



HUMAN
RIGHTS
COMMISSION
CAYMAN ISLANDS

Human Rights Commission 2023 Annual Report

humanrightscommission.ky

Table of Contents

Chairman's Message	3
Monitoring Human Rights in Policy, Practice and Legislation	4
Migrants Policy	4
Legislative Amendment: spouses of Asylum Grantees	4
Bodden Town Civic Centre Tour	5
Migrants Report	5
WORC Internal Process	5
Cayman Islands Court of Appeal Decision on Permanent Residency Applications	5
Non-Profit Organisations and the Labour Act	6
NAU Policies	6
Child Safeguarding	6
Engagement with Public Officials, Civil Society and the Media	7
Cayman International School Justice, Equity, Diversity, and Inclusion Committee	7
Prison Tours	7
Human Rights Awareness, Education, Events and Presentations	9
Awareness and Events Calendar - Education/Social Media	9
Bill of Rights (BoR) Training	9
Secretariat Organisational Structure Updates	10
Mental Health	10
HSA World Mental Health Day Panel Discussion	10
East End Mental Health Facility	10
Alleged Breaches or Infringements of Human Rights	11
Number of complaints received by alleged rights breached in 2023	11
Number of complaints by respondent entity	11
Recommendations from Own-initiative Investigations	14



Foreword

Human rights are the cornerstone of a just and equitable society, protecting the dignity and freedoms of every individual. In 2023, we observed ongoing global human rights challenges, including issues related to refugee and migrant rights, climate change, and environmental justice. Many of these challenges reflect the experiences within our own islands, emphasising the critical importance of the work carried out by the Human Rights Commission (HRC).

I would like to extend my heartfelt thanks to former Chairman Deborah Barker-Roye, whose tenure ended during this reporting period. Ms. Barker-Roye demonstrated outstanding service and leadership throughout her time, and her dedication and commitment have been invaluable.

Throughout the year, the HRC has been actively engaged in several initiatives and activities:

- We continued our engagement with the Cayman Islands Government regarding their policies for receiving and processing migrants arriving on our islands by sea.
- We visited the Bodden Town Civic Centre (BTCC) to assess the suitability of the accommodation provided to migrants.
- We conducted comprehensive tours of His Majesty's Prisons (HMP) Fairbanks, HMP Northward, and the Enhanced Reintegration Unit. These visits were integral in our ongoing efforts to monitor and improve conditions within the prison system.
- Over the course of the year, the Commission received and considered 22 new complaints from members of the public alleging breaches of their human rights by public officials. Each complaint was carefully reviewed and addressed.
- In collaboration with Cayman International School (CIS), we organised a 'take-over day' where CIS pupils took control of HRC social media accounts. This event, held in recognition of the International Day of Families and Child Month, highlighted the importance of family and the rights of children within our community.

I am immensely grateful to the members of the HRC for their unwavering commitment and hard work during this period. I would also like to express my sincere appreciation to the Commissions Secretariat for its consistent support and valuable contributions, particularly given the restructuring that was implemented this year. We are positive that these changes will help the Secretariat ensure the continued success of the HRC's initiatives.

I strongly encourage the public to stay engaged with the HRC. Public involvement is crucial to the promotion and protection of human rights in our community. Visit our website, follow us on Instagram and Facebook, connect with us on LinkedIn, call us at 244-3685, or email us at info@humanrightscommission.ky.

Together, let us continue to promote the cause of human rights, ensuring that everyone in the Cayman Islands can enjoy the freedoms and protections they deserve.

Ben Tonner,

Chairman, Human Rights Commission

Monitoring Human Rights in Policy, Practice and Legislation

Migrants Policy

The Commission continued its correspondence with Customs and Border Control (CBC) regarding CBC's policy for receiving and processing migrants arriving in the Cayman Islands. This line of inquiry began in 2021 when the Commission wrote to CBC regarding an incident between a group of migrants and CBC officers which was reported in the media in April 2021.

The Commission received a copy of the draft Migrant Detention Policy (the "draft Policy") in January 2022 and provided detailed feedback and recommendations to CBC in response. In July 2023, the Commission wrote to the Deputy Governor to request his assistance facilitating a meeting between the Commission, CBC and the Ministry of Border Control and Labour (MoBCL) to discuss the topic.

The meeting was held in September 2023 and was attended by the Deputy Governor, the Chief Officer of MoBCL, the Director of CBC, and members from the HRC. The purpose of the meeting was to discuss the draft Policy and the proposed legislative amendments relating to spouses of asylum grantees. The Commission also took the opportunity to highlight their observations and concerns following a recent visit to the Bodden Town Civic Centre (BTCC), where some migrants are housed whilst their asylum claims are processed. The meeting was productive and several action points were agreed, one of which was to convene a similar meeting on a quarterly basis.

