. The Commissioner concluded that this was not simply a case of elected officials failing to comply with their obligations, but that "collectively, they have deliberately, persistently undermined the system of controls imposed by the Constitution." The COI Report made a number of recommendations to address this.
57. The Register of Interests Amendment Bill passed by the House of Assembly in July sets out penalties for any member of the House who fails to declare their interests on time, as agreed in the Framework document. However, although the draft legislation approved by Cabinet made clear that the Register should be made public in response to COI Recommendation B2 and the provision in the Framework document, the House of Assembly made several amendments which would severely restrict public access. These amendments mean that anyone wishing to view the Register must make a written application and pay a fee. They would only be allowed to view the Register in the presence of the Registrar and would not be permitted to take any kind of copy or even notes of the contents. In my view, these amendments are contrary to the principle of transparency and the intent of both Recommendation B2 and the commitment in the Framework document which states that: "HOA makes the Register of Interests public under the existing arrangements, while a new system is designed and developed to cover both elected and public officials."
58. The debate on this issue has also raised the question about public access to draft legislation, including any amendments made in the House of Assembly, before assent, so that the public can be informed and have the opportunity to express their views. The committee stage of the Bill was held in private and the third reading was not accessible to the public. So the amended Bill has come to me for assent without the public having had the opportunity to see the final version. This is an



issue which I believe should be taken up and clarified so that there is full transparency for the public.

## **Communications**

59. Between 5 April and 12 May I made five statements updating the public about the COI Report and related issues, including the ordering of criminal investigations recommended in the COI Report. Since UK Ministers accepted the reform proposals in the Framework document, the Premier and I have held three joint press conferences on the COI since the beginning of June. The Premier has also made statements on issues related to the COI, and has held a number of public meetings on COI Implementation.
60. The COI Report and associated bundles of documents are public and my office has distributed 130 hard copies of the report to lawmakers, senior officials and places of public access, including schools and libraries.
61. It is important that the public of the BVI receive regular updates about reform so that they too can monitor the progress.

## **Conclusion**

62. The challenge of addressing the serious governance failings identified in the COI Report through implementation of the COI Recommendations is significant but necessary. The timetable for reform to which the Government of National Unity committed in the Framework document is challenging, but reflects both the urgency of the task and the estimated timetable of around two years for essential reform which the Commissioner envisaged in his Report. Early progress in key areas is important for establishing both the direction and pace of change.
63. The change needs to be far-reaching and deep-rooted. As the COI Report showed, it is not sufficient to have legislation, rules and policies in place: they need to be applied and enforced consistently, rigorously and transparently. This is why the commitments of the BVI Government to change the governance culture for the benefit of the people are important, and why I have included that perspective in my assessment in this Quarterly Review.
64. Overall, as set out above, there has been good progress in some areas, but less or no progress in others. It is vital that the areas of concern I have highlighted above are addressed and that new concerns about governance and implementation of reforms do not arise. The Government and public service must give priority to the implementation of reform in line with the commitments made.



# Annex 1

## Summary of COI implementation deadlines

### May 22

Delivered on time	Delivered late	Still to be delivered
B14 – Order an investigation into conduct of the Premier's Office in obstructing the Internal Audit Department B18 – Auditor General to start audit of all major projects over \$100k <b>(report due 31 May 23)</b> B20 – Refer the Sea Cow Bay Harbour Development for criminal investigation B20 – Refer the Virgin Island Neighbourhood project for investigation B21 – Authorities to continue investigations into High School wall project and BVI Airways B29 – Government to look at changes to Statutory Board members B32 – Refer the disposal of crown land, Parcel 310, block 2938B, for criminal investigation B40 – Order an investigation into possible corruption within HM Customs	Nil	Nil

### June 22

Delivered on time	Delivered late	Still to be delivered
A2 – Propose and agree to a new Constitutional review committee <b>(report due 30 Jun 23)</b> A4 – Instruct Auditor General to start audits into all areas of Government B2 – House of Assembly passes legislation to make the Register of Interest public and greater penalties for non-compliance <b>(awaiting assent)</b> B3 – House of Assembly engages the Commonwealth Parliamentary Association for help in designing a new system of Register of Interests <b>(report due 31 Dec 22)</b> B5/B6 – Amend language on Register of Interests in the Constitution (forms part of the Constitutional Review) B5 – Appoint a reviewer to review the practice of HoA members contracting with the Government and Statutory Boards <b>(report due 31 Dec 22)</b> B8 – All House of Assembly and Government Ministries' assistance grants cease immediately and transfer to Social Development Department B9 – Social Development Department review existing grants under new criteria and revoke any unnecessary grants B11 – Start a review of educational grants <b>(report due 31 Oct 22)</b>	B7/B10 – Start a wholesale review of all Government grants <b>(report due 30 Nov 22)</b>	Nil



