



## **Cayman Islands**

### **Human Rights Commission**

*Promoting, protecting and preserving human rights*

# **Annual Report**

**1 January 2022 – 31 December 2022**

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## Glossary of Terms

APF	Alex Panton Foundation
ARC	Arts and Recreation Centre (Camana Bay)
BoR	Bill of Rights (Cayman Islands)
BPW	Business Professional Women's (Club)
CAL	Cayman Airways Limited
CBC	Customs and Border Control
CICC	Cayman Islands Crisis Centre
CIG	Cayman Islands Government
CICDBA	Cayman Islands Criminal Defence Bar Association
CILRC	Cayman Islands Law Reform Commission
CIRC	Cayman Islands Red Cross
Constitution	Cayman Islands Constitution Order 2009
CoP	Chief of Police
DOI	Department of Immigration
DPL	Data Protection Law 2017
ECAP	Early Childhood Assistance Programme
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
HMCIPS	Her Majesty's Cayman Islands Prison Service
HMIP	Her Majesty's Inspectorate of Prisons
HMP	Her Majesty's Prison (Northward)
IAT	Immigration Appeals Tribunal
ICCPR	International Covenant on Civil and Political Rights
IDC	Immigration Detention Centre
IDPWD	International Day of Persons with Disabilities
IESCR	International Covenant on Economic, Social and Cultural Rights
IHRD	International Human Rights Day
IMB	Independent Monitoring Board
MHC	Mental Health Commission
MoE&BC	Ministry of Employment and Border Control
MoHR&I	Ministry of Human Resources and Immigration
MOU	Memorandum of Understanding
MP	Member of Parliament
NAU	Needs Assessment Unit
OBC	Outline Business Case
ODG	Office of the Deputy Governor
OPCAT	Optional Protocol for the Convention against Torture
OT	Overseas Territory
PIB	Prisons Inspection Board
PLC	Public Lands Commission
PSG	Prison's Steering Group
PSH	Protection Starts Here
RCIPS	Royal Cayman Islands Police Service
RPAT	Refugee Protection Appeals Tribunal
TAYA	Teens And Young Adults (Lounge)
ToR	Terms of Reference
UCCI	University College of the Cayman Islands
UDHR	Universal Declaration of Human Rights
UK's IMB	United Kingdom Independent Monitoring Board
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nation's Office on Drugs and Crime
WHO	World Health Organization
YSU	Youth Services Unit

## Statement from the Chairs

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This year represented the first stages of global emergence from two years of restrictions in response to the COVID-19 pandemic.

The short-term impacts to the Human Rights Commission, despite significant challenges were kept to a minimum, as the Commission has been able to maintain operations within the ever-changing socio-political circumstances and legislative changes to meet them. During the reporting period of 1 January 2022 – 31 December 2022 the Commission continued to hold regular meetings, continued to accept and process complaints on a range of topics, developed and saw through various own-initiative investigations, and saw a handover of Chairpersonship and a membership change. However, any long-term effects of the pandemic on the complaints we receive and matters we deal with continue to unfold.

In 2022 the Commission delved deeply into the topic of migrants, how their arrival is handled by public authorities and, for those who apply for and are granted asylum, their fair treatment under the United Nations Convention Relating to the Status of Refugees and its Protocol, a Convention to which Cayman is a party. The Commission also dedicated significant attention to providing feedback to the Law Reform Commission in its Penal Code Reform discussion paper, as well as LGBTQ issues, including a homophobic attack that took place in January 2022, and the decision of the Judicial Committee of the Privy Council regarding same-sex marriage.

This year saw changes in how the Commission directly engages with the community, including a move of the offices which support the HRC, via the Commissions Secretariat, in early 2022 to the 4<sup>th</sup> Floor of George Town Financial Center. This new location creates better access for persons with disabilities making in-person visits, and allows for space to take on more permanent staff to support the work of the Commission. This is a welcome development as both the number and complexity of issues which the Commission considers only continues to increase with greater maturity in the understanding of human rights and a growth in local case law engaging human rights considerations. Additionally, at the end of the year the Commission explored establishing a relationship with a civil society group (the Cayman International School Justice, Equity, Diversity and Inclusion Committee) seeking to create working partnerships with other local interest groups. The Commission looks forward to further exploring the potential for new opportunities for engagement which this presents in 2023.

In 2022 the Commission saw a change in membership, as member Joni Kirkconnell's term ended in September after 5 years. New member, Jennifer Hunter, and returning member, Benjamin Tonner KC, were both appointed in September for 3-year periods. And, of course, the Chairmanship was handed over from Dale Crowley, whose term ended in September 2022, to Interim Chairperson Deborah Barker Roye, who was appointed in this new capacity until the end of her term in September 2023.

As the Commission moves forward, we encourage the public to stay involved. Visit the website ([www.humanrightscommission.ky](http://www.humanrightscommission.ky)), follow us on Facebook ([www.facebook.com/cihrc](https://www.facebook.com/cihrc)), connect with us on LinkedIn ([www.linkedin.com/company/human-rights-commission](https://www.linkedin.com/company/human-rights-commission)), call us at 244-3685, or email us at [info@humanrightscommission.ky](mailto:info@humanrightscommission.ky) to get involved in promoting and protecting human rights in the Cayman Islands.

Dale Crowley

Chairman, Human Rights Commission (until 17 September 2022)

Deborah Barker Roye

Interim Chairperson, Human Rights Commission (from 17 September 2022)

# Chapter 1: The Cayman Islands Human Rights Commission

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## 1.1 Goals

The goals of the Commission are *promoting, protecting and preserving human rights*.

