

1ST APRIL 2019 – 30ST SEPTEMBER 2019

Overview

The issues the EHRC is dealing with are becoming more profound. They include the need to introduce local Ordinance protecting those in the private sphere from discrimination, sexual harassment and bullying and to promote equality access to work and leisure activities for the disabled. We still need to deal effectively with the past including the remnants of colonialism, and the continued absence of a strategy to reduce poverty.

The EHRC believes that Saints' relationship with UKG is strained due to lack of funding and the gaps that exist between the protection of rights in the UK and those extended to St Helena. The failure of UKG to engage with the OTs over Brexit has not improved the perception that the people of St Helena, who are after all British citizens, are treated as second class citizens, if in deed they are considered at all. The

implications for the protection of human rights and equality post-Brexit are substantial. The United Kingdom Government is committed to leaving the Charter of Fundamental Rights of the European Union, which incorporates and supplements the protections contained in the European Convention on Human Rights when dealing with European Union Law. Leaving the European Union will have implications, not only for protecting existing rights, but also for developing future rights. Many issues have progressed in the past because of the development of European Union law. For example the decriminalisation of same-sex relationships and the outlawing of corporal punishment. While in other parts of the United Kingdom may continue to advance following our withdrawal from the European Union, little confidence exists that St Helena will follow suit. The people of St Helena currently have the right to seek remedy through the European Courts an added protection which

Equality & Human Rights Commission Interim Report 2019



gives us a feeling of security and objective oversight.

The EHRC calls on SHG and our elected representatives to make the case for protecting human rights and equality after the European Union exit. This includes ensuring rights of individual redress and remedies before the courts.

In the meantime, this report continues to chart the extent, breadth and value of the EHRC's work on human rights issues.

The proposed changes to the Constitution are welcome and EHRC look forward to engaging in the process.

Our Work

In the first half of this year the Commission has continued to be very busy. This has been the first 6 months work towards our new Strategic Plan, which has been published, circulated to the

Governor, Council and SHG and is available in the Public Library and on our newly revamped website. See www.humanrightstheleena.org

The Commission has had 69 new contacts in the first 6 months of the year (see fig: 1) the majority of whom have been referred to another agency for example the Public Solicitors Office. 12 have issues which potentially have human rights implications and were therefore assisted and followed up by the EHRC

Enquiries have ranged from historic domestic abuse to access to justice, discrimination and housing (see fig: 2). The largest increase in request for assistance have been about social housing. We have had 5 people who have come to the EHRC because they were homeless. In all cases Housing found temporary accommodation for them. Other issues have included disabled people

in homes they cannot manage in because of stairs etc. Increases in the cost of living on the island and lack of availability of goods has meant people on benefits have not been able to afford basic food items. While complaints about SHG employment practices have decreased, complaints about the lack of private sector employment rights have remained high. This is a priority for the EHRC.

The workload on the Commission has increase both in numbers of people contacting us and the complexity of the issues raised. To allow the staff to concentrate on their work we have introduced an appointments only system from Monday to Wednesday but still accept drop-ins on Thursday and Friday.

We now have some clients whose cases have been followed by us from previous years who are now coming

to the point where local remedy is becoming exhausted (or is inaccessible) and they now may require our assistance to seek redress under the Constitution. (See fig: 3)

The Commission continues to be concerned about and lobby on the gaps in our legislation which leave the door open to human rights abuses:

- 🕒 Our legislation does not adequately protect the survivors of domestic abuse. What little we do have falls well short of the UN guidelines.
- 🕒 There is a lack of protection from sexual harassment and bullying in the private sector
- 🕒 There is no Equality Ordinance which is a failure to protect those in minority groups from discrimination in a non-governmental setting.