The next meeting was held on 30 November. During the meeting, CBC advised that the Commission's comments on the draft Policy had been incorporated, and a revised draft would be available in early 2024. The Commission was

appreciative of this progress and recommended to CBC during the meeting that the draft Policy be made publicly available once finalised. It was agreed that another meeting would be scheduled for early 2024.

Legislative Amendment: spouses of Asylum Grantees

As with the draft Migrant Detention Policy, the issue of the legislative amendment required to regularise the status of spouses of asylum grantees had been on the Commission's agenda for some time, originating from complaints made in 2019. The required amendments were expected to be laid in parliament in the last session of 2022, however this did not happen. The Commission were informed that this was due to other immigration legislation taking priority at the end of 2022.

In the interim, MoBCL advised that any outstanding immigration concerns relating to dependants of asylum grantees would be actioned in December. The Commission therefore agreed that the three case files related to this issue could be closed. MoBCL further confirmed that the Immigration Transition Bill was continuing to undergo amendment, but the amendments relating to spouses of asylum grantees were not to be tabled in Parliament at the next sitting. Therefore, the Commission resolved that an update on this issue would be sought at the next planned quarterly meeting.

Bodden Town Civic Centre Tour

As described above, the Bodden Town Civic Centre (BTCC) is currently housing migrants at various stages in the asylum

¹Ragoonath, 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/>.

process. The Commission visited the Bodden Town Civic Centre (BTCC) on 16 August to assess the suitability of the accommodation. During the visit, Members noted various concerns regarding the condition of the building and the health and safety of residents at the facility, especially vulnerable persons.

After the visit, the Commission wrote to MoBCL regarding the most significant issues, which related to the safety and security of vulnerable persons living at the BTCC. The matter was also raised in the two meetings held on 6 September and 30 November as referenced above.

In the 30 November meeting, MoBCL and CBC representatives noted that the decision to move migrants awaiting the outcome of asylum applications to the BTCC was taken due to issues with vandalism at the private residences they had been living in previously.

It was clarified that migrants are not detained at the BTCC; they are considered to be on conditional release. It was also noted that at the end of 2022, emergency legislation was introduced and, subsequently, migrant numbers have reduced drastically. Although a purpose-built facility would be an ideal solution for housing migrants, CBC noted funding constraints currently prevented this.

These meetings prompted the Commission to write to CIG 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). The Commission will continue to investigate this in the next reporting period.

Migrants Report

In September the Commission received an email from a local attorney regarding the rights of migrants and asylum applicants to access legal advice. The Commission considered that this issue required a more in-depth review. The Secretariat was therefore asked to conduct research on this topic. This will be further considered in the next reporting period.

WORC Internal Process

In September 2022, the Commission wrote to Workforce Opportunities & Residency Cayman (WORC) seeking clarity on the WORC internal procedures related to revoking Caymanian Status, Residence and Work Permits. This inquiry resulted from complaints and inquiries made to the HRC about WORC. A comprehensive response was received in November 2022, including an overview of the processes involved in the revocation of Caymanian Status and Permanent Residence.

In January 2023, Members discussed the response from WORC and conducted a more in-depth review of the policy. Various elements were noted, such as the apparent burden of proof on the respondent, the short timeframe for response and the need to comply with s.19 of the Constitution concerning proportionality and procedural fairness.

The Commission sent a further letter to WORC summarising the Commission's concerns based on the previous research and feedback provided. This issue will be followed up in the next reporting period.

Cayman Islands Court of Appeal Decision on Permanent Residency Applications

In May 2023, the Commission discussed the news article titled 'Court ruling finds PR system breaches BoR' and agreed to write to the then Premier to find out how the system was being reviewed. Specifically, this correspondence requested an update on the remit of the cabinet-appointed committee currently reviewing the Permanent Residency points system, and confirmation that the Cayman Islands Court of Appeal decision on the matter will be incorporated into their review.

The Premier advised in his response of 8 August 2023 that the Government appreciated the significance of the Court of Appeal ruling and had therefore sought to clarify it by making an appeal to His Majesty's Privy Council. The

Commission considered this matter closed but requested that the Secretariat monitor this issue for any future updates.

Non-Profit Organisations and the Labour Act

The Commission discussed the news article titled 'Fired Pines Retirement Home worker's rights breached, judge rules'. It was agreed that the Commission would write to MoBCL to inquire about any planned legislative response to the Grand Court decision in this case, in which the Court found an individual's rights to a fair trial had been breached. In September, the Commission was updated that the Government had appealed the decision. The Commission determined to await an update on the outcome of the appeal before determining how to proceed. The Secretariat was asked to monitor the news on this topic accordingly.