## 1.2 Mission

To lead in promoting, protecting and preserving human rights in the Cayman Islands by:

- promoting the integration of human rights values into everyday life;
- encouraging government accountability to national and international human rights standards;
- embracing the Cayman Islands Bill of Rights, Freedoms and Responsibilities and the principles of democracy; and
- empowering all persons to understand and exercise their rights.

## 1.3 Constitutional Guidelines

The Constitutional guidelines for the Commission are found in Section 116 of the Cayman Islands Constitution Order 2009 (“the Constitution”) which reads as follows:

- 1) *There shall be in and for the Cayman Islands a Human Rights Commission (referred to as “the Commission”).*
- 2) *The Commission’s primary responsibility shall be promoting understanding and observance of human rights in the Cayman Islands.*
- 3) *The Commission shall consist of a Chairman and four other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least two of whom shall be experienced lawyers.*
- 4) *In the exercise of their functions, the Commission and its members shall not be subject to the direction or control of any other person or authority.*
- 5) *The Commission shall replace the Human Rights Committee.*
- 6) *The Commission shall have power to –*
  - (a) *receive and investigate complaints of breaches or infringements of any right or freedom contained in the Bill of Rights or international human rights treaties that have been extended to the Cayman Islands, and investigate such possible breaches or infringements on its own initiative;*
  - (b) *provide advice to persons who consider that their rights or freedoms have been infringed;*
  - (c) *provide a forum for dealing with complaints by mediation or conciliation or by making recommendations;*
  - (d) *issue guidance on procedures for dealing with any complaints of breaches or infringements of rights and freedoms;*
  - (e) *contribute to public education about human rights;*
  - (f) *issue reports relating to human rights issues on its own initiative; and*
  - (g) *undertake such other functions, for the purpose of fulfilling its primary responsibility under subsection (2), as may be conferred on it by a law enacted by the Legislature.*

- 7) *The Commission shall have no power to –*
- (a) represent or provide representation to parties to litigation;*
  - (b) act in a judicial capacity or make binding determinations as to whether any right or freedom contained in the Bill of Rights or any international human rights treaty or instrument has been breached; or*
  - (c) compel any person to do anything against his or her will;*
- but any public official to which the Commission addresses a recommendation must respond in writing within a reasonable time, and such responses shall be published by the Commission unless there is a good reason to withhold publication.*
- 8) *The Commission shall make an annual report to the Legislative Assembly about its activities.*
- 9) *Further provision relating to the establishment and operation of the Commission may be made by the Legislature, but such legislation shall not derogate from any provision of this section.*
- 10) *Nothing contained in or done pursuant to this section or any law made under subsection (9) shall –*
- (a) oblige a person to refer any complaint of a breach or infringement of any right or freedom referred to in the Bill of Rights to the Commission; or*
  - (b) prevent a person from seeking redress directly from the Grand Court in relation to any breach or infringement of a right or freedom referred to in the Bill of Rights, and the fact that such person had previously sought the assistance of the Commission with respect to such breach or infringement shall not prejudice any legal action.*

For more information about the Commission please visit <http://www.humanrightscommission.ky>.

## Chapter 2: Monitoring Human Rights in Policy, Practice and Legislation

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### 2.1 2021 General Elections Reports

The Commission reviewed the Cayman Islands General Election 2021 Domestic Observers' Report and provided feedback and a recommendation to His Excellency the Governor, Martyn Roper, and Elections Supervisor, Mr Wesley Howell, on the Report on 31 January 2021.

### 2.2 Migrants

#### 2.2.1 Migrants Policy (the Policy)

The Commission has been corresponding with Customs and Border Control (CBC) for some time now regarding its overarching Migrants Policy for the handling of migrants to the Cayman Islands. An initial inquiry was made on 7 May 2021 in respect of a standoff between a group of migrants and CBC officers which was reported in the media in April 2021<sup>1</sup> and was referenced in the Commission's 2021 Annual Report<sup>2</sup>. The Commission received a copy of the draft Policy on 13 January 2022, and it was noted that the draft Policy has taken a significant amount of time to be finalised. Members resolved to provide comments on the draft Policy and an extensive response with detailed feedback and recommendations on the draft was provided by the Commission to the CBC Director on 13 May 2022.

In response to this an acknowledgement from the CBC Director was received on 13 May 2022. The Commission followed up for a substantive response on 30 September, 26 October, and 8 November in 2022, and in its last follow up the Commission suggested that it might be helpful for members to meet with the CBC Director, or his delegate, to facilitate discussions. However, regrettably, no response to any further inquiries regarding the Policy's finalisation was received prior to the end of 2022.

#### 2.2.2 Legislative Amendment

The proposed legislative amendment related to regularizing the immigration status of spouses of asylum grantees has also been a matter the Commission has been dealing with for some time. This stems from three complaints originally made in 2019, to which an interim resolution was provided, and has continued since then, with the promise that a more permanent solution is forthcoming, that being the aforementioned legislative amendment. However, while it was expected that the proposed amendments would have been laid in parliament in the last session of 2022, this did not come to fruition. The Commission

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<sup>1</sup>Ragoonath, Reshma. 6 April 2021. Cayman Compass. Cubans, CBC locked in standoff at sea. Retrieved 28 February 2022 from <https://www.caymancompass.com/2021/04/06/cubans-cbc-locked-in-standoff-at-sea/>; and Cayman News Service. 9 April 2021. Cayman News Service. Cubans leave boat as standoff ends. Retrieved 28 February 2022 from <https://caymannewsservice.com/2021/04/cubans-leave-boat-as-standoff-ends/>.

