

Inquiry on the future of UK and British Overseas Territories



Written submission by The Equality & Human Rights Commission,
St Helena Island

31st August 2018

Inquiry on the future of UK and British Overseas Territories

1.0 Executive Summary

1.1 The Equality & Human Rights Commission, St Helena (EHRC) Island welcomes the Inquiry on the future of the UK & the British Overseas Territories (BOTs) and believes it to be well timed.

1.2 The EHRC wishes a positive working relationship between the BOTs and the UK but believes the current model of governance is outmoded.

1.3 There is evidence to show that:

- The mode of governance is outdated;
- The Government sometimes acts with impunity and disregards the views of the local people, and does not adopt a policy of transparency;
- The EHRC is being subjected to a strategy by the St Helena Government to undermine its ability to carry out its role;
- The business case presented by the Department for International Development (DfID) on tourist numbers has been shown to have been grossly exaggerated; and
- The Island has a number of examples of untapped potential.

1.4 The EHRC would like to see action taken on:

- Changes to our Constitution including the addition of the right to self-determination;
- measures promoting more open, transparent and accountable government;
- improving the effectiveness, efficiency, accountability and impartiality of the public service;
- review of the Police Service with a view to reducing the size and the cost of the service and overcoming cultural differences;
- the removal of the prison from the direct management of the police and under political oversight;
- The extension of the Optional Protocol on the Convention Against Torture to all the Territories;
- the promotion of representative and participative government;
- freedom of speech and information (St Helena still does not have any Freedom of Information or Data Protection legislation in place);
- adoption of modern standards of respect for human rights;
- investigation into St Helena Government spending and profit-making monopolies owned by St Helena Government including Connect St Helena Ltd, The Bank of St Helena and Solomon & Company PLC and the Mantis Hotel;
- tackling the high levels of obesity, diabetes and alcohol abuse; and
- meeting the people's basic needs including, for example:
 - affordable and reliable energy

Inquiry on the future of UK and British Overseas Territories

- affordable and reliable internet access

2.0 Introduction

2.1 The Equality & Human Rights Commission, St Helena Island (EHRC) was established by local Ordinance in 2015 as an independent NGO, in line with the Paris Principles.¹ Although the EHRC is an autonomous, independent body, 100% of our funding comes from the St Helena Government. The level of funding is well below the level required to develop the equality and human rights environment on St Helena to an acceptable level, let alone the same level as the UK. Funding for 2018/19 was set £56,000.

2.2 Our reasons for submitting evidence include, inter alia:

2.2.1 A belief that the current model of governance is outmoded, does not accord with the principle of self-determination for the people of St Helena, and places too much power in the hands of the Governor.

2.2.2 A desire to create:

- a) a positive working relationship between the UK Government departments, the UK representatives based on the island, elected members, the public service, NGOs and the people of St Helena.
- b) a relationship that is founded on the principle of equal partners, and mutual respect, that works towards improving the lives and future opportunities of the people of St Helena.

2.2.3 To help make the case for more appropriate funding planning cycle – one that assists with strategic planning, not hinders it.

2.2.4 To highlight the lack of transparency that permeates the Government and public service.

2.2.5 To highlight the urgent need to address the lack of rights and protections afforded to the people of St Helena.

3.0 Views and supporting evidence

3.1 Governance of St Helena Island including adherence to human rights frameworks

3.1.1 The current Constitution of St Helena was adopted in 2009. It is the view of the EHRC that the Constitution needs to be reformed and modernised

¹ UN Human Rights Council, *National institutions for the promotion and protection of human rights : report of the Secretary-General* , 1 May 2012, A/HRC/20/9, available at: <http://www.refworld.org/docid/5007fe912.html> [accessed 20 August 2018]

Inquiry on the future of UK and British Overseas Territories

without delay, in order to bring about a democracy that reflects the people of St Helena's right to self-determination. The current constitution does not recognise the right to self-determination. Additionally, in our view, there is an imbalance in power between the Governor and the democratically elected members of our Legislative Council.

