

**MINUTES  
MEETING OF THE HUMAN RIGHTS COMMISSION  
5 NOVEMBER 2015  
CONFERENCE ROOM  
CAYMAN CORPORATE CENTRE**

**PRESENT:** James Austin-Smith Chairman  
Chelsea Frazier-Rivers Member  
Lisa-Ann Hurlston-McKenzie Member  
Ben Tonner Member

**APOLOGIES:** Reverend Donovan Myers Member

**COMMISSIONS SECRETARIAT MEMBERS PRESENT:**

Deborah Bodden Manager  
Sheila Alvarez Administrator/Analyst  
Lise Hurlstone Administrator/Analyst

**1. Meeting called to order**

The meeting was called to order at 2:05pm.

**2. Matters Arising from Previous Minutes**

**a. Matters arising from the meeting with HM Prisons Inspectorate Team**

Following the last meeting the Commission requested an update on the timeline and progress made on these matters. The Commission has been informed that the target date for the completion of the police cells is 30 November 2015 and the target date for the collation of data on OPCAT is “as soon as possible”. The Commission will confirm completion of the police cells on 30 November and will request an update in three months from the Ministry regarding OPCAT.

**b. Meeting with Representative of the UNHCR**

Following the handling of a boat of Cuban migrants by the Department of Immigration and RCIPS on 5 October 2015 the Commission continues to have concerns regarding the policies as it relates to handling migrants. The Chairman has shared with the Deputy Governor that the Commission is of the view that the current Memorandum of Understanding with the Cuban government is in breach of the Cayman Islands international human rights obligations. The Commission will correspond with the Department of Immigration to gain an understanding of what policies are in effect at this time and whether all staff has been trained in these policies.

**c. Issues at Lighthouse School**

The Commission considered the response received from the Chief Education Officer and was encouraged by the level of detail and thoroughness contained in the Support Plan and also by the work that has already been progressed. The Commission is slightly confused by the indication on the Plan that this document is still in draft form whilst

some of the dates for completion of action have passed and will seek to clarify this. The Commission will also reiterate its willingness to review the national policy currently being drafted with regards to the use of video surveillance in the classrooms.

**d. Education Bill 2015**

The Commission continues to review this legislation prior to submitting feedback on its compliance with the Bill of Rights. The Secretariat will ascertain when this legislation is due to be considered in the Legislative Assembly.

**e. Conditional Release Law**

The Commission considered the substantive response received from the Deputy Governor's Office and agreed that this matter would be fully considered once the upcoming Court of Appeal sitting has finished as there are a number of persons who have been sentenced to life who are appealing their sentences. The Commission is ultimately desirous of drafting a viewpoint on the fact that this legislation, which has considerable human rights implications, has been passed by the Legislative Assembly but not yet given a commencement date.

**f. Labour Relations Bill (2015)**

The Commission continues to review this legislation prior to submitting feedback on its compliance with the Bill of Rights. The Secretariat will ascertain when this legislation is due to be considered in the Legislative Assembly.

**g. Legal Aid Bill**

Having previously reviewed and commented on the initial Bill the Commission reviewed the changes made to the updated Bill and had no further comments. The Bill was subsequently passed into law.

**h. International Human Rights Day**

The theme for the 2015 International Human Rights Day has now been released and is *Our rights our freedoms always* and focuses on the four freedoms that underlie the Universal Declaration of Human Rights and the two Covenants – freedom from fear, freedom of speech, freedom of worship and freedom from want. The Commission has agreed to conduct media appearances on that day as part of its education mandate and the Secretariat will arrange accordingly.

**3. New Business**

**a. Data Protection Bill**

Having previously reviewed and commented on the initial Bill the Commission has been asked to consider the changes made to this version. The Commission will correspond with the Attorney General to recommend that consideration of the Bill should be deferred until the reform of the data protection rules in the European Union is completed. This policy reform is to be completed by the end of 2015, and seeks to simplify the legislation and make provisions for the advancements made in the digital world as it relates to securing electronic personal data.



