



persons willing to serve on the RPAT were being received for submission to Cabinet for consideration; 3) draft Rules and a Guidance Note have been developed for the RPAT. However, neither were finalised or approved prior to the resignation of the outgoing RPAT; and 4) a copy of the draft Rules and Guidance Note will be shared with the Commission for comment once approved. Follow-ups with the Cabinet Office on the progress of the RPAT will continue as necessary.

**iii. Immigration Detention Centre (IDC) Update**

Members were given a brief overview of the last concerns received by the Commission as it relates to a lack of access to communication facilities. Since liaising with the Director of Prisons to remedy the situation no further formal complaints have been received.

The Commission requested that an update be provided on the number of migrants currently detained at the IDC. Members agreed that a tour of the IDC, Fairbanks Prison and Northward Prison was fitting. Arrangements will be sought for these tours to take place in early 2020.

**b. Independent Monitoring Board (IMB) (formerly Prisons Inspection Board (PIB))**

The Commission was informed that gazettal of the IMB membership remains on hold until the proposed amendments to the Prisons Law and Regulations (to establish the IMB in statute) have been completed. In correspondence dated 8 November, the Office of the Deputy Governor (ODG) advised that the proposed amendments to the Prisons legislation have been rescheduled to be completed during the next budget year. The ODG assured that the Commission will be consulted and given the opportunity to provide any input before the amendments are finalised. The Commission will seek an update on the status of the proposed amendments in January 2020.

**c. Prohibited Immigrant Report Letter**

The Commission was updated on the Ministry of Employment and Border Control's (MoE&BC) response of 19 November which advised that the draft policy outlining the handling of prohibited immigrants was still under review. The MoE&BC intends to submit the draft policy to Cabinet for approval by the end of the year. The Commission will seek an update on the status of the draft policy in January 2020.

**d. Draft 2018 Annual Report**

The Draft Annual Report 2018 is currently being amended to include those 2019 activities, which took place during the tenure of the previous Chairman. The Secretariat will then produce a separate abridged version of the report for the remaining 2019 work that has taken place since inception of the new Commission. The draft report will be circulated to Members for review and/or comments, following the Chairman's review, prior to submission to the Legislative Assembly (LA) and publication.

#### **4. New Business**

##### **a. Same-sex Marriage Ruling**

The Commission was informed that the matter of Day & Bodden Bush (“the Respondents”) v. The Governor (2019) was appealed by the Government and heard before the Court of Appeal (CICA) on 28<sup>th</sup> – 30<sup>th</sup> August. The judgement was then passed down in early November. The CICA declared that the Respondents are “entitled, expeditiously, to legal protection in the Cayman Islands, which is functionally equivalent to marriage.” The Commission agreed to issue a statement on the ruling and revisit the matter in the New Year to consider the Government’s progress.

##### **b. Education (Amendment) Bill, 2019 and Draft Anti-Bullying (Schools) Regulations, 2019**

Members were informed that the Law Reform Commission (LRC) is still accepting feedback on the Education (Amendment) Bill, 2019 and Draft Anti-Bullying (Schools) Regulations, 2019 (the “Draft Legislation”). Once the consultation phase is concluded, a final report will be prepared by the LRC and submitted to the Attorney General to table before Cabinet. The LRC does not anticipate that a final report will be completed before the end of the year. Member Nick Quin agreed to conduct the initial review of the Draft Legislation and circulate his comments. The Commission will then agree the final input for submission to the LRC.

##### **c. Referendum on Proposed Port**

Members noted that this is a topic they may be asked to comment on. A prepared statement will be drafted in the event this occurs.

##### **d. Surveillance Devices Bill, 2019**

Members were made aware that the Secretariat conducted an initial review of the Surveillance Devices Bill, 2019 (“the Bill”) following the Department of Public Safety Communications’ request of 11 October for the Commission’s feedback. The Chairman agreed to review the Bill and revert to Members for further discussion.

#### **5. Human Rights Complaints & Enquiries**

##### **a. Update on Human Rights Complaints 026/2018 & 001/2019**

The Commission was updated that correspondence was sent to the public authority involved on 31 May. The response was received on 3 September. Members discussed the response and were particularly concerned about the lack of clarity from Government on this matter. Members agreed to revert, requesting an assurance that rights will not be breached in this situation. The matter will be revisited once a response is received.

##### **b. Human Rights Complaints 009/2019, 010/2019 & 011/2019**

The Commission was informed that these complaints were first received on 11 April. To progress the matter, the Secretariat made initial enquiries with the public authority involved.

On 18 September, the public authority advised that it intends to bring a proposed legislative amendment to rectify the anomaly in the existing legislation which generated the complaints. The Secretariat will follow-up with the public authority in January 2020.

**c. Human Rights Complaints 018/2019**

The Commission was informed that this complaint was received on 21 August. To progress the matter, the Secretariat made initial enquiries with the public authorities involved. On 5 September, the first and second public authorities involved provided a response to the Secretariat's enquiries. Given the timeframe which has passed since the complaint was filed, Members agreed it was necessary to seek an update from the first public authority involved for the Commission's consideration. The Secretariat will issue follow-up correspondence to the complainant regarding the matter.