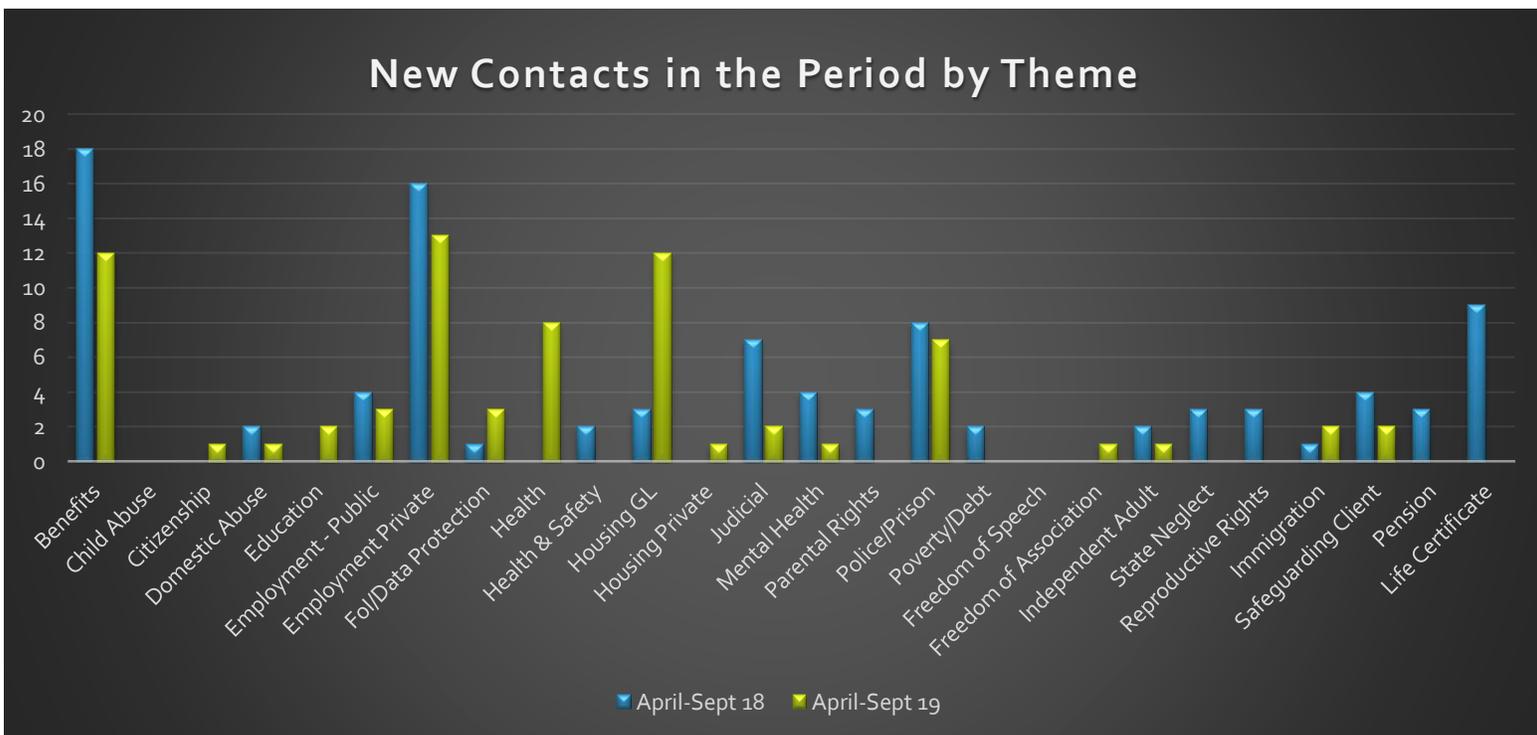


Fig 2

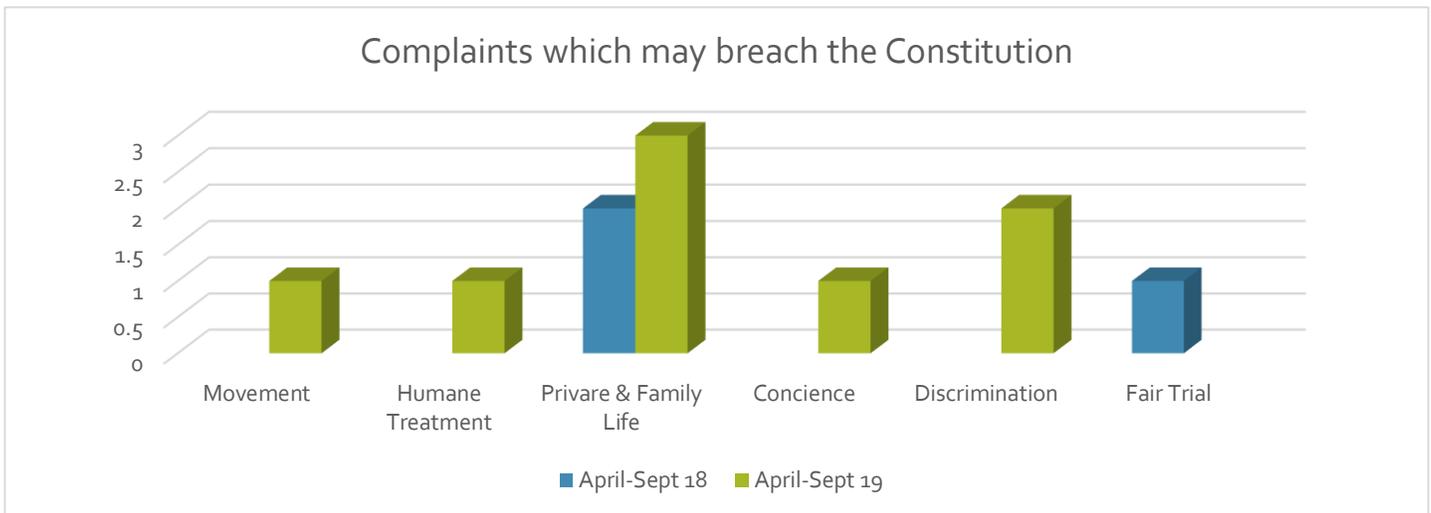


Fig 3

Commitments v Achievements

The Commission committed that this Strategic period our priorities would be:

