

MINUTES
MEETING OF THE HUMAN RIGHTS COMMISSION
1 MAY 2014
CONFERENCE ROOM
CAYMAN CORPORATE CENTRE

PRESENT: Alistair Walters	Chairman
James Austin-Smith	Member
Chelsea Frazier-Rivers	Member
Lisa Hurlston-McKenzie	Member
Reverend Donovan Myers	Member

COMMISSIONS SECRETARIAT MEMBERS PRESENT:

Deborah Bodden	Manager
Josephine Hislop	Analyst

1. **Meeting called to order**
The meeting was called to order at 2:32pm.
2. **Official Group and Individual Pictures**
Due to a miscommunication with Government Information Services (GIS) this agenda item was placed on the next agenda item.
3. **Welcome and Introduction of Members**
The Chairman welcomed and introduced the new members to the HRC. He thanked them for taking on their new roles and indicated that he was looking forward to working with them in his new capacity as Chairman.
4. **New Business**
 - a. **Review of HRC Constitutional Mandate**
The Chairman reviewed with the new members the HRC's constitutional mandate (found in s.116 of the Constitution) which includes the powers and remit of the HRC.
 - b. **Role of the Commissions Secretariat**
The Manager of the Commissions Secretariat apprised the new members of the supporting role of the Secretariat. The Secretariat is responsible for all of the administrative, research, operational, policy, analytical and strategic support for the HRC and five other Commissions. The Secretariat acts as the first and main point of contact for members of the public and the media. The Secretariat falls under the Governor's Office. The Secretariat utilises the approach of "Chinese walls" and does not discuss the work of one Commission at another meeting. In order to avoid conflicts and promote collaboration the Chairpersons meet quarterly with the Governor and provide her with an update on the work of each of the Commissions (details of which are found in the minutes on each Commission's website).

c. Review of the Policies and Procedures Manual

Members received, in advance of the meeting, a copy of the Policies and Procedures Manual approved by the previous members. The Manual will be updated in several areas (i.e. meeting dates) but details such as the Chairman acting as the official spokesperson and the procedure for handling conflicts of interest were confirmed.

d. Freedom of Information Provisions

There has been a long standing legal dispute as to whether the HRC is subject to the FOI Law, 2007. Whilst the HRC has taken legal advice which indicates it is not subject to FOI it continues, through its website, to work in compliance with the law. The HRC posts copies of all confirmed minutes, reports, etc. and the only documents not posted are complaint forms due to the personal information contained within them. Members are reminded however that should the HRC be brought under the Law all correspondence would be subject to release.

e. Review of the Website

The Secretariat indicated that the Computer Services Department (CSD) had recently been conducting a review of all government websites in line with the Deputy Governor's mandate that the format follow that of the UK Government websites. The Secretariat has explained repeatedly that the new format is hard to navigate and has expressed concerns that members of the public will not be able to access the necessary information. The Secretariat has also reiterated that the Commissions are independent and thus upon the creation of the websites the domain name is not one of a ".gov" nature; therefore it does not see the need for the Commission's website to mirror those of central government if the format is not appropriate. The Secretariat is working with members of the CSD team in order to come up a solution which works for both entities. Members agreed that when reviewing the website prior to the meeting they found it very difficult to access documents.

f. Overview of Outstanding Research/Projects

The Manager provided an update with regards to the following items which the former HRC was in various stages of completing:

i. Migrants

The former HRC received a complaint from a member of the public regarding their inability to assist Cuban Refugees when they enter our territorial waters by providing water, food and gasoline (or other necessities). The HRC completed an in-depth review of the policies and procedures, including the MOU between the CI Government and the Cuban Government, which are used by the Immigration Department, RCIPS Marine Unit and the Director of Public Prosecutions. Following the review the HRC released its findings in a report published on its website which indicated that generally, the procedures outlined in the various documents are adequate with regard to compliance with the BoR.

During the review the Deputy Governor requested that the HRC perform an audit of the policies in practice. The HRC repeatedly, unsuccessfully, requested more information from the Deputy Governor regarding this request as it was aware there had been other audits of the practice conducted in the past. The Secretariat had conducted research into what agencies could assist in such an audit and the Chairman asked the Manager to speak

to the UNHCR Deputy Regional Representative Dr. Buti Kale when he was on island whether the UNHCR would be in a position to oversee a “mock” audit but Dr. Kale indicated that he did not feel the exercise would yield an accurate result. He did indicate that the UNHCR has in the past sent a representative to stay in a particular high traffic migrant location for an indefinite amount of time until a review could be conducted. The HRC agreed that based on the cost of such an exercise this was not a likely solution. In addition the exercise may not be necessary as Immigration Officials have undergone extensive training, both locally and overseas, in the area of dealing with migrants in the past eighteen months.