<p>B12 – Auditor General to start audit of all House of Assembly and Government Ministries' grants <b>(report due 31 Dec 22)</b></p> <p>B13 – Auditor general to start audit all Covid-19 assistance grants <b>(report due 31 Mar 23)</b></p> <p>B15 – Order an investigation into the Premier's Office obstructing the Auditor General's audit of the Covid-19 assistance programmes</p> <p>B19 – House of Assembly amends Public Finance Management Act to tackle contract splitting and use of tender waivers</p> <p>B22 – Auditor General starts audit into all government contracts held by Claude Skelton Cline <b>(report due 31 Dec 22)</b></p> <p>B23 – Auditor General starts audit into all EZ shipping government radar barge contracts <b>(report due 30 Nov 22)</b></p> <p>B29 – Investigator appointed to review all appointments to statutory boards since 2019 <b>(report due 31 Dec 22)</b></p> <p>B33 – Cabinet commits to follow existing legislation on year threshold to apply for residency</p> <p>B34 – Auditor General to start audit into all grants of belongingship or residency under the Fast Track programme <b>(report due 30 Jun 23)</b></p> <p>B40 – Cabinet agrees to joint security oversight of all ports and airports under the command of the Royal Virgin Island Police Force</p>		
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## July 22

Delivered on time	Delivered late	Still to be delivered
<p>B16 – House of Assembly amends the Audit Act to make failure to cooperate with the Auditor General a criminal offence</p> <p>B17 – Governor amends the Public Service Code to make failure to comply with Auditor General gross misconduct</p> <p>B27 – Constitutional Review terms of reference to include reference to the creation of a Statutory Boards Commission</p> <p>B30 – Appoint a reviewer to review the process for the disposal of crown land <b>(report due 31 Dec 22)</b></p> <p>B31 – Auditor General to start an audit into all disposals of crown land over the last three years <b>(report due 31 Jan 23)</b></p> <p>B35 – Develop a revised Public Service transformation programme</p> <p>B39 – Appoint an independent agency to start vetting all customs, immigration, RVIPF and prison staff</p>	<p>A3 – Appoint a reviewer to review discretionary powers held by elected officials <b>(report due 31 Oct 22)</b></p> <p>B24 – Appoint a reviewer to review Statutory Boards status, policies and processes <b>(report due 31 Dec 22)</b></p> <p>B37 – Department of HR to coordinate all expenditure of training of public officers</p> <p>B44 – House of Assembly approves additional resourcing to publish the laws of the territory in full</p>	<p><b>Under way</b></p> <p>B4 – Further consultation required with public service on the extension of the Register of Interests to public officials</p> <p>B28 – Government publishes a protocol for the appointment and removal of Statutory Board members</p> <p>B36 – Finalise the Public Service Management Code</p> <p>B38 – Commission a panel to review law enforcement and justice systems <b>(report due 31 Mar 23)</b></p> <p>B41 – Commission a panel to review law enforcement facilities and powers (part of B38)</p> <p>B43 – House of Assembly to revise the Jury Act to widen jury pool and consider judge-only trials</p> <p>B45 – Cabinet agrees a reporting structure for Complaints Commissioner</p>



## August 22

Delivered on time	Delivered late	Still to be delivered
Nil	Nil	Nil

## September 22

Delivered on time	Delivered late	Still to be delivered
B25 – propose a suitable senior jurist or reputable attorney to review the provisions under which statutory boards are established and maintained <b>(report due 31 Dec 22)</b>	Nil	House of Assembly amends existing legislation on electoral reform B1 – Appoint a reviewer to review the COI Act <b>(report due 28 Feb 23)</b> B33 – Appoint a reviewer to review belongingship policy and processes <b>(report due 30 Nov 22)</b> B42 – DGO to submit Cabinet paper and drafting instructions to AG Chambers to update criminal procedure rules