NAU Policies

In 2023 the Commission revisited whether the Needs Assessment Unit (NAU) policies on eligibility for its services are compliant with the Bill of Rights. News articles describing an overhaul of NAU's legislation and regulations were highlighted and discussed. The Commission therefore requested sight of any updated legislation, draft regulations and policies from the relevant personnel.

It was subsequently noted that NAU had changed its name to the Financial Assistance Department (FAD). Members discussed that updated policy documents are required from the Department of Children and Family Services (DCFS), which FAD falls under. It was noted that FAD is working on an online system to streamline reforms. The Financial Assistance Regulations 2023 were circulated to Members for their review, and enquiries continued to be made on the updated policies at the end of the reporting period.

Child Safeguarding

The Commission also revisited the issue of whether the Multi-Agency Safeguarding Hub (MASH) Unit's policies on interviewing minors are compliant with the Bill of Rights. The Commission discussed a summary provided on this issue, which emerged from an enquiry received by the Commission in 2021. Further documentation was requested, including a copy of the MASH Unit's policies, along with the HRC's previous correspondence to the MASH Unit and copies of minutes related to this item.

After a review of the documents provided by the MASH Unit, it was deemed that the policies were ambiguous in places. The Commission subsequently agreed that, since the person who made the initial enquiry did not make a formal complaint on the matter, the specifics related to that enquiry would not be pursued. However, the broader issue of the policies for interviewing minors is an ongoing concern and something the HRC will continue to investigate on its own initiative.

²Cayman News Service, 31 March 2023. Cayman News Service. <https://caymannewsservice.com/2023/03/court-ruling-finds-pr-system-breaches-bor/> ³Bird, Rebecca. 11 May 2023. Cayman Compass. 'Fired Pines Retirement Home worker's rights breached, judge rules'. Retrieved 21 May 2024 from <https://www.caymancompass.com/2023/05/11/fired-pines-retirement-workers-rights-breached-judge-rules/>. ⁴The Multi-Agency Safeguarding Hub is the Royal Cayman Islands Police Service agency which handles sensitive matters related to child abuse and domestic violence.

Engagement with Public Officials, Civil Society and the Media

Cayman International School Justice, Equity, Diversity, and Inclusion Committee

In November 2022, members from the Justice, Equity, Diversity and Inclusion (JEDI) Committee at Cayman International School (CIS) contacted the HRC requesting a meeting to discuss human rights issues. The Interim Chair met with CIS JEDI Committee representatives and agreed it would be beneficial to work together in 2023. The JEDI representatives were invited to attend an HRC meeting to discuss this further.

At an HRC meeting in March Ms Adrienne Waller and Ms Natalie Vacirca from the CIS JEDI Committee presented to the Commission on the purpose of their organisation and the mutual interests of both entities. The Commission discussed the possibility of having students from the JEDI Committee work with HRC on a 'take-over' of HRC's social media for a day. It was agreed that the two entities would partner on this 'take-over day' to recognise the International Day of Families and Child Month in May.

The take-over day took place on 29 May and was the result of a partnership between the HRC, the students and staff involved in the CIS JEDI Committee, and the CIG Communications Department. Commission Members were very pleased to see the hard work of the children involved; particularly the videos which showcased the voices of young people.

Prison Tours

As attempts to conduct a tour of the prisons in 2020, 2021 and 2022 were delayed due to issues related to COVID-19, Members agreed that it would be beneficial to

revisit this issue in 2023. In January the Acting Director of Prisons advised that he was able to accommodate the Commission's request to visit Her Majesty's Prisons (HMP) at Fairbanks and Northward, as well as the Enhanced Reintegration Unit (ERU) at Fairbanks. The Commission was also interested in visiting the Immigration Detention Centre (IDC) at Fairbanks, which is used to house migrants early in the landing and asylum-seeking process. While Members awaited the confirmation of dates for these visits, they took the opportunity to review the latest reports from the UK Prisons Inspectorate (2015) and the Cayman Islands Independent Monitoring Board (2021). Visits were scheduled for 17 March (HMP Fairbanks, ERU and IDC) and 23 March (HMP Northward).

In discussing the tours of HMP Fairbanks, HMP Northward, and ERU, Members noted their sincere thanks for the HMP Service staff who facilitated their visit. Unfortunately, the planned concurrent visit to the Immigration Detention Centre (IDC) at Fairbanks did not take place due to unforeseen circumstances, and it was agreed that this would be rescheduled.

