

MINUTES
MEETING OF THE HUMAN RIGHTS COMMISSION
7 JULY 2016
CONFERENCE ROOM
ARTEMIS HOUSE

PRESENT:	James Austin-Smith	Chairman
	Ben Tonner	Member
	Reverend Donovan Myers	Member
	Lisa-Ann Hurlston-McKenzie	Member
	Danielle Coleman	Member

APOLOGIES: Lise Hurlstone Administrator/Analyst

COMMISSIONS SECRETARIAT MEMBERS PRESENT:

Deborah Bodden	Manager
Sheila Alvarez	Administrator/Analyst

1. Meeting called to order

The meeting was called to order at 2:40pm.

2. Confirmation of Previous Minutes

The 9 June 2016 minutes were approved.

3. Outstanding Business

a. Mental Health Educational Booklet

Thanks to the Government Information Services the layout and design of the pamphlets have been finalised. The Secretariat has arranged to print 50 copies of the booklet for the Chairman to present to the Chairman of the Mental Health Commission. The booklet will also be available of the Commission's website as an e-book and a download.

b. Prohibited Immigrants Report

The Commission discussed the updated report and agreed that further points needed to be explored and clarifications offered. Members will be asked to review a further draft of the Report prior to the next meeting.

c. CCTV Report

The Commission discussed the updated report and agreed that further points needed to be explored and clarifications offered. Members will be asked to review a further draft of the Report prior to the next meeting.

d. Migrants

i. Concerns

The Commission noted that whilst they have not received a formal response from the Ministry of Home Affairs, several responses have been provided to the media. It

was agreed that no further action/response is necessary by the Commission at this time.

ii. Legal Aid

Whilst previously identifying the lack of legal representatives being made available to persons engaged in the various stages of the asylum process, the Commission has received two more complaints regarding this same issue. As a result the Commission will provide a further recommendation to the Department of Immigration about compiling a list of persons who are willing to offer such services on a pro bono basis.

4. New Business

a. Immigration Concerns

The Commission considered whether there are any potential human rights breaches as a result of concerns voiced by former spouses of Permanent Residency (PR) and Residency and Employment Rights Certificate (RERC) holders who allege they are not eligible to qualify in their own right due to the points system as they are either unemployed or do not make sufficient funds in their current job to gain the necessary award of points. Members noted that the Immigration Law does give the Chief Immigration Officer discretion to persons applying for Permanent Residency and/or the Right to be Caymanian. If this discretion is exercised in accordance with the Bill of Rights there would appear to be no potential for a breach of human rights. The Commission is however, aware that a review has just been completed by a local lawyer, on behalf of the Cayman Islands Government, and as such it will reserve a decision in this matter until that report is reviewed and considered.

b. Volunteer Opportunities

The Manager spoke to the various calls and correspondence that have been received from members of the public who would like to volunteer their time to assisting the Commission with topical issues. Due to the sensitivity of the matters before the Commission and the nature of the Commission and the workload, it was agreed that no such opportunities are available at this time. The Secretariat was asked to inform persons that if any opportunities arise in the future they will be contacted.

c. Training at Prison

The Commission received a request from the training officer at Her Majesty's Prison Northward to conduct a basic human rights training session with the prison officers on human rights matters which are specifically relevant to prison issues. It was agreed that the Commission would facilitate such training through the use of a PowerPoint presentation and the supplying of handouts. The Secretariat was asked to create the presentation and make all of the logistical arrangements.

5. Human Rights Complaints

a. Update on Human Rights Complaint 014/2013

The Commission was updated on this complaint. Whilst it is noted that this complaint has been closed, the public authority and legal representative involved have responded to the Commission. The Commission agreed a response is necessary as is the finalisation of

a report in this matter. It is noted that member Ben Tonner continues to recuse himself from this complaint.

b. Update on Human Rights Complaint 006/2014

This complaint was deferred until the next meeting it was agreed that the report on this matter requires further points to be explored and clarifications offered.

c. Update on Human Rights Complaint 014/2014

This complaint was deferred until the next meeting it was agreed that the report on this matter requires further points to be explored and clarifications offered.

d. Update on Human Rights Complaint 002/2015

This complaint was deferred as the Commission is awaiting further information from the complainant.

e. Update on Human Rights Complaint 003/2015

This complaint was deferred until the next meeting it was agreed that the report on this matter requires further points to be explored and clarifications offered.

f. Update on Human Rights Complaint 004/2015

Members discussed this complaint and agreed a draft response which will be discussed at the next meeting. It is noted that Chairman James Austin-Smith continues to recuse himself from this complaint.

g. Update on Human Rights Complaint 020, 021, 022/2015

The Chairman continues to consider and conduct research on the additional requests made by the complainant in this matter. It is noted that due to the additional information and questions, a wholesale review of the entire complaint is being undertaken.

h. Update on Human Rights Complaint 029/2015

Members discussed this complaint and agreed there may be evidence of a potential breach of the complainant's human rights, however there is also evidence that the complainant himself breached the law on numerous occasions. The Secretariat was asked to update the report on this matter to include the latest information received from the public authority so the Commission could make a final determination.

i. Update on Human Rights Complaint 004/2016

This complaint was deferred as the Commission continues to wait for an update from the public authority. The public authority has acknowledged and is working on preparing such an update.

j. Update on Human Rights Complaint 005/2016

This complaint was deferred as the Commission continues to wait for an update from the public authority. It was agreed that the public authority will be advised that the Commission will finalise its decision within seven days.

