

**HUMAN RIGHTS COMMISSION
6th MEETING OF 2023
MINUTES
13 SEPTEMBER 2023
CONFERENCE ROOM
COMMISSION SECRETARIAT OFFICES**

PRESENT:

Deborah Barker Roye	Interim Chairperson
Nicholas Quin	Member
Cathy Gomez	Member (via Zoom)
Ben Tonner KC	Member
Jennifer Hunter	Member

SECRETARIAT MEMBERS PRESENT:

Marilyn Conolly	Manager
Lise Hurlstone	Research Analyst
Jessica Ebanks	PR & Education Coordinator (in part)

1. Meeting called to order

The meeting commenced at 3:18 pm.

2. Previous Minutes

The minutes of the meeting held on 20 June 2023 were approved by the members.

3. Outstanding Business**a. Awareness and Events Calendar**

The Manager introduced the Secretariat's new PR & Education Coordinator, Jessica Ebanks, who began in her new role in mid-August. Ms Ebanks explained that due to various reasons, including the diversion of resources to another Commission, the original plan for summer social media posts was not carried out. She presented members with a draft social media plan for September through December 2023, and explained the rationale and the outline for a plan moving forward from there. Members provided preliminary approval of the topics Ms Ebanks shared, pending review of the draft posts, which Ms Ebanks stated she would circulate in the upcoming weeks via email for members' approval.

Additionally, the Commission agreed to incorporate this agenda item, along with agenda items "Prospect Primary Request for Human Rights Presentation" and "Bill of Rights Training", into a general PR & Education agenda item going forward.

b. Migrants

Members reviewed the draft file note regarding the meeting with HRC members, the Deputy Governor, the Chief Officer of the Ministry of Border Control & Labour (MoBCL), and the Director of Customs and Border Control (CBC) which took place on 6 September 2023. Members in attendance at this meeting were Interim Chair Deborah Barker Roye, Member Nicholas Quin and Member Ben Tonner KC, who were accompanied by the Secretariat Research Analyst who took notes. The meeting took place to review the issues of the draft Migrant Detention Policy in use at CBC for managing migrants who arrive to the Islands irregularly, and the proposed legislative amendments relating to spouses of asylum grantees. The Commission also took the opportunity to highlight their observations and concerns from a recent visit to the Bodden Town Civic Centre which is currently being used to house migrants at various stages in the arrival and asylum application processes.

Members agreed to provide any feedback on the file note to the Secretariat by 15 September, which the Secretariat would send a reminder about. Once finalised the file note will be shared with the other parties in attendance.

i. Migrants Policy

Members agreed to follow up with the CBC Director for a response to the HRC's feedback from 2022 on the draft Migrant Detention Policy. The Secretariat would follow up accordingly. Additionally, the Commission requested the Secretariat reach out to arrange a meeting with a representative from CBC and an HRC representative to review in person the logistics and lifecycle of the procedure for handling and processing migrants in detail.

ii. Legislative Amendment

In the meeting of 6 September with the Deputy Governor, Chief Officer of MoBCL and Director of CBC, the suggestion was made to hold quarterly meetings with the Commission so all parties could remain apprised of these issues. The Commission asked the Secretariat to reach out to schedule the first of the quarterly meetings as soon as possible. The Secretariat was asked to prepare an agenda about 10 days in advance of the meeting for the Commission's approval, and then to circulate to all parties a week before the meeting was scheduled to take place.

iii. Bodden Town Civic Centre Tour

Members updated the Commission on the visit to the Bodden Town Civic Centre (BTCC) on 16 August. In attendance were members Jennifer Hunter and Ben Tonner KC, accompanied by the Secretariat Manager and PR & Education Coordinator. The tour was provided by CBC Office Support Assistant Tyrese Scott. Members noted various concerns regarding the condition of the building and the health and safety of residents at the facility, especially any vulnerable persons who may be present. It was noted that immediately after the HRC's visit the Commission wrote to the MoBCL regarding the most concerning issues that needed to be addressed, which related

specifically to the safety and security of vulnerable persons living at the BTCC. No substantive response has yet been received regarding this communication. The Commission agreed to write another letter to CIG listing the entirety of its preliminary observations from the BTCC visit. The Secretariat was asked to draft the letter for the Commission's review.