Following the visits, it was agreed to write to the Ministry of Home Affairs (MoHA) to query what progress had been made to improve the conditions of the prisons since the 2015 UK Prisons Inspectorate report and the 2021 IMB report. MoHA replied with a comprehensive response. Members discussed and agreed that the number of programmes (e.g. educational or personal development programmes) for prisoners offered had increased. A letter was sent to MoHA thanking them for taking the time to prepare such a comprehensive report.

At the end of the year the Interim Chairperson shared that Her Excellency the Governor, Mrs Jane Owen, suggested

that, since the Commission deals with complaints regarding HMCIPS, it would be beneficial for HRC to attend a meeting of the IMB, which also falls under her purview. The Commission has been advised that this has been added to the IMB's agenda for discussion in 2024.

Human Rights Awareness, Education, Events and Presentations

Awareness and Events Calendar - Education/Social Media

The Commission's social media channels recognised various dates of interest in the first quarter of 2023 with the assistance of a CIG Communications Department Public Communications Specialist, who created a three-month communications plan approved by the Commission. The dates recognised included International Women's Day on 8 March, World Down Syndrome / "Rock Your Socks" Day on 20 March, International Day for the Elimination of Racial Discrimination on 21 March, and Earth Day on 22 April.

"Rock Your Socks" day posts included photos of members wearing colourful socks in recognition of World Down Syndrome Day. The Commission liaised with the Governor's Office and CIG to share these Facebook posts, further enhancing engagement.

A further social media plan prepared by the Secretariat's PR & Education Coordinator was reviewed and approved by the Commission in September, and postings ran from October through to December. After engaging the CIG Department of Communications to assist with promoting HRC's posts, engagement was boosted and improved steadily throughout the end of the year. The remaining topics posted on during this period were:

- World Teachers' Day (5 October)
- Children's right to play (19 October)
- The passing of Caymanian women's rights activist Georgette Ebanks (23 October)
- International Day of Older Persons (26 October)
- The human rights perspective on hurricane season (2

November)

- Biodiversity and the right to protection of the environment (9 November)
- The risk climate change poses to human rights (16 November)
- The work of the NGO Protect Our Future (23 November)
- Cayman Thanksgiving (1 December)
- International Day of Persons with Disabilities (3 December)
- International Human Rights Day (10 December)

Later in the year HRC also approved creating an Instagram account; a platform that the PR & Education Coordinator recommended as well-suited for the Commission's needs. Additionally, a PR & Education plan for 2024 was drafted and approved.

Bill of Rights (BoR) Training

In 2022, the Commission was asked to consider whether it would consider collaborating with CIG to refresh the Bill of Rights training provided to civil servants. During this reporting period, Commission Members reviewed the pre-existing materials to determine whether they were fit for purpose, determining that the materials would need to be re-organised and updated. The possibility of engaging external support in this redevelopment was considered, and the Commission contacted the Truman Bodden Law School (TBLS) regarding the possibility of acting as a consultant on this project.

The Commission met with TBLS in October to discuss this

topic. The option of producing a video recording as an output for this project was suggested. Members agreed this was a good route to take, especially for re-launching the training, as it afforded flexibility and could be implemented in a timely manner. Whilst this work is underway, the Commission endeavoured to produce a simplified Bill of Rights training course for civil servants, to be available in the interim. The Secretariat PR and Education Coordinator commenced this work in late 2023.

Secretariat Organisational Structure Updates

In late 2022 the Secretariat underwent an organisational review by the Portfolio of the Civil Service (PoCS), the results of which were shared with the Commission in 2023. Members agreed that more administrative and specialist support provided by the Secretariat was required to meet the needs of the Commission. Later in the year human resource issues were addressed as a PR & Education Coordinator was hired and permission was granted by CIG to increase the number of administrative and managerial staff at the Secretariat.

Mental Health

HSA World Mental Health Day Panel Discussion

The Commission were invited to join a panel discussion hosted by Health Services Authority (HSA) in recognition of World Mental Health Day (WMHD) 2023. The theme was "Mental health is a universal human right". Member Ben Tonner represented the Commission on the panel, which took place on Wednesday, 11 October. The panel was moderated by Ms Dymphna Carten and the other panellists were Psychiatrist Dr Marc Lockhart of Behavioural Health Associates Cayman, Ms Fiona McDougall of the Mental Health Commission and HSA Legal Counsel Mr Garcia Kelly.