- 3.1.2 Decisions are taken in the UK that have a direct, often profound impact on the people of St Helena, but the people of St Helena have no right to vote on or make representations on these matters. The Brexit vote is the most glaring and most damaging example of this; one outcome of which is that we will no longer have access to much needed EU funding.
- 3.1.3 Alongside constitutional reform, there needs to be a fundamental review of structures and practices based on respect and a partnership of equals. The relationship between Britain and the Overseas Territories needs to be effective and efficient, free and fair. It needs to be based on decency, respect and democracy. Britain's representatives on the island must behave in line with those fundamental principles.
- 3.1.4 St Helena has the right to determine its own future and this right needs to be enshrined in the Constitution, the Governance structures and practices and in any decision-making processes that impact on the people of St Helena. Our ability to be involved in such decision is severely hampered because our Elected Members do not have direct links to Ministers or Senior Officials in the UK.
- 3.1.5 Democracy, human rights and the rule of law are all as relevant on St Helena as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and expectations. There needs to be a true partnership approach, an approach that transcends the current climate of colonialism, paternalism and the patronising, superior attitude adopted by **some** UK representatives on island.
- 3.1.6 The Government often acts with impunity and in a way that suggests a disregard for ethical practice. For example:
 - a) The serious restriction of freedom of speech recently imposed by SHG by prohibiting any criticism of the government on social media by any of its staff (the majority of the working population); and
 - b) The perceived conflict of interests of both our Governor and her husband who is a serving police officer; as well as the conflict of interests that exist for Head of Governors Office (HoGO) and the Governor in the HoGO's delegated role as head of the Police Service – an arrangement made by the Governor to 'mitigate' the conflict of interest between her husband (Police Officer) and her as the head of the Police Service.

Inquiry on the future of UK and British Overseas Territories

3.1.7 The EHRC understands St Helena should abide by the same basic standards of human rights, openness and good government that British people expect of their Government. This means that our domestic legislation (much of which is outdated) should comply with the same international obligations to which Britain is subject, such as the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights. This is not the case on St Helena – for example:

- a) The Convention on the Rights of Persons with Disabilities is not extended to St Helena.
- b) There is no Data Protection or Freedom of Information legislation.
- c) There is no equality legislation – nor it is on the table for drafting in the foreseeable future.
- d) Protections for women are not available.
- e) Local employment legislation is not compliant with human rights. For example, there is no right to Maternity Leave and/ or Maternity Pay (let alone paternity or adoption leave) in the private sector.

3.1.8 It is becoming evident to the EHRC and appears that we are being subjected to a consistent strategy by the St Helena Government to strangle the Commission's ability to do its work as the watch dog of the government and the protector of the human rights of all who are directly affected by the government's actions, or lack thereof. A few examples, amongst others, are:

- a) The Commission has received threatening emails from a senior FCO official, refusals and significant delays in receiving legitimately requested information from officials of SHG.²
- b) The oral threat received from the Attorney General's Office, that should we proceed to publish our recent Prison Report in its entirety there would be repercussions.
- c) The underfunding by SHG which has the effect of making us unfit for purpose, unable to do the work for which we were established, and which renders us vulnerable and helpless in being able, with legal representation, to defend ourselves against threats from the very body that underfunds us.
- d) The time-consuming and onerous obligation placed by SHG on the Commission to report on funds spent which leaves us less time to do our work and renders us less fit for purpose as a result.
- e) The unrealistic billing for audits which we are obliged to have done - £2,800 per annum (5% of our budget which is already wholly inadequate to function).

² Evidence can be provided

Inquiry on the future of UK and British Overseas Territories

3.2 Transparency

3.2.1 The UK Government has for a number of years promoted ‘transparency’, including financial transparency and transparency of decision making. This has not been and is not the case on St Helena Island.

3.2.2 Financial transparency

There is very little financial transparency. For example, the return on investment of trips abroad, government official’s expenses and the costs associated with the government’s hotel all go unreported or reported without important detail. DfID money is allocated to the island and then this is allocated locally but the criteria on which funding is allocated is not published.