The Secretariat was also asked to contact the Deputy Governor to ask whose remit it is to monitor the BTCC, given that it does not fall under the remit of the Cayman Islands Independent Monitoring Board (CIIMB) as indicated by their previous correspondence.

c. Query re WORC Internal Process

This item continues to be considered. Member Ben Tonner KC provided recent case law *Dominguez v Immigration Appeals Tribunal* (cause no. 140/2021) related to this matter. The Secretariat was asked to re-send previous the correspondence on this item to the Interim Chairperson in order to ensure the review is up to date.

d. Bill of Rights (BoR) Training

It was noted that attempts to schedule a meeting with representatives from the Truman Bodden Law School (TBLS) over the summer were unsuccessful, though a meeting has been scheduled for 12 October 2023 with the TBLS Director and Deputy Director. The meeting is to discuss the possibility of TBLS developing an up to date Bill of Rights training that the HRC could roll out for civil servants, in response to the CIG's request for this. It was further noted that, should the HRC agree to move forward with this training, it would be difficult to make progress without dedicated resources. Members discussed who would present the training, once developed, and requested that the Secretariat ask TBLS what their capacity for presenting the training would be, if they agreed to develop it.

e. Prison Tours

The Commission discussed the response received, dated 1 September 2023, from the Chief Officer of the Ministry of Home Affairs (MoHA) relating to its query on what progress had been made to improve conditions at the prisons. Members agreed that the number of programmes for prisoners offered had increased, and member Cathy Gomez noted that, in her experience, the programmes were usually well attended. She noted that there are two chapel programs based on the principles of restorative justice, facilitated 3-4 times per year – The Sycamore Tree Project and The Prisoners' Journey. These programs are Prison Fellowship International programs. She was also familiar with the Four Agreements programme and commented that there is also a Fifth Agreement that could be utilised.

The Commission agreed to continue to consider the report for the next meeting, but asked the Secretariat to send a formal letter of thanks to the Acting Chief Officer of MoHA for taking the time to prepare such a comprehensive report, noting that any feedback they have

will follow.

f. HRC Annual Report

The Secretariat is working to finalize the initial draft of the 2022 Annual Report with the Interim Chairperson, after which the report will be circulated to members for review.

g. Prospect Primary Request for Human Rights Presentation

Members were updated that the Secretariat had contacted the Primary Years Programme Coordinator (PYPC) at Prospect Primary School again, expressing the Commission's interest in presenting to students in the upcoming school year, should the opportunity arise. The PYPC had responded favourably and indicated that there may be an opportunity in the new year for such a presentation. The Secretariat was asked to maintain contact and ascertain a date for the presentation at the earliest opportunity.

h. Recent News Articles

i. CICA Decision on Permanent Residency Applications

The Commission was updated that the Premier responded to the correspondence sent to him requesting an update on the remit of the cabinet-appointed committee currently reviewing the PR points system, and confirmation that the CICA decision will be incorporated into their review. The Premier advised in his response of 8 August 2023 that the Government appreciated the significance of the CIAC ruling and had therefore sought to clarify it by making an appeal to His Majesty's Privy Council. Any decision on what action is to be taken will be taken after the outcome of the appeal is available. The Commission considered this matter closed but requested that the Secretariat monitor this issue for any future updates.

ii. Non-Profit Organisations and the Labour Act

The Commission was updated that recent news articles indicated that the Government has appealed the decision of the Grand Court that the Labour Act is incompatible with the Constitution in the matter of Shelliann Bush v the Attorney General of the Cayman Islands et al. It was agreed that the draft correspondence to the Chief Officer of the Ministry of Border Control and Labour would be reviewed and updated as necessary to incorporate this new information prior to sending.

i. NAU Policies

The Secretariat noted that the documents for this agenda item had not been collated yet and so this would continue to remain on the agenda for the next meeting.

j. Child Safeguarding

The Secretariat noted that the documents for this agenda item had not been collated yet and so this would continue to remain on the agenda for the next meeting.