<sup>2</sup> [https://www.humanrightscommission.ky/upimages/publicationdoc/HRCAnnualReport2021-FINAL\\_1675700739\\_1675700757.pdf](https://www.humanrightscommission.ky/upimages/publicationdoc/HRCAnnualReport2021-FINAL_1675700739_1675700757.pdf)



continued to follow up with the Ministry of Border Control and Labour (MoBC&L) Chief Officer, with whom it has been in regular communication, on this matter.

### **2.3 CIIMB Annual Report 2020**

Members had the opportunity to review the Cayman Islands Independent Monitoring Board's (CIIMB) Annual Report for 2020, published 12 August 2021, and discussed it at their meeting in January 2022. However, there were no additional comments to share with the CIIMB, other than what had been discussed with the CIIMB at the Commission's presentation to them in September 2021 (noted in the Commission's 2021 Annual Report<sup>2</sup>), and so it was agreed that there was no further action to be taken at this time.

### **2.4 HRC COVID-19 Statement and Legal Advice**

Members continued to keep under review legislative changes in response to the COVID-19 pandemic and publications in respect to the same, with a view to ensuring that the Government legislative responses remained proportionate and necessary. The HRC reviewed and discussed the Cayman Compass article "Cayman's COVID rules challenged by mum and son in historic test case"<sup>3</sup>. However, it was ultimately agreed that there are no actions for the Commission to take at that time. Members continued a discussion of the possibility of releasing another statement on issues related to COVID-19. A statement was drafted and discussed, however, members ultimately agreed that it would be appropriate to pause publication until more relevant information was available. The Secretariat was instructed to continue to seek the same.

Due to the complexity of some of the matters under consideration, combined with a limitation in Secretariat resources, the Commission undertook to seek legal advice. Requests for proposals for legal advice services were solicited and, once a suitable service provider was identified and the contract signed, a call between the HRC Chairman, Member Deborah Barker Roye, and the legal advisor took place to provide additional context to the instructions.

The requested advice was received on 28 April 2022 and members were satisfied with the same. The Secretariat was asked to compose a summary paper containing the questions which initiated the need for such legal advice. On 4 August 2022 a closure letter was sent to the Complainant in HRC COMP 026/2021, which had originally initiated the request for legal advice. Members agreed to internally retain the privileged advice commissioned in this regard in order to inform and assist the Commission with any future relevant matters.

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<sup>3</sup> James Whittaker. 24 February 2022. Cayman Compass. Retrieved on 20 April 2023 from <https://www.caymancompass.com/2022/02/24/caymans-covid-rules-challenged-by-mum-and-son-in-historic-test-case/>.

## 2.5 Needs Assessment Unit (NAU) Policies and Child Safeguarding

Extraordinary meetings concerning NAU Policies and Child Safeguarding remain on the agenda. It was noted that prior to setting meeting dates legal advice assistance will be needed.

## 2.6 IDC and Prison Tours

The HRC has been seeking to carry out tours of Her Majesty's prison facilities since early 2020. However, due to the COVID-19 Pandemic and various resultant logistical issues, the tours were delayed several times. In 2022 members were advised that due to an increase in COVID-19 transmission rates and the continued closure of the prison to visitors, no attempts have been made to reschedule the prison tours. After a discussion of other options, the Chairman requested that the Secretariat follow up in Q4 2022. Unfortunately, as the Commission had other pressing matters to attend to in its meetings during Q4 of 2022, revisiting the prison tours was pushed back until early 2023.

## 2.7 Penal Code Reform

Members considered a discussion paper on Penal Code Reform titled "The Penal Code: Is it Compatible with the Bill of Rights?" and issued by the Law Reform Commission and agreed to provide feedback. An extraordinary meeting was scheduled to further discuss this item. The Secretariat was asked to contact the Law Reform Commission on some queries that were raised in the meantime.

At the extraordinary meeting in February 2022 the Commission discussed the LRC Penal Code Reform discussion paper as well as preliminary feedback from the LRC on the Commission's initial queries. Members agreed to issue correspondence with recommendations and requested that the Secretariat draft this for the Member's review and approval. The letter was submitted to the LRC on 15 March 2022.

## 2.8 Homophobic Attack

Members noted reports in the media regarding a homophobic attack that took place on 3 January 2022<sup>4</sup>. Members noted the need to publish a statement and conduct an investigation on the Commission's own initiative. Members also raised the question of whether there is any antidiscrimination legislation and asked the Secretariat to conduct research regarding this matter. Subsequently, it would be able to raise the issue with the relevant public authority if this gap exists.

The Secretariat provided Members with the requested research regarding hate speech and discrimination legislation, which was discussed at their meeting in March 2022. Members discussed the next steps in sharing the research with the relevant public authority for their

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<sup>4</sup> Cayman Compass. 5 January 2022. Two injured in homophobic attack. Retrieved 17 April 2023 from <https://www.caymancompass.com/2022/01/05/two-injured-in-homophobic-attack/>.

consideration. A letter containing the research was sent to the Law Reform Commission (LRC) on 4 August 2022.