**b. Development of a National Mental Health Policy**

The Human Rights Commission has been invited to attend a one day workshop on 17 November hosted by the Ministry of Health in collaboration with the Pan American Health Organisation (PAHO) to develop a National Mental Health Policy for the Cayman Islands. The workshop will be facilitated by Dr Wendel Abel, Consultant with PAHO, who will also prepare the draft policy. The Chairman has asked the Manager to attend on behalf of the Commission.

**4. Human Rights Complaints**

**a. Update on Human Rights Complaint 014/2013**

Members were updated on this complaint. The Commission has now had correspondence from both parties and it is confirmed that the matter is being brought to a satisfactory close between the parties. It is noted that the member Ben Tonner continues to recuse himself from this complaint.

**b. Update on Human Rights Complaint 006/2014**

Members were updated on this complaint. The Commission has instructed the Secretariat to begin drafting a report which deals with the overarching principles in this complaint, which is similar to two other open cases.

**c. Update on Human Rights Complaint 014/2014**

Members were updated on this complaint. The Commission has instructed the Secretariat to begin drafting a report which deals with the overarching principles in this complaint, which is similar to two other open cases.

**d. Update on Human Rights Complaint 002/2015**

The Commission now understands that the deadline has passed for the public authority to release the documents as ordered by the Information Commissioner's Office and the decision has not been fully complied with. The Commission is currently liaising with the ICO and the complainant to manage the next steps in this matter.

**e. Update on Human Rights Complaint 003/2015**

Members were updated on this complaint. The Commission has instructed the Secretariat to begin drafting a report which deals with the overarching principles in this complaint, which is similar to two other open cases.

**f. Update on Human Rights Complaint 004/2015**

Members discussed part two of this complaint including the submission of all information and agreed that a component of the complaint was not one in which the Commission had the jurisdiction to handle and the complainant will be duly informed. The Commission will continue to review the second component for any evidence of a breach of human rights. It is noted that Chairman James Austin-Smith continues to recuse himself from this matter.

**g. Update on Human Rights Complaint 008/2015**

The Commission has been informed that this matter was scheduled for a hearing however the dates had to be vacated. The legal representative for the complainant has indicated they are waiting on new dates however as the Commission does not take on

matters which are being dealt with by the Courts the legal representative will be asked for details of any aspect of the complaint not being dealt with by the Courts in order to progress the complaint. It is noted that the member Ben Tonner continues to recuse himself from this complaint.

**h. Update on Human Rights Complaint 009/2015**

The Members were provided with a copy of the draft a report in this matter for review which they will consider and provide feedback by 20 November 2015 in order that the report can be finalised by the next meeting.

**i. Update on Human Rights Complaint 010/2015**

The Commission has yet again corresponded with the relevant public authority in order to ascertain the relevant information however it has yet to receive the requested information. The Commission has now agreed it will correspond with the public authority informing them that in the absence of a substantive response within 7 days the Commission will determine there has been a prima facie breach of the complainant's human rights and issue a report to that effect.

**j. Update on Human Rights Complaint 011/2015**

The Commission continues to be unsure as to why the public authority has not made a decision in the matter however it has been informed the matter has been relisted for consideration. The Commission has now agreed it will correspond with the public authority informing them that in the absence of a substantive response within 7 days the Commission will determine there has been a prima facie breach of the complainant's human rights and issue a report to that effect.

**k. Update on Human Rights Complaint 012/2015**

The Commission has not had a response from the complainant to its request for information, following the additional time for the complainant to do so. The file will subsequently be closed.

**l. Update on Human Rights Complaint 013/2015**

The Commission corresponded with the legal representative in this matter but has not had a response to its request for information. The Commission will follow up in this regard. It is noted that the member Ben Tonner continues to recuse himself from this complaint.

**m. Update on Human Rights Complaint 016/2015**

The Commission considered this complaint and agreed there was no evidence of a breach of human rights. The complainant will be duly informed and the file closed.

**n. Update on Human Rights Complaint 017/2015**

The Commission has received a reply which answers only part of the Commission's queries. The Commission will follow-up with both public authorities involved in this matter requesting further information.