4. Human Rights Complaints and Enquiries

OLD:

a. Update on Human Rights Complaint 020/2022

The Commission was updated that the Complainant had visited the Secretariat several times since the last meeting. They were assisted in-person with properly submitting an internal complaint to the public authority involved and were advised to continue following their internal complaint procedure which was thoroughly detailed in their Complaints Handling Policy. The Secretariat was asked to continue to monitor the situation and to draft correspondence to the complainant noting that the most appropriate route to resolve the issue is being followed and to please update the Commission as she receives any responses.

b. Update on Human Rights Complaint 022/2022

The Commission was updated that the public authority involved provided a response to their correspondence on 1 August 2023 providing the legal basis for their decision. It was determined that the most appropriate resolution for the outcome being sought was for the Complainant to pursue the matter via the courts, and that the file could be closed. The Secretariat was requested draft correspondence to advise the Complainant accordingly. It is noted that member Cathy Gomez is recused from this matter.

c. Update on Human Rights Complaint 024/2022

The Commission was updated that no further responses were received from the Complainant, despite a follow up by the Secretariat on 20 June 2023. It was decided that the Complainant would be given a final 30 days to provide a response and if none was received the file would be closed. The Secretariat was asked to draft correspondence accordingly.

d. Update on Human Rights Complaint 001/2023

The Commission was updated that, while on 6 July 2023 the public authority involved advised that they would be providing a response to the Commission's correspondence, no response has yet been received. The Secretariat was asked to continue to follow up with the public authority for a response.

e. Update on Human Rights Complaint 003/2023

The Commission was updated on the correspondence received from the Complainant on 10 July and 8 August 2023. The Commission discussed the correspondence and related case law and it was determined that the Complainant is following the most appropriate route for the outcome they are seeking. The file would therefore be closed and the Secretariat was asked to draft correspondence to the Complainant accordingly. It is noted that member Cathy Gomez is recused from this matter.

f. Update on Human Rights Complaint 007/2023

The Commission discussed this complaint, which had no updates since the last meeting, and agreed that no further action is required at this time.

g. Update on Human Rights Complaint 008/009/010/2023

The Commission was updated that a response from the Complainant was received after the Commission sent its last correspondence notifying the Complainant that these files were closed. The Commission reviewed the correspondence and advised that no further action is to be taken and the files would continue to remain closed. It is noted that member Cathy Gomez is recused from this matter.

h. Update on Human Rights Complaint 013/2023

The Commission reviewed the draft correspondence prepared on this matter and agreed to send it, which the Secretariat was requested to action. It is noted that member Cathy Gomez is recused from this matter.

i. Update on Human Rights Complaint 014/2023

The Commission reviewed the draft correspondence prepared on the matter and agreed to send it, which the Secretariat was requested to action. The file continues to remain closed.

j. Update on Human Rights Enquiry 004/2023

The Commission was updated that the Secretariat reached out to the public authority in question for an update but no response was received; however, no update had yet been sought from the enquirer. The Commission requested the Secretariat to draft a letter to the enquirer to advise that if no updates are received within 30 days the file would be closed.

NEW:

k. Human Rights Complaint 015/2023

The Commission reviewed this complaint, which was received on 10 July 2023, and agreed that the most appropriate course of action is for the Complainant to follow the public authority's internal complaint procedure, and to provide an update to the Commission on the outcome of that process. The Secretariat was asked to draft correspondence advising them as such.

l. Human Rights Complaint 016/2023

The Commission reviewed this complaint, which was received on 10 July 2023, and agreed that it could assist in obtaining an update on the matter which the Complainant wrote about. The Secretariat was asked to write to a) the Director of Public Prosecutions Office to seek an update relating to this matter, and b) the Complainant to advise of the action being taken. Once a response is received from the DPPO the Complainant can be

advised of the result. The Secretariat was requested to draft correspondence accordingly. It is noted that member Cathy Gomez is recused from this matter.

m. Human Rights Complaint 017/2023

The Commission reviewed this complaint, which was received on 1 August 2023, and agreed to write to the public authority involved for a response to the Complainant's allegations. Once this response is received the Commission can consider the matter in full. The Secretariat was requested to draft correspondence accordingly.

n. Human Rights Complaint 018/2023

The Commission reviewed this complaint, which was received on 4 September 2023, and agreed that there was no evidence of a breach and the file can be closed. The Secretariat was requested to draft correspondence to the Complainant accordingly.