Members discussed the response from the LRC, received on 19 August 2023, inquiring whether the HRC planned to conduct an inquiry into standalone legislation on hate crime/hate speech. It was agreed that while the HRC would be happy to continue to contribute to any Law Reform initiatives relating to amendments to legislation to deal with hate crime and hate speech, given the limited resources and remit of the HRC it would be more appropriate for the for LRC to take the lead. The Secretariat replied to the LRC accordingly.

Shortly thereafter, member Ben Tonner shared with the Commission the Archbold Review article titled "Hate Crime Laws in Review: The Law Commission's Final Report" by Olivia English and Abhaya Ganashree. Given the recent collaboration with the LRC regarding hate crime/speech, members agreed to review the article and share any feedback.

## **2.9 Query re WORC Internal Processes**

Members discussed the correspondence sent to the Interim Director (Acting) of Workforce Opportunities & Residency Cayman (WORC) on 9 September 2023 seeking clarity on the WORC internal procedures, especially with regard to revoking Caymanian Status, Residence and Work Permits. The HRC decided it would be helpful to have an understanding of these processes in order to assist the Commission in understanding and considering complaints and inquiries made to the HRC relating to topics which fall under the remit of WORC. A meeting between the Interim Director (Acting) and the HRC was proposed, should this be helpful to facilitate discussions.

The Interim Director (Acting) replied on 16 November with a comprehensive response, including an overview of the processes involved in the revocation of Caymanian Status and Permanent Residence. The response was added to the agenda for the next relevant meeting, which is not anticipated until the beginning of the next reporting year.

## Chapter 3: Engagement with Public Officials, Civil Society and the Media

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### 3.1 Luncheon with the Governor

Member Nicholas Quin on behalf of the HRC, attended the Ministerial Luncheon on 28 January 2022 in honour of The Right Honourable Amanda Milling MP, Minister for Asia and the Middle East, from the UK. Also in attendance at the luncheon were the Chairman of the Constitutional Commission, Mr Vaughan Carter, the Chair of the Anti-Corruption Commission, Ms Sophia Harris, and the Auditor General, Ms Sue Winspear. An advisor to Hon. Amanda Milling and a Foreign, Commonwealth and Development Office (FCDO) representative were also present. Mr Quin provided an update to HRC members on the luncheon via email on 23 March 2022.

During the luncheon Mr Quin provided an overview of the Commission's work over the last 12 months. He made the point that the HRC's powers are limited but advised that the Commission is steadfast and insistent on matters which are raised, such as the investigation of public complaints regarding potential breaches of human rights, and providing a forum for mediation or conciliation to give guidance and make recommendations as needed. These efforts continue notwithstanding a lack of response from parties in any given situation.

The Minister and the FCDO representative discussed LGBTQ+ rights and developments, and the role of the Commission in issuing press releases and monitoring the progress of the same-sex marriage case.

There were also wider discussions about the impact of COVID-19 in Cayman and other countries and various other topical issues of the day.

### 3.2 Facebook

A Member expressed concerns over a human rights Facebook page which shared commentary that could be construed as representing the views of Commission. The information was shared with the PR & Education Coordinator for further investigation. Upon examination two pages were identified by a search of "Cayman" and "Human Rights", both are profiles of people rather than organisations. The Secretariat will continue to periodically monitor the activity of these pages to ensure no posts are made purporting to be posts of the Commission.

### 3.3 CIS Justice, Equity, Diversity and Inclusion Committee

The Interim Chairperson shared that she met with the Justice, Equity, Diversity and Inclusion (JEDI) Committee members at Cayman International School (CIS) on 18 November 2022 after their representatives reached out to the Commission. The HRC considered it beneficial to work

together and engage in developing projects for 2023. The Commission agreed to invite the CIS Committee to the next HRC meeting, in early 2023, to learn more about its mission.

### **3.4 Compass Request for Comment (“Influx of Migrants”)**

On 12 May 2022 a representative from Cayman Compass Media sent the Commission questions for comment regarding the recent influx of Cuban migrants. The Commission’s response of 13 May contained a statement outlining that the HRC is working with CBC to finalize migrant protocols.<sup>5</sup>

### **3.5 Compass Articles**

Members reviewed and discussed the contents of two Cayman Compass articles: “One year on, no decision from Privy Council in Cayman same-sex marriage case”<sup>6</sup> and “Cayman’s COVID rules challenged by mum and son in historic test case”<sup>7</sup>. It was ultimately agreed that there are no actions for the Commission to take at this time.

### **3.6 Secretariat Office Move**

In early 2022 the Manager briefed the Commission that there would be a potential office move for the Secretariat in the near future. This would impact the location of the Commission’s meetings, as well as the location where members of the public would come to make in-person enquiries to the Commission. The move took place in April 2023 and the Commissions Secretariat offices are now located on the 4th Floor of George Town Financial Center, 90 Fort Street, at the corner of Fort Street and Mary Street in George Town.

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<sup>5</sup> <https://www.humanrightscommission.ky/statement-on-the-influx-of-migrants?ajax=y&PageNumber=0>

<sup>6</sup> Harris, Andrel. 23 February 2022. Cayman Compass. “One year on, no decision from Privy Council in Cayman same-sex marriage case”. Retrieved on 15 June 2023 from <https://www.caymancompass.com/2022/02/23/one-year-on-no-decision-from-privy-council-in-cayman-same-sex-marriage-case/>.

