**Statement to the Legislative Assembly**

**Second Meeting of 2016/2017 Session**

By the Honourable Tara Rivers, JP, MLA

Minister of Education, Employment and Gender Affairs

**The Role and Responsibility of the Ministry of Gender Affairs**

12 October 2016

****

In light of recent and previous misunderstandings articulated by a certain media house in relation to the issue of same sex marriages, it is important for me, as Minister for Gender Affairs, to help the public better understand what exactly is the role, responsibility and remit of the Cayman Islands Ministry of Gender Affairs.

The Ministry of Gender Affairs is the arm within the Cayman Islands Government which addresses the issue of gender mainstreaming and has the responsibility to provide policy advice and support services to the Minister in the area of Gender Affairs and develop programmes which promote gender equality in the Cayman Islands. The Minister of Gender Affairs (through Cabinet) has responsibility for the formulation of policies which promote gender equality.

**What is Gender?**

Gender and sex are not interchangeable terms; they do not mean the same thing. Sex refers to our physical realities (e.g. being born male or female, our anatomy or physical characteristics). Gender refers to the economic, social and cultural attributes, roles and opportunities which determine what is expected, allowed and valued in a woman/man and girl/boy. The Gender Equality Law, 2011 defines gender as "the cultural, economic, social, and political characteristics, roles and opportunities through which women and men are socially constructed and valued."

**What is Gender Equality?**

Gender equality refers to the right of women and men and boys and girls to have the same opportunities for the achievement of important goals in society such as education, employment and income and to contribute to political, social, and cultural development at all levels. Gender equality does not mean that women and men will become the same; rather it is about equal opportunities and rights for all. Therefore, the aim of gender equality is for society to equally value the similarities and the differences of men and women, and the roles they play.

Gender equality is achieved when women and men enjoy the same rights and opportunities across all sectors of society, including economic participation and decision-making, and when the different behaviours, aspirations and needs of women and men are equally valued and favoured.

The main piece of governing legislation relevant to the work of the Ministry of Gender Affairs is the Gender Equality Law, 2011 (the “Law”). The Gender Equality Law, 2011 seeks to eliminate discrimination in employment, training and recruitment based on specific grounds, and to promote the payment of equal remuneration to male and female employees who perform work of equal value. It also aims to protect against discrimination based on specific grounds in other areas such as access to goods, services and facilities, among other things.

The following are grounds of discrimination under the Gender Equality Law, 2011:

* sex;
* marital status;
* pregnancy; or
* any characteristic based upon gender which appertains generally or is generally imputed to persons of a particular sex or marital status or pregnant state.

The Gender Equality Tribunal established pursuant to clause 23 of the Law is the entity responsible for hearing and determining discrimination complaints submitted to the Tribunal under the Gender Equality Law. Under the Law, a person discriminates against another person by any distinction, exclusion or preference that has the intent or effect of putting a person or group at a disadvantage of opportunity in their employment or occupation. Sex discrimination and gender discrimination refer to an adverse action or making a distinction in favour of or against a person that would not have occurred had the person been of a different sex or displayed different gender characteristics.

**Sexual Orientation Is Not an Enumerated Ground for Discrimination under the Gender Equality Law**

Each of us has a biological sex — whether we are female or male. Our gender is our social identity as men or women. However, sexual orientation is the term used to describe whether a person has a romantic attraction or feels sexual desire for people of the opposite sex or gender, same sex or gender, or both sexes or more than one gender. According to the American Psychological Association, sexual orientation "also refers to a person's sense of identity based on those attractions, related behaviors, and membership in a community of others who share those attractions".

Sexual orientation is not a specified ground for discrimination under the Gender Equality Law, 2011 nor is it contained in the definition of discrimination against women in Article 1 of CEDAW. (CEDAW Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of ***sex*** which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.")

Furthermore, the definition of Marriage as a legal construct is set out in the Cayman Islands Constitution Order, 2009 and the Marriage Law. The Cayman Islands Constitution Order contains the Bill of Rights which includes a non-discrimination clause; and adjudication of any claim of breach of the Bill of Rights would normally take place through the Courts. So, for anyone to suggest that, as the Minister for Gender Affairs, there is a Ministerial imperative or Constitutional responsibility to weigh in or speak on a Motion (or any matter) dealing with same sex marriage, is incorrect. That is neither the Minister’s nor the Ministry’s mandate.

**Promoting Gender Equality**

The Gender Affairs Unit within the Ministry of Gender Affairs promotes gender mainstreaming in Government through research, policy advice, and gender analysis of legislation, policies, operations and programmes within the Ministry and other government entities. Additionally, the Unit also provides administrative support for the Gender Equality Tribunal as well as public education and training in relation to promoting gender equality.