5. New Business

a. Legal Aid for Asylum Seekers

The Commission reviewed an email which was sent by Mr Alistair David regarding issues surround the rights of migrants and asylum applicants to access legal advice. The Commission discussed that this issue requires in depth review, and could contribute to a written report on the topic of migrants. The Secretariat was asked to seek information on what such a report could look like for the Commission to consider whether it could progress this.

6. Any other Business

There was no other business discussed.

7. Action Items

It was resolved that Commission Members would:

- a.** Provide feedback on the draft social media plan for September-December 2023, once available; and
- b.** Continue to consider the report on prisons provided by ACO Ebanks.

It was resolved the Secretariat would:

- c.** Circulate updated social media plan for September-December 2023 for members' approval once available;
- d.** Incorporate 'Prospect Primary Request for Human Rights Presentation' and 'Bill of Rights (BoR) Training' agenda items into 'Awareness & Events Calendar' item and rename as appropriate for the next meeting's agenda;
- e.** Send reminder for members to provide feedback on the file note regarding the meeting with the Deputy Governor on Friday, 15 September. Once all feedback is received then finalize and circulate to other meeting attendees;
- f.** Follow up with the CBC Director for a response to the Commission's feedback from 2022 on the draft Migrant Detention Policy;

- g. Reach out to arrange a meeting with a CBC representative and a Commission representative to review in-person the logistics and lifecycle of the procedure for handling and processing migrants in detail;
- h. Reach out to schedule the first of ongoing quarterly meetings between the Commission and CBC, the MoBCL and the DG. Prepare agenda 10 days prior for HRC approval, then circulate to other parties one week in advance;
- i. Draft correspondence to the MoBCL listing the entirety of its preliminary observations from the BTCC visit;
- j. E-mail the Deputy Governor to ask whose remit it is to monitor the BTCC, given that it does not fall under the remit of the Cayman Islands Independent Monitoring Board (CIIMB);
- k. Re-send previous internal correspondence on the WORC Internal Processes to the Interim Chairperson in order to ensure the review is up to date;
- l. Attend meeting scheduled for 12 October with TBLS Director and Deputy Director, on behalf of the Commission, to discuss the possible development of an up to date Bill of Rights Training;
- m. Draft a formal thank you letter regarding the prisons report to ACO Ebanks with the Ministry of Home Affairs, for the Interim Chairperson's approval;
- n. Continue to finalize the 2022 Annual Report with the Interim Chairperson, in order to circulate to members for review;
- o. Maintain contact with the PYC at Prospect Primary School to ascertain a date for the Commission to make a presentation;
- p. Monitor the issue of a Privy Council decision on the CIG's appeal of the CICA decision on Permanent Residency applications in the media for any updates;
- q. Review draft correspondence to the Chief Officer of MoBCL and update as necessary prior to sending;
- r. Collate and circulate documents on the NAU Policies in the next meeting packet;
- s. Collate and circulate documents on Child Safeguarding in the next meeting packet;
- t. Seek information on what a report on the wider issues surrounding migrants and asylum applicant could look like for the Commission to consider whether it could progress this; and
- u. Draft correspondence for all complaints and enquiries as detailed above.

8. Items to be Discussed at the Next Meeting

- a. Education Initiatives
- b. Migrants
 - i. Migrants Policy
 - ii. Legislative Amendment
 - iii. Bodden Town Civic Centre Tour
 - iv. Migrants Report
- c. Query re WORC Internal Process
- d. Bill of Rights (BoR) Training
- e. Prison Tours

- f. HRC Annual Report
- g. Recent News Articles
 - i. Non-profit organisations and the Labour Act
- h. Child Safeguarding
- i. NAU Policies

9. Next Meeting

The next meeting will be scheduled via round-robin email.

10. Adjournment

The meeting was adjourned at 6:05 pm.



Deborah Barker Roye
INTERIM CHAIRPERSON
HUMAN RIGHTS COMMISSION