<sup>7</sup> Whittaker, James. 24 February 2022. Cayman Compass. “Cayman’s COVID rules challenged by mum and son in historic test case”. Retrieved on 15 June 2023 from <https://www.caymancompass.com/2022/02/24/caymans-covid-rules-challenged-by-mum-and-son-in-historic-test-case/>.

## Chapter 4: Human Rights Awareness, Education, Events and Presentations

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### 4.1 Bill of Rights (BoR) Training

Members discussed the opportunity to collaborate on the in-depth Bill of Rights Training offered to Civil Servants since 2010 and agreed to assist by reviewing the current material provided with the aim of collaborating on this project in Q1 of 2023. A Member volunteered to look into the existing training materials and provide feedback. The Research Analyst assisted by looking into how other similar human rights bodies provide trainings on related topics in other jurisdictions.

### 4.2 Press Releases and Social Media Engagement

In February members reviewed and discussed the Cayman Compass article titled “One year on, no decision from Privy Council in Cayman same-sex marriage case”<sup>8</sup>. At the time it was ultimately agreed that there are no actions for the Commission to take as members were awaiting the Judicial Committee of the Privy Council’s decision on the referenced case.

In March 2022, once the Privy Council decision was handed down, the Commission posted on their website as a press release on the “News” page, a statement titled “Statement on Privy Council Judgement of the Day and Bodden Bush Appeal”<sup>9</sup>. Additionally, per standard protocol, the statement was circulated directly to members of the local media via email on 15 March 2022.

Additionally, the Commission issued the following post on Facebook:

**15 Mar 2022** – On 14 March 2022, the Judicial Committee of the UK Privy Council (“The Privy Council”) delivered its decision on the issue of same sex marriage in the Cayman Islands. The Privy Council dismissed the appeal, brought by Ms Chantelle Day and Ms Vickie Bodden Bush against the decision of the Cayman Islands Court of Appeal, and confirmed the Court of Appeal’s interpretation of the Cayman Islands Bill of Rights as not including a right for same sex couples to marry. For the complete statement visit <https://bit.ly/36nXklc>.

### 4.3 New Employee Orientation

All new civil servants are required to attend an orientation session. Information and topics covered include the structure of government, employee benefits, various laws that apply to civil servants and an introduction to select Commissions. The session affords civil servants the opportunity to

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<sup>8</sup> Andrei Harris. 23 February 2022. Cayman Compass. Retrieved on 20 April 2023 from <https://www.caymancompass.com/2022/02/23/one-year-on-no-decision-from-privy-council-in-cayman-same-sex-marriage-case/#:~:text=The%20Grand%20Court%20ruled%20in,by%20the%20Court%20of%20Appeal>.

<sup>9</sup> <https://www.humanrightscommission.ky/statement-on-privy-council-judgement-of-the-day-and-bodden-bush-appeal?ajax=y&PageNumber=0>

feel comfortable and meet fellow civil servants across a gamut of ministries and departments within government. The Orientation in particular included a video presentation on the Human Rights Commission which outlined the purpose of the Commission and also explained the Bill of Rights under the Cayman Islands Constitution. For 2022 a total of 206 civil servants attended the orientation sessions and were provided with a brief introduction to the HRC and the Bill of Rights for 12 orientation training sessions.

## Chapter 5: Alleged Breaches or Infringements of Human Rights

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The 6 November 2013 marked the implementation of the final clauses of the BoR allowing any individual to bring allegations of breaches or infringements of the BoR in our local courts. (As was previously the case, individuals may still directly petition the European Court of Human Rights alleging breaches of the obligations under the ECHR.)

As mandated under the Constitution, the Commission continues to receive and investigate complaints that decisions or actions of public officials have breached or infringed the BoR or that local legislation violates their human rights. The Commission receives: 1) complaints of breaches or infringements of any section of the BoR; 2) complaints of breaches or infringements of common law and statutory human rights and freedoms; and 3) complaints that any international human rights treaty extended to the Cayman Islands has been breached or infringed. In the Cayman Islands, constitutional human rights have only a vertical application. ‘Vertical application’ of human rights means rights can be enforced by a citizen against the CIG and public bodies only – but not against other private individuals or companies.

It is important to note that the Commission only accepts complaints of *alleged* breaches of the Bill of Rights, Freedoms and Responsibilities which have occurred after 6 November 2012. This may be a one-off event that has occurred after 6 November 2012 or may be a continuing infringement of a right. In all cases, unless there is clear evidence that the alleged infringement is continuing, the Commission will not accept a complaint in relation to an alleged infringement that has taken place more than one (1) year prior to the date of the complaint.

During this reporting year, the Commission received 25 complaints from members of the public alleging breaches of their human rights by public officials. Of those cases, 14 remain open at the end of this reporting year and 11 were closed.

In respect of the cases remaining open at the end of 2022 the Commission continues to be in correspondence with the relevant public authorities. In addition to the above, 6 complaints from 2021 were closed in 2022 (further details can be found in the charts below).

In addition to the formal complaints mentioned above, 2022 also saw 13 formal enquiries made to the Commission, 12 of which were closed by the end of the year and 1 remains open.

### 5.1 Number of complaints received by alleged rights breached in 2022

The chart and graph below illustrate the complaints received in 2022 categorised by sections of the BoR where breaches are alleged by complainants to have taken place. Note that s.1 – Guarantee of Rights, Freedoms and Responsibilities has not been included as any possible breach would automatically engage this section.