Member Tonner discussed what human rights are and the links with mental health (whilst there is no right to "mental health", good mental health is not possible if human rights are not respected). The panel discussion provided an excellent

opportunity to network with other non-governmental organisations, and raise the profile of the Commission in the community. The Commission contacted the organisers to obtain a list of some of other mental health-related NGOs in the Cayman Islands to explore the potential for cross-promotional opportunities on social media.

East End Mental Health Facility

At the October Commission meeting, the HRC discussed the proposed mental health facility in East End. It was determined that the facility was due to open in September 2023 but there were staffing issues and the Certificate of Occupancy had not yet been granted by December 2023. The Commission emailed the new facility's Director to seek an update and a response was received on 12 December. The Commission will consider the response in the 2024 reporting period.

Alleged Breaches or Infringements of Human Rights

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 alleging violations of 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 **22 complaints** from members of the public alleging breaches of their human rights by public officials. Of those cases, **9 remain open** at the end of this reporting year and **13 were closed**.

In respect of the cases remaining open at the end of 2023 the Commission continues to be in correspondence with the relevant public authorities. In addition to the above, **12 complaints** from 2022 and **3 complaints** from 2019 were closed in 2023.

In addition to the formal complaints mentioned above, 2023 also saw **5 formal enquiries** made to the Commission, all of which were closed by the end of the year.

Number of complaints received by alleged rights breached in 2023

The chart below illustrates the complaints received in 2023 categorised by sections of the BoR where breaches are alleged 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 below represents the views of complainants regarding the rights they perceive may have been breached; it does not represent actual breaches. Therefore, this tells us which rights complainants perceive to be relevant to their particular situation, not which rights may be legally relevant. Additionally, complainants may allege breaches of multiple rights.

Number of complaints by respondent entity

The chart below illustrates the public authorities against which formal complaints have been made to the Commission in 2023, or were made prior to 2023 but which were closed in 2023. They also summarise instances where the Commission expressed concerns regarding possible

Section #	Bill of Rights Section Title	Total Rights Complained About	Percentage of Total
16	Non-discrimination	10	17%
7	Fair Trial	9	16%
5	Personal Liberty	6	10%
8	No Punishment without Law	5	9%
6	Treatment of Prisoners	5	9%
19	Lawful Admin Action	4	7%
13	Movement	3	5%
9	Private & Family Life	3	5%
3	Torture & Inhuman Treatment	3	5%
11	Expression	2	3%
2	Life	2	3%
14	Marriage	2	3%
15	Property	1	2%
17	Protection of Children	1	2%
22	Protection in Emergency Laws	1	2%
4	Slavery / Forced Labour	1	2%
12	Assembly & Association	0	0%
10	Conscience & Religion	0	0%
20	Education	0	0%
18	Protection of Environment	0	0%
21	Public Emergencies	0	0%
	Total	58	100%

Respondent Entities	Active Complaints Received up to 2023	Complaints Received in 2023	Total Complaints Handled in 2023	Closed - Withdrawn	Closed - Not a Matter for HRC	Closed - No Evidence of a Breach	Closed - Concerns/Recommendations Expressed	Open - Under Consideration by HRC
Judiciary / Judicial Administration	1	9	10	-	4	2	-	4
Her Majesty's Cayman Islands Prison Service	2	4	6	-	1	1	-	4
Customs and Border Control	3	2	5	-	3	2	-	-
Workforce Opportunities & Residency Cayman	3	2	5	-	4	1	-	-
Royal Cayman Islands Police Service	1	3	4	-	1	2	-	1
Cayman Islands Government	1	1	2	-	-	-	1	1
Governor of the Cayman Islands	-	2	2	-	-	2	-	-
Legal Aid Department	1	1	2	-	-	2	-	-
Anti-Corruption Commission	-	1	1	-	-	1	-	-
Director of Public Prosecutions Office	-	1	1	-	1	-	-	-
Electrical Board of Examiners	1	-	1	-	-	1	-	-

Needs Assessment Unit	-	1	1	-	-	1	-	-
UCCI	-	1	1	-	-	-	-	1

breaches based on the evidence presented. It is important to note that multiple public authorities can be complained about in a single submission, and these statistics reflect this accordingly. The practice (which began in 2022) of including complaints opened in years prior to this reporting year, but which were closed in the present reporting year, continued this year.

- Possible breaches identified regarding the Workforce Opportunities & Residency Cayman internal procedures for revoking Caymanian Status, Residence and Work Permits.

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.

- Recommendations made to Customs and Border Control regarding the issuing of the Migrant Detention Policy once finalised.
- Recommendations made to the Ministry of Border Control and Labour regarding the housing of migrants at the Bodden Town Civic Centre.



Human Rights Commission
2023 Annual Report

humanrightscommission.ky