**o. Update on Human Rights Complaint 018/2015**



The Commission has still not received the requested information from the complainant and therefore the file will be closed.

**p. Human Rights Complaint 019/2015**

The Commission considered this complaint and was informed that the Chairman met with the complainant due to special circumstances. The Commission was briefed on the details of that meeting. The Commission agreed this was a matter which needed further exploring and will seek to obtain that information from both the complainant and the relevant public authorities.

**q. Human Rights Complaint 020/2015**

The Commission began an initial review of this complaint and agreed that the content required further consideration. Members will review and consider the material more in-depth in advance of the next meeting.

**r. Human Rights Complaint 021/2015**

The Commission began an initial review of this complaint and agreed that the content required further consideration. Members will review and consider the material more in-depth in advance of the next meeting.

**s. Human Rights Complaint 022/2015**

The Commission began an initial review of this complaint and agreed that the content required further consideration. Members will review and consider the material more in-depth in advance of the next meeting.

**t. Human Rights Complaint 023/2015**

The Commission considered this complaint and agreed it had no jurisdiction to hear the complaint as it was made against a private individual. The complainant will be notified and the file closed.

**u. Human Rights Complaint 024/2015**

The Commission considered this complaint and agreed this was a matter which needed further exploring and will seek to obtain that information from both the complainant's legal representative and the relevant public authorities.

**v. Human Rights Complaint 025/2015**

The Commission considered this complaint and agreed there was no evidence of a breach of human rights. The complainant will be notified and the file closed.

**5. Any Other Business**

**a. Disability Legislation**

On 8 November 2015 the United Kingdom will celebrate 20 years since the enactment of the UK's Disability Discrimination Act (1995), legislation which was introduced to improve persons with disabilities' access to employment, as well as access to the use of goods, facilities and services, both public and private. The Commission will draft a short release which will congratulate the UK on this achievement and encourage the Cayman Islands Government to follow suit.

**b. Same-Sex Unions**

The Commission has received a response from the Honourable Premier to its earlier letter on this issue. The response will be considered and appropriate correspondence drafted.

**c. Possible Complaint**

The Chairman has been approached regarding the submission of a possible complaint to the Commission. The Chairman will forward the email to all members for information only at this stage.

**6. Action Items**

The members were asked to:

- a. Continue to consider the Education Bill 2015;
- b. Continue to consider the Labour Relations Bill (2015); and
- c. Consider the response and next steps regarding same-sex unions.

The Secretariat was asked to:

- a. Follow-up with the relevant public authorities regarding the matters outlined in 2.a. above;
- b. Draft correspondence to the Department of Immigration regarding the current policies for handling migrants;
- c. Draft correspondence to the Chief Education Officer regarding the Support Plan for the Lighthouse School;
- d. Ascertain when the relevant Bills detailed above will be heard in the LA;
- e. Draft a response to the Attorney General regarding the Data Protection Bill; and
- f. Draft a press release on the celebration of 20 years of disability legislation in the UK.

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

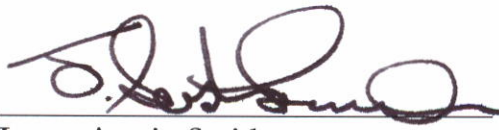
- a. Matters arising from the meeting with HM Prisons Inspectorate Team
- b. Meeting with Representative of UNHCR
- c. Issues at Lighthouse School
- d. Education Bill 2015
- e. Conditional Release Law
- f. Labor Relations Bill (2015)
- g. International Human Rights Day
- h. Data Protection Bill
- i. Development of a National Mental Health Policy
- j. Disability Legislation
- k. Same-sex Unions
- l. New and Outstanding Human Rights Complaints and Enquiries

**8. Next Meeting**

The next meeting of the HRC is scheduled for 3 December 2015 at 2:00pm at the offices of the Commissions Secretariat.

**9. Adjournment**

The meeting was adjourned at 4:02pm.



James Austin-Smith  
CHAIRMAN  
HUMAN RIGHTS COMMISSION