It is important to note that the chart and graph below represent the views of complainants regarding which of their rights they perceive may have been breached; it does not represent



actual breaches. Therefore, the information below tells us which rights complainants perceive as affecting them in their particular situation, not which rights may be legally relevant to their particular situation. Additionally, complainants may allege breaches of multiple rights.

Section #	Bill of Rights Section Title	Total Rights Complained About	Percentage of Total
9	Private & Family Life	8	12%
7	Fair Trial	7	10%
19	Lawful Admin Action	7	10%
14	Marriage	6	9%
16	Non-discrimination	6	9%
2	Life	5	7%
3	Torture & Inhuman Treatment	5	7%
5	Personal Liberty	5	7%
13	Movement	4	6%
8	No Punishment without Law	3	4%
11	Expression	3	4%
17	Protection of Children	3	4%
4	Slavery / Forced Labour	2	3%
6	Treatment of Prisoners	1	1%
12	Assembly & Association	1	1%
15	Property	1	1%
20	Education	1	1%
10	Conscience & Religion	0	0%
18	Protection of Environment	0	0%
21	Public Emergencies	0	0%
	<b>TOTAL</b>	<b>68</b>	<b>100%</b>

## 5.2 Number of complaints by respondent entity

The chart and graphs below illustrate the public authorities against which formal complaints have been made to the Commission in 2022, or previously but closed in 2022. They also summarise instances where the Commission expressed concerns regarding possible breaches based on the evidence presented. It is important to note that multiple public authorities can be complained about in a single submission, and this has been documented accordingly in these statistics. Notwithstanding that complaints opened in years prior to the reporting year which are closed in the present reporting year are typically not reported in charts in the Annual report, these have been included in this year's report to provide a more complete picture of the work undertaken by the HRC in 2022.

### Cases Handled in 2022 by Respondent Public Authority

Respondent Entities	Active Complaints Received up to 2022	Complaints Received in 2022	Total Complaints Handled in 2022	Closed - Withdrawn	Closed – Not a Matter for HRC	Closed – No Evidence of a Breach	Closed – Concerns/ Recommendations Expressed	Open – Under Consideration by HRC
Royal Cayman Islands Police Service	3	3	6	-	4	-	-	3
Workforce Opportunities & Residency Cayman	-	6	6	-	-	2	-	4
Customs and Border Control	-	5	5	-	1	1	1	3
Her Majesty's Cayman Islands Prison Service	2	3	5	-	2	-	-	2
Judiciary / Courts	-	3	3	-	1	-	-	2
Caymanian Status & Permanent Residency Board	-	2	2	-	-	1	-	1
Cayman Islands Government	1	1	2	-	-	1	-	1
Electrical Board of Examiners	-	2	2	-	-	1	-	1
Adoption Board	-	1	1	-	-	1	-	-
Attorney General	1	-	1	-	-	1	-	-
Chief Medical Officer	1	-	1	-	-	1	-	-
Department of Community Rehabilitation	-	1	1	-	-	-	-	1
Director of Public Prosecutions Office	1	-	1	-	1	-	-	-
Education Council	1	-	1	-	1	-	1	-
Governor of the Cayman Islands	1	-	1	-	-	1	-	-
Immigration Appeals Tribunal	-	1	1	-	-	1	-	-
Legal Aid Department	-	1	1	-	-	-	-	1
Medical & Dental Council	-	1	1	1	-	-	-	-
Ministry of Border Control & Labour	1	-	1	-	-	1	-	-
Ministry of Education	1	-	1	-	1	-	1	-
Refugee Protection Appeals Tribunal	-	1	1	-	1	-	-	-

### 5.3 Recommendations from Own-initiative Investigations

Section 116(6)(a) of the Constitution empowers the Commission to investigate possible breaches or infringements of the Bill of Rights, or any international human rights treaty that has been extended to Cayman, on its own initiative. Each year the Commission agrees on a number of issues to investigate accordingly, and this can represent a significant amount of the Commission's work. While the description of these issues is captured in Chapter 2 of this Annual Report, the summary below indicates instances where these own-initiative investigations have resulted in recommendations being made to public authorities, or possible breaches being identified. Please note that, due to the nature of own-initiative investigations, recommendations may be made and possible breaches may be identified to public authorities which have not carried out offending actions.

- 7 recommendations made to the Law Reform Commission relating to the Penal Code Reform Discussion Paper.
- 1 recommendation made to Customs and Border Control relating to the Draft Migrants Policy.
- 1 recommendation made to the Governor's Office relating to the Cayman Islands General Election 2021 Domestic Observers' Report.
- 1 recommendation made to the Elections Office relating to the Cayman Islands General Election 2021 Domestic Observers' Report.

## Chapter 6: Acknowledgements

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The Commission has worked hard over 2022 to promote human rights in the Islands; however, it would have been impossible for it to have carried out its work without the assistance of many members of the public, private entities and CIG employees. There is not space here to list all those who the Commission would wish to thank, however, we do wish to acknowledge the following individuals, companies and public authorities, who over the past year have provided particular assistance to our endeavours to promote compliance with the BoR:

- Cayman Islands Customs & Border Control
- Department of Education Services
- Governor's Office Grand Cayman
- Her Majesty's Cayman Islands Prison Service
- Judicial Administration
- Law Reform Commission
- Ministry of Employment & Border Control
- Office of the Deputy Governor
- Workforce Opportunities & Residency Cayman (WORC)

The majority of the Commission members are employed by private entities in the Islands and particular thanks should go to each of them for allowing us to take what is sometimes significant time away from our jobs to perform our Constitutional roles. Without the support of Boddens, Caribbean Utilities Company, Cayman Prep & High School, McGrath Tonner, Ogier, Sir John A. Cumber Primary School and Walkers we would not have been able to dedicate the time necessary to this Commission.

