



Equality and Human Rights Commission

Inquiry into the condition of detention at Her Majesty's Prison, Jamestown, St Helena Terms of Reference

Commencing 19th March 2018



Equality and Human Rights Commission inquiry into the condition of detention at Her Majesty's Prison, Jamestown, St Helena

Terms of Reference

Introduction

The Equality and Human Rights Commission, having noted reports concerning conditions at the **Her Majesty's Prison Jamestown**, St Helena, has decided to conduct an inquiry. This is in accordance with Section 15 of the Equality and Human Rights Ordinance 2015, under which the Commission may conduct an inquiry into a matter relating to any of its duties. The inquiry will be carried out as detailed in procedures set out in Schedule 2 of the Ordinance.

Scope of the Inquiry

The Commission will examine the human rights of prisoners, with a particular focus on their conditions of detention. It will consider a number of areas, including, inter alia:

- the physical infrastructure of the building;
- the size and conditions of cells;
- sanitisation;
- temperature control and ventilation;
- access to food and water;
- clothing;
- washing facilities;
- access to medical treatment;
- recreational facilities and opportunities for exercise;
- access to complaints handling mechanisms;
- Protection from violence.

Aims

The purpose of the inquiry, is to assess the conditions of detention in the prison against relevant human rights standards, including:

The European Convention on Human Rights¹

¹ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: <http://www.refworld.org/docid/3ae6b3b04.html>



- Article 2 – the right to life;
- Article 3 – the prohibition of torture, inhuman and degrading treatment or punishment;
- Article 8 – the right to respect of private and family life;
- Article 14 – the prohibition on discrimination.

The Constitution of St Helena, Ascension Island and Tristan da Cunha²

- Part 2 Fundamental Rights and Freedoms of the Individual, with a specific focus on Clause 11 - Protection of right of prisoners to humane treatment.

In addition, the Commission will consider relevant international standards that apply in St Helena, by virtue of ratification by the United Kingdom Government and their further extension to the jurisdiction. Such standards will include, the United Nations Convention Against Torture, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights any relevant instrument of the Council of Europe and non-binding soft law.

Objectives

The inquiry aims to:

- identify the legal, policy and regulatory framework in St Helena relating to conditions of detention in prison;
- identify the extent to which the human rights of **prisoners'** in respect of conditions of detention are realised in practice;
- identify good practice, as well as recommendations for improvements that aim to ensure the human rights of prisoners are respected, protected and fulfilled; and
- increase the **public's awareness of human rights generally and in the specific context of conditions of detention in prison.**

Evidence

For the purpose of the inquiry the Commission will seek both documentary and oral evidence from relevant persons, in accordance with the procedural requirements set out in Schedule 2 Clause 8 and 9.

The Inquiry will commence on 19th March 2018. A critical aspect of the fieldwork will involve access to prisoners and staff at the prison for interview. The Commission will write to the prison governor seeking access to the prison for the purpose of gathering evidence. It is intended

²he St Helena, Ascension and Tristan da Cunha Constitution Order 2009.



that observational evidence will include photographic recording of the conditions of detention (i.e. the physical infrastructure of the prison). The Commission will also analyse statistical data, policy documents and other relevant documentation.

The Commission will formally write to other relevant public authorities requesting that they furnish the Commission with relevant documents and provide oral evidence.

Notice, in accordance with Schedule 2 Clause 9 will be provided, inter alia, to the following public authorities:

- the United Kingdom Foreign and Commonwealth Office;
- **the Governor's Office** of St Helena;
- the Police Directorate of the St Helena Government (including Her **Majesty's Prison Service**; Investigations, Public Protection and Probation Teams);
- the Prison Visiting Committee, St Helena;
- the Safeguarding Directorate; and,
- the Health Directorate.
- The Office of the Attorney General of St Helena (for information only)

Notices issued to public authorities, will include the form of information, documents or evidence sought by the Commission and timing. The Commission will further identify representatives from each of the public authorities from whom it will seek oral evidence for the purpose of the inquiry.

In circumstances where a representative of a public authority is unable or unwilling to co-operate with the inquiry, the Commission may compel an individual to provide evidence in accordance with Schedule 2 Clause 11. Failure to comply with a notice may result in the Commission applying to the Court for an order requiring a person to take any steps specified in the order to comply with the notice in accordance with Schedule 2 Clause 12.

If in the course of its inquiry the Commission begins to suspect that a person may have committed a criminal act, the Commission will report its suspicions to the Attorney General and cease any further consideration of whether or not the person has committed a criminal act.

Representations

The Commission, subject to Schedule 2 Clause 5 will make arrangements for giving persons an opportunity to make representations in relation to



its inquiry. In addition, to those public authorities that have received notice, the Commission will in particular wish to receive documentary and/or oral evidence from prisoners, ex-prisoner, family members and **those who have previously worked in or visited Her Majesty's Prison Jamestown, St Helena.**

The Commission will take necessary reasonable steps to protect those persons making representation, which may include providing anonymity.

Reporting and recommendations

Before completing its inquiry report the Commission will provide public authorities on Notice and any specified or identifiable person a draft of the report, inclusive of its findings. They will have 28 days to make written representations about the draft and the Commission will consider any representations made.

The principal reason for sharing a draft of the Commission's report will be to check for factual accuracy. The draft will not contain any recommendations.

A final report, including recommendations will be published by the Commission and made publicly available.

Copies of the report will be submitted, to St Helena Government, the United Kingdom Government, and the United Nations, pursuant to **Commission's functions as a National Human Rights Institutions operating** in accordance with the provision of the United Nations General Assembly resolution 48/134 (the Paris Principles).

Time Scales

The inquiry begins on 19th March 2018 and is scheduled to be completed by 11th May 2018.