- 🕒 Embedding a human rights culture on St Helena
- 🕒 Improving workplace equality
- 🕒 Protecting human rights in closed environments
- 🕒 Advancing Freedom of Information and Data Protection on St Helena
- 🕒 Develop our knowledge skills and capacity to effectively deliver the above.

This would be on top of our day to day work

- 🕒 Dealing with Contacts from the public (see above)
- 🕒 Communication and work with SHG Directorates, Public Solicitor etc.
- 🕒 Shadow report preparation
- 🕒 Half year & Annual reports to Elected Members
- 🕒 Quarterly, Period 5 and Annual report to Finance
- 🕒 Annual Audit
- 🕒 Working with the relevant directorates to highlight issues
- 🕒 Provision of information to elected members, SHG and the public
- 🕒 Developing and maintaining policies, management systems and internal communications.
- 🕒 Personal training and development

In the first half of this year the Commission has achieved or is on track to achieving many of those commitments however due to a lack of funding we will be unable to:

- 🕒 Develop a Youth Forum to give children and young people a voice in matters that affect them and increase their participation in decision making.
- 🕒 Run the Outreach Roadshow – Visits to the various districts, schools, CCC, Cape Villa etc. To gather information/statistics and to provide information and assistance to the general public.
- 🕒 Carry out any detailed investigations or inquiries that require a Commissioner's time.

What we have achieved:

- 🏆 Equality Legislation - this legislation has been presented to Social & Community Development Committee but there seems to be some misunderstanding as to how the Constitution works.
- 🏆 The EHRC will submit proposals for Disability Legislation – see above
- 🏆 Work towards creating an increase in the number of disabled people employed in mainstream work have been submitted to the Labour Market Strategy Working Group
- 🏆 Baseline figures have been collected for the purposes of monitoring Gender issues and Convention reporting.
- 🏆 Improved Conditions at the Prison following our Inquiry published in December 2018 which are reflected in a reduction in the number of complaints by prisoners (none so far this year)
- 🏆 The EHRC was the first organisation to submit its end of year financial report to External Audit
- 🏆 Regularly met with the Public Solicitors office, Police and the Social & Community Development Committee
- 🏆 Delivered our Annual Report
- 🏆 Research on various topics has been carried out for various elected members and officials.
- 🏆 Written and approved four new internal policies and reviewed all policies.
- 🏆 The EHRC is currently running within its budget.
- 🏆 The EHRC is involved with the forthcoming White Ribbon Campaign in late November.

Submission to the Privy Council

The EHRC have been joined as intervener in a case to be heard in the Privy Council in November.

This appeal raises questions of fundamental importance to the Commission and the community of St Helena in relation to accountability for human rights, the responsibility for and access to effective remedies for violations of human rights and the principle of equality of human rights protections in the Overseas Territory. It seeks to assist the Court in its analysis of the issues arising, and to provide it with a more rounded picture of how their decision will affect the population of St Helena, not just the parties involved by putting the case into the wider context of human rights and the resources needed to ensure human rights on island. Our arguments include a comparative analysis of recent case law in England and Wales, the position in respect of Northern Ireland, and the principles established in the jurisprudence of the European Court of Human Rights and under the Canadian Charter. Also Background analysis of the situation in St Helena with regard to economic, social and cultural rights as affected by the standard of living and access to adequate health services. The need to consider the damages in this case in the context of a violation of Constitutional Rights which may require a different approach to that which would be taken to damages in standard civil claims more broadly. The relevance of St Helena's status as a British Overseas Territory in decisions on damages in cases involving breaches of Constitutional Rights and a review of relevant case law in international human rights tribunals, and by comparative information related to the way in which other countries, such as France and the Netherlands address issues relating to resources and human rights in their overseas territories.

We believe that this is the first time a Human Rights Commission from the Overseas Territories has intervened in a Privy Council Case and we are indebted to Caoilfhionn Gallagher QC, Fiona Murphy and Susie Alegre of Doughty Street Chambers, London for their wonderful assistance.