The Commission especially wishes to thank Mr Dale Crowley who contributed to the Commission as Chairman for three years and whose term expired on 17 September 2022, and Ms Joni Kirkconnell, who contributed to the Commission as a member for five years and whose term expired on 30 August 2022.

We are grateful to the media, and members of the public who have taken the time to engage with us, seek our views and report and provide feedback on the Commission's initiatives and human rights generally.

Lastly, the Commission wished to thank the staff of the Commissions Secretariat, who continue to provide it with support to carry out its constitutional functions.

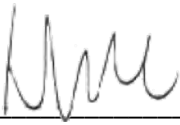
## Chapter 7: Moving Forward

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In 2022 the Commission intends to continue its focus on education and the promotion of awareness of human rights in the Cayman Islands. Specifically, the Commission intends to focus its efforts on human rights issues which are of public concern that arise in the Cayman community.

The Commission encourages the public to visit our website ([www.humanrightscommission.ky](http://www.humanrightscommission.ky)), join us on Facebook at [www.facebook.com/cihrc](http://www.facebook.com/cihrc), or email us at [info@humanrightscommission.ky](mailto:info@humanrightscommission.ky) to learn more or get involved in promoting, protecting, and preserving human rights in the Cayman Islands.

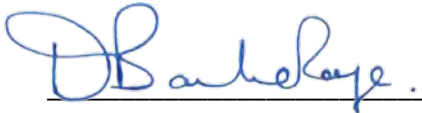
Dated this 18<sup>th</sup> day of March 2023.



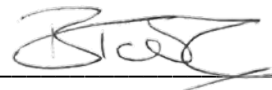
**Dale Crowley (Chairman)**



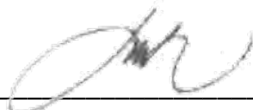
**Cathy Gomez**



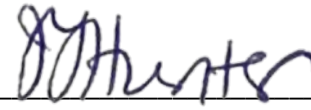
**Deborah Barker Roye (Interim Chairperson)**



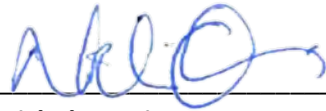
**Ben Tonner**



**Joni Kirkconnell**



**Jennifer Hunter**



**Nicholas Quin**

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Facebook: [www.facebook.com/cihrc](http://www.facebook.com/cihrc)

## Appendices

### Appendix 1: Human Rights Commission Members

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#### Mr Dale Crowley (Chairman)

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Mr. Dale Crowley holds an LLB (Hons) degree from the University of Liverpool and is qualified as both a Barrister (England and Wales (non-practicing)) and an Attorney-at-Law (Cayman Islands). He is currently the managing partner of the local Cayman Islands law firm of Bodden & Bodden who advise on a wide range of local real estate development projects, Cayman-based corporate/commercial transactions, ship and aircraft registration and financing matters, as well as the managing director of Bodden Corporate Services Ltd.. He has been practicing law in the Cayman Islands for over twenty years and is a past president of the Caymanian Bar Association. Mr. Crowley has previously served on a number of statutory and charitable boards, most recently as a director of the Cayman National Cultural Foundation. Mr. Crowley was appointed as Chairman of the Human Rights Commission on 18 September 2019 for a period of three years.

#### Ms Deborah Barker Roye (Interim Chairperson)

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Deborah Barker Roye has a wealth of knowledge and experience in Cayman Islands law and legal procedure. Deborah is currently Counsel at Ogier and her areas of expertise include corporate and financial services disputes, dispute resolution, restructuring and corporate recovery and trusts disputes and private client. Prior to joining Ogier she worked at the Truman Bodden Law School as the Deputy Director of Legal Studies. She is a member of the Editorial Board of the Cayman Islands Law Reports, a member of the Criminal Justice Reform Committee and a sub-committee member of the Grand Court Rules Committee. Ms. Barker Roye was appointed as a member on 29 October 2020 for a period of three years.

#### Ms Joni Kirkconnell

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Joni Kirkconnell is the current Manager for Environment, Health & Safety (EHS) at Caribbean Utilities Company, Ltd. (CUC) and has been with the company for 6 years. Prior to joining CUC she worked with the Cayman Islands Government Department of Environment (DoE) for over ten years in the Sustainable Development Unit as well as the Marine Turtle Programme. Joni obtained her bachelor degrees in Marine Biology and Ecology and a Master's degree in Environmental Resource Management from Florida Institute of Technology. She is a certified lead internal auditor for the ISO 14001:2004 Environmental Management System standard as well as for OHSAS 18001:2007 Occupational Health and Safety Management System standard. She is also a certified Master Trainer under the National Centre for Construction Education and Research (NCCER). In her time at CUC her department has spearheaded numerous programmes and policies to ensure the protection of both people and the environment. These included the establishment of a health and safety management system, providing training to first responders, launching the MoveSafe programme to reduce musculoskeletal injuries, hosting the annual Contractor Safety Workshop, instituting the employee recognition programme the Orange Ribbon Safety Award, and ensuring that CUC remained certified and registered to the ISO 14001:2004 standard for their environmental management system. One of her proudest achievements was when CUC went two years without an employee losing time due to work

related injuries – the previous record had been only months prior to her joining the company. Joni also contributes to numerous CUC related community involvement projects including Junior Achievement, working with children at the Lighthouse School and George Town Primary School, as well as environmental improvement projects. Joni is married with two children. Effective 1 September 2017 Joni has been appointed as a member for a period of three years.