**d. Human Rights Complaints 019/2019**

The Commission was informed that this complaint was received on 12 September. To progress the matter, the Secretariat made initial enquiries with the public authorities involved. On 1 October, the first public authority provided a thorough response to each of the complainant's allegations, which have all been addressed. To date the Commission awaits the response of the second public authority. The Commission agreed to follow-up with the second public authority to ascertain confirmation of the first public authority's response. The file will then be closed.

**e. Human Rights Complaints 021/2019, 022/2019 & 023/2019**

The Commission was informed that these complaints were received on 27 September. To progress the matter, the Secretariat made initial enquiries with the public authority involved. On 14 October, the public authority provided a detailed response on the matter. The Chairman agreed to consider a legal point related to the complaint. In addition, contact will be made with the complainant to seek an update on the matter due to the timeframe which has lapsed; and further enquiries will be made with the public authority involved.

**f. Human Rights Complaints 024/2019**

The Commission was informed that this complaint was received on 27 September. Members discussed this complaint and agreed the matter is not one which falls under the remit of the Commission. The complainant will be informed and advised to seek legal advice (and legal aid) if they feel it appropriate. The file will then be closed.

**6. Any Other Business**

a. The Secretariat has received several enquiries regarding instances where employees have been allegedly victimized in the workplace (i.e. harassment, bullying, etc. which may not constitute criminal behavior). Initial inquiries indicate that there may be no legal protections in place to protect these persons. Members agreed the matter requires further research and asked Member Dorothy Scott to consider this matter.

- b. A query regarding the Official Register of Electors list which publicly discloses the physical address of registered electors was raised. It was queried whether this constitutes a breach of privacy and/or the Data Protection Law. The Chairman agreed to review the statutory guidance as to why this is done.
- c. Members were updated on a previous complaint wherein the complainant was unlawfully detained for some time. The complainant has since obtained legal aid and is now legally represented. The complainant's legal representative has requested copies of the Commission's correspondence on the matter and the Chairman is currently being advised in the matter.

**7. Action Items**

The Chairman is to:

- a. Review the Surveillance Devices Bill as detailed in 4. d. above;
- b. Consider a legal point re: the complaint as detailed in 5. e. above; and
- c. Review the statutory guidance as to why the Official Register of Electors List publicly discloses the physical address of its electors.

**8. The Members are to:**

- a. Review the Draft Legislation and circulate comments to the Commission for further discussion as detailed in 4. b. above (Member Nick Quin); and
- b. Undertake review of the enquiry, detailed in 6. a. above, and revert the findings to the Commission (Member Dorothy Scott).

**9. The Secretariat was asked to:**

- a. Follow-up with CBC monthly re: Continued Detention Policy;
- b. Continue to follow-up with the Cabinet Office on the progress of the RPAT as necessary;
- c. Liaise with the DoP to arrange a tour of the IDC, and prisons, in early 2020;
- d. Liaise with the ODG to seek an update on the status of the proposed amendments to the Prisons legislation in January 2020;
- e. Liaise with the MoE&BC to seek an update on the status of the draft prohibited immigrant policy, in January 2020;
- f. Draft an abridged report for 2019 work, since the new Commission was constituted, for the Chairman's review, then circulate it to Members for review/comments prior to submission to the LA and publication;
- g. Prepare a draft statement regarding the Referendum on the Proposed Port for the Commission's review/approval; and
- h. Draft correspondence or conduct research in all human rights complaints and enquiries as detailed above.

**10. Items to be Discussed at the Next Meeting**

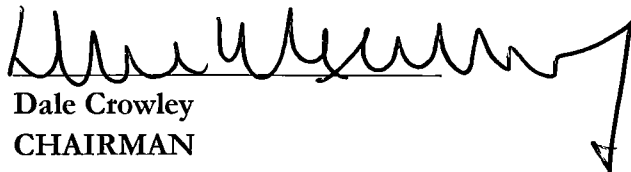
- a. Continued Detention Policy
- b. Refugee Protection Appeals Tribunal (RPAT)
- c. Tour of IDC and Prisons
- d. Independent Monitoring Board (IMB)
- e. Prohibited Immigrant Report Letter
- f. Draft 2018 – 2019 Annual Report and Draft 2019 Briefing Report
- g. Same-sex Marriage Ruling
- h. Education (Amendment) Bill, 2019 and Draft Anti-Bullying (Schools) Regulations, 2019
- i. Surveillance Devices Bill, 2019

**11. Next Meeting**

The next meeting date will be agreed via email round robin.

**12. Adjournment**

The meeting was adjourned at 4:43pm.

A handwritten signature in black ink, appearing to read 'Dale Crowley', with a long horizontal line extending from the end of the signature.

**Dale Crowley**  
**CHAIRMAN**  
**HUMAN RIGHTS COMMISSION**