While promoting gender equality is a job for the entire Government, private sector and society at large, the Ministry with responsibility for Gender Affairs also has a role to play within Government by promoting the use of a gender perspective to be taken into account at all levels of decision making and through various policies or programmes. The following list provides some concrete examples of ways in which this Government, through the work of the Ministry of Gender Affairs, has advanced or advocated for gender equality during the past 3 years:

* **2014 National Conference on Women** – In March 2014, Ministry of Gender Affairs hosted and convened the first ever National Conference on Women to encourage a national discussion on issues affecting women and girls in the Cayman Islands. This Conference was not only an opportunity to bring together a wide cross section of our society to discuss the social, cultural, economic and political challenges that girls and women have experienced and continue to experience here in the Cayman Islands. It was also an empowerment conference that sought to bring awareness about the various rights to which girls and women are entitled under the Convention on the Elimination of All Forms of Discrimination against Women (also known as CEDAW), given that the Government had made a recent request in December 2013 to the United Kingdom to have the CEDAW extended to the Cayman Islands. In March 2016, the UK Government agreed to the latest request, having been satisfied of the hard work undertaken over the years by the Ministry and the Government to establish local structures and legislation which promotes gender equality. As Minister for Gender Affairs, I had the privilege of participating in the official deposit of the CEDAW instrument by the UK Minister for Gender at the United Nations which took place during the UN’s 60th Commission on the Status of Women. The Reports from the National Conference on Women and the Meeting on Women and Girls in the Sister Islands which took place in 2014 have been shared with Cabinet and all Ministries with the expectation that the issues discussed therein will be used to inform the development of public policy in the related subject areas.
* **Minimum Wage Advisory Committee and the introduction of the National Minimum Basic Wage -** Established under the Ministry of Education, Employment and Gender Affairs, this Cabinet-appointed committee was established to provide the Government with recommendations on a minimum wage regime for the Cayman Islands. The membership of this Committee was purposely made up of an equal number of men and women so that both gender perspectives would be equally represented for contribution and decision-making. The Minimum Wage adopted and introduced by this Government is a first of its kind. We expect that many of the people affected by it in the lowest paid workers bracket will be women, and the fact that domestic helpers (who are majority women) are included in minimum wage speaks to equally valuing the work that is traditionally done by women.
* **2015 National Education Conference**- The discussions of gender dynamics in education have undergone significant shifts as educational retention, completion and attainment by boys in the Caribbean region appears to be slipping while girls have improved in these areas. This gender issue is one that benefits from using a gender lens to examine, identify and collaboratively develop strategies to target this inequality. Accordingly, the Gender Affairs Unit organised a presenter from the University of the West Indies to facilitate workshops (available to all teachers at the conference) that provided timely and dynamic educational sessions on gender that focused on targeting underperforming boys and practical applications of international best practices research.
* **Labour Relations Bill, 2015 Public Consultation Draft-** The current Labour Law, which governs private sector employment, does not provide for paternity leave or adoption leave for male employees. The public consultation version of the Labour Relations Bill, 2015 has introduced provisions for paternity leave benefits as well as adoption leave for male employees. The provision for greater maternity leave for women is also proposed in the Bill.
* **Gender neutral language in legislation**- It is customary for legislation to be written using the masculine pronoun (he/his/him) with the understanding that feminine pronouns are to be interchangeable with the masculine pronouns. Not only does this type of drafting exclude the existence of the feminine, but it also sets up the perception that only males are beneficiaries of the law, have access to the law or break the law. The Gender Affairs Unit advocates on a continuous basis that the language contained within legislation should follow contemporary legislative drafting techniques, which emphasise the desirability of using gender-neutral terminology in statutory language. All three of the major pieces of legislation- the (consultation draft) Labour Relations Bill, 2015, the Education Bill, 2016 and National Pensions (Amendment) Law, 2016- that were spearheaded by the Ministry of Education, Employment and Gender Affairs since this Government took office contain gender neutral language.

I hope that I have provided a better understanding of what the Ministry of Gender Affairs is responsible for and has accomplished during my tenure as Minister and under this Government when seeking to promote gender equality, which is the Ministry’s primary mandate. I also hope that the public now has a better understanding and appreciation of my role as Minister for Gender Affairs – that is to continue to drive policy initiatives and legislative changes (such as those discussed today) which promote gender equality; but promoting gender equality should not be confused with advocating for same sex marriage or LGBT issues generally. In addition, I hope that some attention will be given by the media to the work of the Gender Affairs Unit within the Ministry of Gender Affairs, if only to educate and inform the public on the subjects of gender and gender equality.