### **Mr Nicholas Quin**

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Nick Quin graduated from Newcastle University with a law degree and is qualified as a Barrister of England and Wales and an Attorney-at-Law in the Cayman Islands. He is currently Managing Director, Corporate Services at Walkers Corporate Limited. Prior to that he was the Legal Counsel for The Citco Group and has previously held the positions of Managing Director of Citco B.V.I. Limited and Managing Director of Citco Trustees (Cayman) Limited. Prior to joining Citco he worked for the Cayman office of Mourant in their litigation department. Nick has acted as a director of various licensed and charitable entities in the past. Mr. Quin was appointed as a member on 1 November 2019 for a period of three years.

### **Ms Cathy Gomez**

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Recently retired, Cathy Gomez was committed to fulltime work for 46 years. She served in the healthcare sector for more than thirty-one years (1974 – 2006) with extensive experience in medical laboratory technology and hospital administration. During this time, she also served for 20 years with the RCIPS as the police drug & alcohol analyst, prior to the opening of the forensic lab.

During the past 15 years, Ms. Gomez has served as a Pastoral Counsellor at Cayman Prep & High School (4 years) and HM Prison Services and qualified as a Canadian Certified Pastoral Counsellor in 2008. Her listing of qualifications includes advanced studies in Health Services Administration, a Master of Science in Public Policy & Management and a Master of Arts in Pastoral Psychology and Counselling. She is a published author of the book 'Coping with sudden job loss...experiences in the Cayman Islands' (2010) and was a Columnist for Cayman Net News (2011-2013), writing 150 articles on job loss and the various spin-off effects.

Ms. Gomez served as adjunct faculty at UCCI, teaching Marriage and the Family (2010-2016). Other teaching experiences include leading Bible study groups and delivering programs while serving as Prison Chaplain for 8.5 years. While serving in this role, she has had great opportunities to visit various prisons in the US and the Caribbean and remains committed to the work of Prison Fellowship Cayman Islands.

Ms. Gomez has served as an Elder in her church and has been committed to the music ministry since childhood. She has been a guest speaker at various churches and organizations, currently serves as Board Chairman for Bethesda Counselling Centre and is a Justice of the Peace.

Ms. Gomez was appointed as a Member of the Human Rights Commission on 1 September 2021 for a period of three years.

## **Mr Ben Tonner KC**

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Ben Tonner KC leads the Litigation practice at McGrath Tonner, Cayman Islands. Mr. Tonner has practiced litigation in the Cayman Islands for over 17 years and has extensive knowledge of both the criminal and civil divisions.

Between 2005- 2012, Mr. Tonner's practice was focused primarily on the criminal division where he defended individual and corporate clients charged with serious criminal offences including fraud, money laundering and offences contrary to the Anti-Corruption Act. In more recent times, Mr. Tonner's practice has shifted emphasis towards the civil and financial services divisions where he acts as counsel in a broad range of commercial disputes concerning insolvency and restructuring, asset-tracing, regulatory enforcement, and judicial review proceedings.

Mr. Tonner regularly appears as leading counsel in the Grand Court and Court of Appeal of the Cayman Islands. He has also acted as Cayman counsel in respect of appeals to the Judicial Committee of the Privy Council. Mr. Tonner is also a fellow of INSOL International and the author of the Cayman Islands module for INSOL's Foundation Certificate in International Insolvency Law.

Mr. Tonner remains committed to accepting instructions in publicly funded (legally aided) work which he believes is an important means by which he can contribute to the local community and the Cayman Islands justice system.

Mr. Tonner was appointed as a Member of the Human Rights Commission effective 1 September 2022 for a three-year term.

## **Ms Jennifer Hunter**

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Jennifer Hunter holds a B.A. degree in Economics, an LL.B. (Hons) degree and a Postgraduate Certificate in Education. She formerly practiced as an Attorney-at-Law (Cayman Islands), concentrating in the areas of contract and property law, and trusts and estates. She has previously served as Chairperson of The Labour Tribunal and Deputy Chairperson of The Planning Appeals Tribunal. Mrs. Hunter has also served on the National Trust Council and The Board of Directors of The Cayman Islands Humane Society. In more recent years, Mrs. Hunter has devoted her time to being an educator in the government primary school system and currently volunteers as an Interventionist at Sir John A. Cumber Primary School. Mrs. Hunter was appointed as a member on 17 September 2022 for a period of three years.



## Appendix 2: Cayman Islands Bill of Rights, Freedoms and Responsibilities (BoR)

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1. Guarantee of Rights, Freedoms and Responsibilities
2. Life
3. Torture and inhuman treatment
4. Slavery or forced or compulsory labour
5. Personal liberty
6. Treatment of prisoners
7. Fair trial
8. No punishment without law
9. Private and family life
10. Conscience and religion
11. Expression
12. Assembly and association
13. Movement
14. Marriage
15. Property
16. Non-discrimination
17. Protection of children
18. Protection of the environment
19. Lawful administrative action
20. Education
21. Public emergencies
22. Protection of persons detained under emergency laws
23. Declaration of incompatibility
24. Duty of public officials
25. Interpretive obligation
26. Enforcement of rights and freedoms
27. Remedies
28. Interpretation of the Bill of Rights