3.2.3 Transparency of decision making

Communication (or the lack of it) to the people of St Helena on matters that affect them most is just not acceptable. For example, it was decided that our once a week flight to South Africa will land at Johannesburg. The residents of the island, our elected members and the few tourists that do come here, all want flights to and from Cape Town, a city that the island has had economic and cultural links going back hundreds of years, and where many Saints have family, friends and business links. Despite repeated requests for the reasons Johannesburg was chosen and how that decision was made, to be made public the answer has not been forthcoming. The proposal to move medical referrals from Cape Town to Pretoria is another example of a decision being forced on our community, by a DfID paid Official, without consultation or any thought for the wellbeing of the people of St Helena.

3.3 Financing of St Helena Island

3.3.1 St Helena Island is one of the poorest Overseas Territories, and relies on funding from DfID up to £27.1 million for the financial year 2018/19.

3.3.2 Although St Helena is reliant on Grant in Aid we do not usually qualify for the funding available to poorer states because we are categorised as ‘British’ and therefore considered to be a ‘rich state’

3.3.3 Total recurrent public spending is planned to be just under £40.9 million in this financial year. Representing a net decrease of £1.2 million (2.9%) in comparison to the previous year. This is against a forecasted inflation rate on 4.4% for 2018/19.

3.3.4 As we are no longer able to access EU funding one of our key sources of additional funding has ceased.

Inquiry on the future of UK and British Overseas Territories

- 3.3.5 There is currently a one-year funding cycle which does not allow for long term planning. The process is inefficient, time consuming and expensive for everyone involved, with the public service and other organisations spending hundreds of hours preparing and presenting bids for funding to 5 or 6 DfID representatives who come to the island for a week.
- 3.3.6 This year, the annual Financial Aid Mission (FAM) took place on St Helena from Monday, 29 January, to Friday, 2 February 2018. On 21st December 2017 all those bodies in receipt of government funding received a letter requesting them to submit to Corporate Finance by 02 January 2018 a justification for the proposed funding for their organisation which should include a three-year draft budget, and a Strategic/Business Plan. We were also invited to make a presentation to Elected Members demonstrating the link to the 10 Year Plan on Friday 05 January 2018. This was the Christmas period when many people were on leave. However, this was done and presentations were made. The first of April (new financial year) came and went with no further news. Our Elected Members did not accept the DfID grant as it was insufficient and a budget was not put before the house until July, four months in to the financial year. The EHRC was officially told on 20th August what our budget allocation for 2018/19 is and we are about to be asked to submit our bid for 2019/20.

3.4 Lack of understanding of St Helena Island

- 3.4.1 It is evident from the discussions that the EHRC has been involved in with members of DfID and the FCO that the majority of them have little or no cultural awareness of the people of St Helena. The same can be said for many of the Technical Co-operation Officers (TCOs) employed by the public service.
- 3.4.2 Too often, the pervasive culture is one of a learned dependency, in which the lack of voice from the Saints is perceived as apathy, and within which many Saints (and government workers) have a real fear of ‘speaking out’.
- 3.4.3 The needs of the people of St Helena have been disregarded in favour of the often well-intentioned but misdirected actions of the UK Government’s representatives, and/or the senior officials with the St Helena Government. For example, the decision to use Johannesburg as the hub for flights was made with no input from the St Helenian community. Since the introduction of airport and the running of the supply ship MV Helena, food prices and cost of other commodities have increased astronomically. Various unfinished projects e.g. Safety Netting above Rupert’s Valley Jetty are delaying progress.

3.5 Representation of St Helena Island in the UK and in the Commonwealth and other international fora

Inquiry on the future of UK and British Overseas Territories

- 3.5.1 The Governor and Politicians and others have represented St Helena at various events overseas (at great expense) but no real benefit has been seen on Island. Some have even admitted that the exposure was a personal gain rather than something that the Island can benefit from.
- 3.5.2 The BOTs are disadvantaged as they are often seen as an appendage to the UK. For example, we are not directly members of the Commonwealth but are “part of the UK”. This makes us ineligible to apply for funding or attend conferences etc.
- 3.5.3 From a human rights perspective, the Commissions in the BOTs are not eligible be accredited members of The Global Alliance for National Human Rights Institutions because the UK already has three members.
- 3.5.4 In 2016 there was a conference for the BOTs human rights institutions, arranged and funded by the FCO. A network of communication was developed as a result but since the Desk Officer moved on we have had no support or contact at all from the FCO. The current desk officer has visited St Helena twice but has not met with the EHRC.

