Cayman Islands
Human Rights Commission

promoting, protecting and preserving human rights

Ref: HRC-RES-CCTV

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CAYMAN ISLANDS

Via Email: christen.suckoo@gov.ky

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Dear Mr. Suckoo,

RE: Video Surveillance and Recording in Schools

On 2 December 2015 the Commission completed its review of the Lighthouse School's Video Surveillance and Recording Policy (**"the Policy"**) which was supplied by the Department of Education Services (**"the Department"**). We apologise for the delay in forwarding that review to you.

The Commission's review was intended to consider the Policy in light of Section 9 of the Cayman Islands Constitution Order 2009 (**"the Constitution"**) which requires the Government to respect an individual's private and family life. Similarly, the use of CCTV is also expected to reflect the Government's commitment to the fundamental right to privacy under the European Convention on Human Rights (**"ECHR"**) (Article 8).

The main human rights concern is to ensure that the use of CCTV is subject to statutory regulation and an appropriate licensing system. Without the implementation of a comprehensive data protection law to address the diverse circumstances in which CCTV is used, a policy on its own is generally not considered a sufficient legal framework to support the careful balance needed between the right to privacy and the operation of CCTV. The Commission has commented on this issue on previous occasions, such as in 2010 when the then Portfolio of Internal and External Affairs' Code of Practice for CCTV was reviewed.

The Department states that "the purpose of video surveillance and recording in schools is to enhance the safety of students, staff and others on school premises and to deter destructive acts to property".

However, the Commission is not satisfied that the Policy is compatible with Section 9 of the Constitution and Article 8 of the ECHR. Both the Constitution and the ECHR provide the right to respect for one's "private and family life, his home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society".

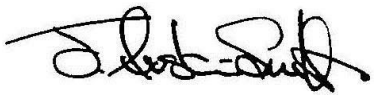
The right to private and family life is a qualified right, and, accordingly, the Government has the authority to interfere with or restrict it, provided that it is shown to be necessary for a specified purpose identified in the Constitution or the ECHR. The ECHR includes in its qualifying subsection the purposes of preventing disorder or crime which are not included in the Constitution, although these may arguably be covered by the defence, public safety, and public order exemptions in the Constitution.

Once it is established that technology, such as CCTV, has the potential to interfere with privacy rights, the Constitution and the ECHR require the implementation of proper data protection legislation for that interference to be lawful. This legislation would have to cover the use of CCTV systems in schools.

In view of the absence of such legislation, the Commission's concerns with the use of CCTV by the Department (and by all public entities) remain. Until the Government implements data protection legislation that regulates the use CCTV systems, and drafts proper guidelines for the installation and use of CCTV systems, the use of such systems will remain unlawful under both the Constitution and the ECHR.

The Commission urges the Government to remedy this legislative deficiency as a matter of priority.

Yours sincerely,



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