k. Human Rights Complaint 024/2016

The Commission discussed this complaint and supporting documents. It was agreed there is no evidence of a breach of the complainant's human rights however there were areas of the policy which was being complained about which could be strengthened in a few areas. The Commission will detail these in its response to the complainant and copying the relevant public authority.

l. Human Rights Complaint 025/2016

The Commission discussed this complaint which provided minimal details of the complaint. It was agreed that as the complainant appears to be a vulnerable person the Commission would request further information from the respective public authority in order to properly consider the matter.

m. Human Rights Complaint 026/2016

The Commission discussed this complaint and supporting documentation. It was agreed there is no evidence of a breach of the complainant's human rights. The complainant will be advised accordingly and the file will be closed. It is noted that Member Ben Tonner recused himself from this complaint.

6. Any Other Business

a. National Older Persons Policy Stakeholders' Workshop

The Manager represented the Commission at the policy workshop, facilitated by the Ministry of Community Affairs, Youth and Sports in conjunction with the Department of Children and Family Services. The workshop was held on 1 July 2016 and the purpose was to develop the National Older Persons Policy ("NOPP") for the Cayman Islands. The NOPP intends to promote the welfare of older persons in the society and to provide strategic guidance in the delivery of quality services toward meeting their needs.

b. Caribbean Regional Workshop on Alternatives to Immigration Detention

The Manager announced a "Save the Date" invitation for the upcoming workshop which is being facilitated by the International Detention Coalition, the University of the West Indies and the UN Refugee Agency (UNHCR) to discuss "Alternatives to Immigration Detention." The workshop will be held on 27 – 29 September 2016 in Port of Spain, Trinidad and Tobago. It was agreed it would be beneficial for the Chairman and the Manager to attend.

c. Overseas Territories Human Rights Conference 2016

The Manager advised that the first FCO Overseas Territories Directorate's human rights conference will be held on 13 – 14 September 2016 in London, UK. The Chairman has been extended an invitation to this Conference however an enquiry will be made as to whether the Manager may also attend.

d. General Election 2017

The Secretariat received a letter of enquiry from a prisoner at HMP Northward who expressed his concerns about several issues related to prisoners and their right to vote in the 2017 general election. The Constitution prescribes that any person who is serving a sentence of less than twelve (12) months retains the right to vote (this would include remand prisoners who have not yet been sentenced). All other persons who are

incarcerated do not have the right to vote. The Manager indicated that the Commission received a complaint at a very late stage prior to the last election and as a result the Commission liaised with the Elections Office and Prisons Department to ensure those persons who were eligible to vote were allowed to do so. She indicated that there were four main issues 1. that all prisoners who were eligible to vote were able to be registered or to update their registration information (this included educating persons about their eligibility); 2. ensuring the logistics are worked out to enable prisoners to vote by mobile voting; 3. agreeing which electoral district each prisoner should vote in i.e. whether the prison is considered their home and as such they should vote in the electoral district that the prison is located in or whether they should be able to vote in the electoral district where they would normally be resident; and 4. whether there is a breach of any prisoner's rights who do not have the right to vote if they are serving a sentence of more than 12 months. The Commission agreed that it would communicate with both the enquirer and the relevant public authority once it had further researched the issues.

e. Queering Paradigms 7 Conference

Member Danielle Coleman shared details about the LGBTI conference that was held on 11 – 12 June at the Cayman Islands Chamber of Commerce Auditorium. The conference was informative, but not well attended, and touched on the stigma and discrimination that the LGBTI community are faced with on a regular basis.

7. Action Items

The members were asked to:

- a. Review a further draft of the Prohibited Immigrant Report and provide their final comments; and
- b. Review a further draft of the CCTV Report and provide their final comments; and
- c. Review any outstanding or new complaints.

The Secretariat was asked to:

- a. Proceed with the arrangement to print the Mental Health Educational Pamphlets and arrange a photo opportunity with the Commission Chairman and the MHC Chairman;
- b. Update the Prohibited Immigrant Report and send it back out to members;
- c. Update the CCTV Report and send it back out to members;
- d. Prepare a letter to the Department of Immigration re: legal assistance for asylum seekers;
- e. Start maintaining a contact list of potential human rights volunteers;
- f. Prepare a Power Point presentation for the Chairman to deliver a basic human rights training session at HMP Northward for prison officers and confirm a suitable date for the proposed training;
- g. Make arrangements for the Chairman and the Manager to attend the Caribbean Regional Workshop on Alternatives to Immigration Detention;
- h. Create a presentation for the Chairman to deliver at the Overseas Territories Human Rights Conference 2016;
- i. Conduct the relevant research and draft the relevant correspondence in regards to the enquiry re: prisoner's rights to vote; and
- j. Draft correspondence in all outstanding and new human rights complaints.

8. Items to be Discussed at the Next Meeting

- a. Prohibited Immigrants report
- b. CCTV Report
- c. New and outstanding human rights complaints

9. Next Meeting

The next meeting of the HRC is tentatively scheduled for 4 August 2016 at 2:30pm at the offices of the Commissions Secretariat.

The September meeting has been scheduled for 8 September at 2:30pm.

10. Adjournment

The meeting was adjourned at 4:54pm.

A handwritten signature in blue ink, appearing to read 'James Austin-Smith', written over a horizontal line.

James Austin-Smith
CHAIRMAN
HUMAN RIGHTS COMMISSION