



6th August 2018

Mr. James Austin-Smith  
Chairman  
Cayman Islands Human Rights Commission  
George Town  
Grand Cayman

Via e-mail: [info@humanrightscommission.ky](mailto:info@humanrightscommission.ky)

Dear Mr. Austin-Smith,

### **Detention of Persons Who Have been Refused Permission to Land**

This response is further to a query received on 11<sup>th</sup> July 2018 from the Human Rights Commission (HRC) on decisions of the Department of Immigration (DOI) to detain every illegal migrant at the Immigration Detention Centre (IDC). I am sorry for not responding earlier and as to your point; I did unintentionally overlook your request.

I will begin with an overview regarding permission to land in the Islands as provided for in the Immigration Law and subsequent detention in relation to persons refused permission to land. An immigration officer may examine any person who has arrived in the Islands, for the purpose of determining whether, if he is not Caymanian, he should be given permission to land in the Islands. Additionally, an immigration officer shall determine for what period and under what conditions the individual should be landed, or should be refused permission to land. A person, to whom permission to land has been refused, may be temporarily detained at some place approved by the Cabinet for such purposes, and while detained, shall be deemed to be in legal custody. The place so referred in this instance is the IDC located in George Town on Fairbanks Road. This is the holding area for migrants whom have arrived in the Cayman Islands illegally and have not been granted temporary admission.

It is recognized that illegal migrants are not prisoners or convicted persons therefore not housed within the same confines as convicted persons. In the event that the number of migrants arriving at one time or over the course of time exceeds the holding capacity of the IDC, alternative locations will be determined. A person that is liable to detention under the authority of an immigration officer, may with permission from an officer, be temporarily granted permission to land without being detained.





This will involve a review of individual circumstances at the time of arrival or based on needs given the passage of time. Such an understanding of individual needs is given priority at the time of reception or throughout the period of detention.

Inherent with the event of illegal migrants arriving in the Islands, the DOI will properly receive these individuals including attending to any health and safety issues as a priority. Steps shall be taken to deal with any and all claims of asylum/protection expeditiously and guarantee that all rights and privileges are enjoyed while migrants are being held in detention. The IDC is used for the general population of migrants in the first instance however, great care is taken to address vulnerabilities at all times including women, minor children and that of a family unit. This may lead to separate facilities/arrangement being secured. Unless otherwise considered at first instance that a person is at risk when being confined at the IDC, this is the place where they will be detained. There are no readily available alternatives to such detention in the Cayman Islands as is the case in some larger jurisdictions and the DOI has to seek local accommodations which are not always readily available or landlords are not always keen to rent their facilities for such purposes.

Considering everything, the DOI will seek to repatriate migrants in a timely manner and thereafter deal with the claims/business of those persons whom protest against such action. Every effort is made to adhere to the UNHCR guidelines as it relates to housing of detained migrants. The safety and security of migrants are of utmost importance in the overall scheme of things.

I trust that the aforementioned is found to be useful to the Commission in their ongoing deliberations.

Yours truly,

Bruce Smith  
Acting Chief Immigration Officer