3.6 Assets and liabilities

- 3.6.1 The island’s human assets are victims of a learned dependency and many people lack the self-motivation and drive to develop their full potential. There are numerous reasons for this, including limited access to learning opportunities (although the recently established community college is beginning to offer a wide range of courses), the lack of opportunity on the island and a widely held belief that the top jobs will always be filled by Technical Co-operation Officers (TCO) – this belief is being challenged by the appointment of a local Financial Secretary in 2016 and a local Chief Secretary this year.
- 3.6.2 In the past, St Helena Island provided fresh produce to hundreds of sailing ships every year. Since then, the island’s agricultural has declined so badly, that we are heavily reliant on imported fresh produce, and frozen and canned goods – at high prices. The potential of the tuna fishing industry has not been realised, mainly because of the business model. It is the view of the EHRC that it would benefit the people of St Helena hugely if agricultural and fishing co-operatives were established, giving the producers and/ or workers a personal interest in the success of these sectors.
- 3.6.3 Presently, our biggest liability is the St Helena Government owned hotel.

Inquiry on the future of UK and British Overseas Territories

3.7 Other Factual Information

3.7.1 The business case for the airport presented by DfID has been shown to have been grossly exaggerated in terms of tourist numbers and the positive impact on the economy of St Helena.

3.7.2 There is a clear imbalance between the resources of Government and the non-governmental bodies. For example, the St Helena Government has nine staff with legal qualifications - Attorney General, Solicitor General, Crown Prosecutor, three Crown Counsel, two Trainee Solicitors and a Legal Executive. The public have access to a Family & Civil Solicitor, an Assistant Solicitor (Criminal) and a part time Acting Public Solicitor who is on-island for a few weeks at a time. We have been without a substantive Public Solicitor since March 2017 because of “insufficient funding from DfID, the salary is too low”.

3.6.3 There is a huge and costly Police Service on the island which appears to be grossly disproportionate to the size of the island’s population of approximately 4,300 and does not take account of the island culture. It is a sledgehammer to crack a nut. For example, the Police Service recently introduced Pepper Spray and Tasers to the island which are not at all necessary we do not have street gangs and mass brawls, there is little violent crime. Additionally, in recent years the number of Senior Police Officers has been increased and they have all become TCO posts. There are resulting cultural issues; the police officers from the UK arrive on St Helena without any induction as to the culture of the island, which is generally more peaceable and non-confrontational than the UK but their demeanour remains far more aggressive as it would be in the UK. This creates resentment and unnecessary upset which could be avoided with some training or greater use of local officers.

3.6.4 St Helena Island has very high levels of diabetes, obesity and alcohol abuse although recent data is unavailable.

3.6.5 Because of the lack of opportunities on the island, many Saints go to work elsewhere, including Ascension Island, Falkland Islands and the UK. This results in one or both parents being absent for extended periods, which can have a detrimental impact of family life.

4.0 Recommendations for action

4.1 The EHRC would like to see action taken on:

- changes to our Constitution including the addition of the right to self-determination;
- measures promoting more open, transparent and accountable government;

Inquiry on the future of UK and British Overseas Territories

- improving the effectiveness, efficiency, accountability and impartiality of the public service;
- review of the Police Service with a view to reducing the size and the cost of the service and overcoming cultural differences;
- The management of the Prison to be removed from the Police Directorate and given political oversight.
- The extension of OPCAT to the island
- the promotion of representative and participative government;
- freedom of speech and information (St Helena still does not have any Freedom of Information or Data Protection legislation in place);
- adoption of modern standards of respect for human rights;
- investigation into St Helena Government spending and profit-making monopolies owned by St Helena Government including Connect St Helena Ltd, The Bank of St Helena and Solomon & Company PLC and Mantis Hotel;
- tackling the high levels of obesity, diabetes and alcohol abuse; and
- meeting the people's basic needs including, for example:
 - affordable and reliable energy
 - affordable and reliable internet access