The Manager will circulate the previously published report to members who will consider if any further action is necessary.

ii. Deportation and Prohibited Immigrants

The HRC continues to receive complaints from members of the public with regards to either their potentially being deported following the serving of time in prison and from persons who have been deported and declared prohibited immigrants and thus are unable to return to the Cayman Islands without permission from Cabinet. In each of the cases the complainant has alleged that it is a breach of their right to private and family life as they have family in the Cayman Islands which they are being separated from. Whilst the majority of the complainants are foreign nationals with foreign national family members there are some which have Caymanian connections. The HRC has continually requested a copy of the policies which surround the taking of these decisions by the Cabinet but has not yet received the same. The members agreed it should continue to follow this matter up.

iii. Prison’s Strip-Search Policy

Members were informed that the HRC received a complaint in 2011 regarding a strip search of a prison that breached the prisoner’s human rights. At the time the complaint was filed the Prison did not have a written policy in place which governed strip searches. Over the course of the past three years the HRC has reviewed two draft versions of the policy which was created following a review by the then Portfolio of Internal and External Affairs of the complaint. The Secretariat recently requested a finalised version of the policy which it has now reviewed. The policy, along with the Secretariat’s observations, will be sent to all members for review and comment within two weeks.

iv. Whole-Life Sentences

The issue of whole-life sentences has been one in which the former HRC was very involved. After receiving several complaints it researched the issue for compliance with the Bill of Rights and subsequently released a report on its website. In the report the HRC voiced that its strongest objection to mandatory whole-life sentencing is that it is a blunt sentencing tool, which applies the same sentence to all offenders who have committed the same crime without due regard to the principle of proportionality; a necessary consideration in human rights law.

Recently the Chairman enquired with the Attorney General as to what his position as Attorney General was on the establishment of such legislation and whether there are any plans to implement such legislation. The AG responded informing the HRC that work

had been initiated on a “Conditional Release Bill” and agreed to update the HRC on the process of the Bill and submit a copy for review once it has been approved by the Cabinet.

v. Religious Accommodation

Members were advised that following a query to the Deputy Governor as to whether any parameters existed for public officials in terms of expressing their religious preferences on government e-mails, physical spaces, etc. it had concluded that such a policy did not exist. A follow-up letter was written in April urging the Deputy Governor to create a reasonable accommodation policy which is compliant with the Bill of Rights.

vi. Disability Policy

Members were informed that the Draft Cayman Islands Disability Policy had been released at the beginning of April by the Committee. While the public consultation phase closed yesterday (30 April) the Secretariat has reviewed the policy for compliance with the Bill of Rights and members agreed the HRC should submit comments on the policy. The policy, along with the Secretariat’s observations, will be sent to all members for review and comment within one week.

g. Requests from Media

- i. Jay Ehrhart from Radio Cayman has indicated that he has been trying to visit at the Immigration Detention Centre in order to view the conditions of the Cubans being housed at the Centre. His aim is to ensure human rights compliance. Mr. Ehrhart has requested whether the HRC will be pursuing their own lines of enquiry into this matter and whether he may collaborate with the HRC in this regard. The HRC agreed that at the next meeting they would consider what goals the Commission intends to set for the first year and will consider whether the issue of migrants should be revisited/continue to be visited.
- ii. Brent Fuller from the Caymanian Compass has requested an interview with the new Chairman querying the level of involvement the HRC has with government in regards to human rights issues and compliant legislation; and also the visibility, or lack thereof, of the HRC. The HRC agreed that due to the nature of the questions the Chairman should wait to attend this interview until after the new HRC has been able to meet and create/discuss the work that they hope to accomplish in the next year.
- iii. Brent Fuller from the Caymanian Compass has queried whether it is libel for a member of the public to send emails to numerous persons alleging a public official is corrupt. The HRC agreed that this was not a Human Rights related issue and will respond to Mr. Fuller notifying him that they are happy to make comments on Human Rights related matters.

5. Human Rights Complaints

a. Process for handling complaints

The Chairman reviewed the process which has been utilised for handling complaints as is detailed in the Policies and Procedures Manual. Members agreed to continue using this policy save that where a complaint is not accepted by the Manager as it has no evidence of a breach of human rights the members requested that the Manager forward a copy of the complaint and the letter to the complainant for information purposes.

b. Overview of outstanding complaints

The Manager provided an overview of several outstanding complaints and the actions currently being taken by the Secretariat. It is hoped that at the next meeting the Secretariat will have received responses to these outstanding complaints and each can be reviewed in more detail.

6. Any Other Business

a. Lack of response from Public Officials

The Manager noted that the Secretariat continues to have difficulty in getting responses to the letters sent on the HRC's behalf. The former HRC addressed the lack of timely responses in its 2013 Annual Report and members agreed that they must take action to prevent this occurring. It was agreed that initially all letters should highlight a date by which the HRC expects to receive a response.

b. Human Rights Training

Vaughan Carter of Juris Consulting has been approached by the Manager to enquire as to whether he would be able to facilitate training for the HRC as a whole. Members expressed their desire to participate in such training and agreed that it should be carried out in 1 hour segments following each monthly HRC meeting.

7. Action Items

Members were asked to:

- a. Provide feedback on the Prisons Strip Search Policy; and
- b. Provide feedback on the CI Disability Policy.

The Secretariat was asked to:

- a. Update the Policies and Procedures Manual;
- b. Continue to work towards a more user friendly website;
- c. Forward Migrants Report to all members;
- d. Respond to all media requests;
- e. Follow up on all human rights complaints; and
- f. Follow up with Juris Consulting on human rights training.

8. Items to be Discussed at the Next Meeting

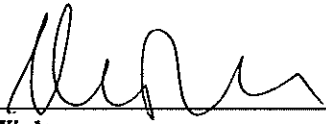
- a. Policies and Procedures Manual
- b. Website
- c. Outstanding Research/Projects
 - i. Migrants
 - ii. Strip Search Policy
 - iii. Disability Policy
- d. Work/Goals of the HRC
- e. Human Rights Complaints

9. Next Meeting

The next meeting of the HRC is scheduled for 5 June, 2014 at 2:30pm at the offices of the Commissions Secretariat.

10. **Adjournment**

The meeting was adjourned at 4:07pm.



Alistair Walters

CHAIRMAN

HUMAN RIGHTS COMMISSION