

PUBLIC CONSULTATION HELD ON THE PROPOSED AMENDMENT TO THE ST HELENA, ASCENSION AND TRISTAN DA CUNHA CONSTITUTION

REPORT FROM FORMER CHAIR OF SOCIAL AND COMMUNITY DEVELOPMENT COMMITTEE

Eight public consultation meetings were held on the Island during the month of April 2017 to gauge views and support for a proposed amendment to section 21 of the St Helena, Ascension and Tristan Da Cunha Constitution to allow for the prioritisation of persons with St Helenian status for employment and in additional ways such as Immigration, Engaging in any Business or Profession and Movement or Residence within the Territory, to provide the same opportunity that local populations in other British Overseas Territories already have. Councillors Brian Isaac, Dr Corinda Essex and Derek Thomas led the consultation meetings. In addition, four radio interviews/phone-ins were held and the Chamber of Commerce was involved. The Public were also invited to make written submissions and Councillors held one-to-one discussions with members of the public.

Support from Saints on Ascension Island and the Falkland Islands was also gauged through the Island Representatives and for the latter through the Radio News Desk. The social media platform, Facebook has also been used to gauge views of all Saints overseas. The below sets out comments received at public consultation meetings, through written feedback and Facebook. The number of people who have signed the supporting document to support the amendment to the Constitution is also included, together with the number registered as opposing the proposal.

1. Summary of Public Consultation Meetings (more detailed comments at Appendix 1)

Half Tree Hollow – Five members of the public attended the meeting. The Constituents were generally in favour of the proposed change to the Constitution provided that protection is given to the spouses/partners of individuals with St Helenian status with regard to employment opportunities, possibly through the Immigration law. None of the Constituents wished to sign the supporting document. However, two have done so subsequently.

Jamestown – Eight members of the public attended the meeting. The majority of Constituents supported the proposed change to the Constitution, provided that protection is also given to the spouses/partners of individuals with St Helenian status with regard to employment opportunities, possibly through the Immigration law/policies. It was also considered that there should be a limit as to what constitutes a life partner –there should be a qualifying period. Care should also be taken not to enable ‘marriages of convenience’. Two Constituents were against the proposed amendment, as they saw it as a deterrent for Saints to return to the island if they have a spouse or a partner who is a non-Saint. In addition, they felt that the change goes against the spirit of the MOU signed with DFID which was to attract inward investment in an investment friendly environment.

Longwood – Five members of the public attended the meeting. Those in attendance agreed that priority should be given to St Helenians and that in doing so provision should also be made for spouses and common in-law husbands and wives.

Levelwood - Seven members of the public attended the meeting. Constituents were content to sign the supporting document but raised questions as to whether this would deter investment, whether spouses/partners who have Saint status had been overlooked and felt that the amendment would not be beneficial in cases where persons from other countries tender for contracts etc. It was also hoped that St Helena does not adopt a form of racism.

Blue Hill – Two members of the public attended the meeting. It was agreed that in following up any Saints first policy, provision should also be made for spouses and life partners of Saints, otherwise we would not attract Saints back to the island. It was also felt that we need to be ‘open- minded’ about St Helena; we cannot shut the door completely as we do need to bring in skills and expertise that are not on Island already.

Sandy Bay - Six members of the public attended the meeting. All Constituents were generally in favour of the proposed change to the Constitution, provided that protection is also given to the spouses/partners of individuals with St Helenian status with regard to employment opportunities. All signed the supporting document and three volunteered to obtain further signatures.

St Paul's – Eight members of the public attended the meeting. The Constituents were split as to whether they were in favour of the proposed change to the Constitution. Three constituents wished to sign the supporting document. The majority felt they needed more information before they made a decision to sign the supporting document.

Rupert's/Briars/Alarm Forest – Three members of the public attended the meeting. All constituents expressed their support of the proposed amendments to the Constitution and agreed they would encourage others in their district to show their support as well. All three signed the supporting document.

2. Written Feedback

Eight written letters/emails were received from members of the public. Please see Appendix 2 attached. The authors have all received a response to their feedback.

3. Signing the Supporting document

Members of the public who supported the proposed amendment to the Constitution could sign the supporting document given at Appendix 3. The deadline for signatures on Island was extended to 18 May 2017, at the request of the public.

In order to reach the wider public, Councillors took the document to residents in all areas to obtain their views. They were assisted by some members of the public who had been involved in the initial consultations. Views were sought in work places, venues such as the Golf club, from the Chamber of Commerce, on the streets of Jamestown and by home visits. The content of the document was discussed with persons who were then asked if they were in favour of the proposed amendment or not. Those in favour were then invited to sign the document and the names of those in opposition were recorded.

1017 people on St Helena signed the supporting document. This equates for an estimate of 27 % of the total on Island resident population for ages 18 +. This is based on the St Helena Island Census report 2016.

106 Saints on Ascension have signed the supporting document. This equates to 20 % of the Saint population on Ascension Island. This is based on the Ascension Island Statistics report for March 2017.

Total = 1123 Saints signed the supporting document. Comparatively, this equates to 52% of the constituents who are registered on the Register of Electors.

The number of objections received were 14.

4. Saints Overseas

4.1 Ascension Island

The supporting document was also sent to the St Helena Representative on Ascension Island to gauge the support from the Saint population there. The deadline for signatures and comments from Ascension was Monday, 8 May 2017. As noted above, 106 Saints signed the supporting document on Ascension in support of the proposed amendment which equates to 20% of the Saint population on Ascension Island.

4.2 The Falkland Islands

To gauge the views of the Saint population on the Falkland Islands, a notice was sent to the Radio News Desk on the Falklands to be read in their news bulletin (six times). A letter was also sent to the St Helena representative on the Falklands to gather the views/feedback/support from Saints on the Falklands. The deadline for comments from the Falklands was extended to Wednesday, 10 May 2017. Only one comment was received from a Saint on the Falklands who supported the amendment; comment attached (Appendix 2).

4.3 Social Media

To ensure all Saints overseas were reached, a 'Calling All Saints' notice was posted on the social media platform, Facebook for comments to be posted by Wednesday, 10 May 2017.

When a reminder was placed on Facebook, we also added the feature for a thumbs up for those who support the amendment and a thumbs down for non-support and as a result, 15 responses (likes) was received, only four of which were Saints; however all 15 supported the amendment.

The below comments have been received on Facebook, the majority of which supports the amendment:

- This have been a long time coming. There are a lot of knowledgeable persons on St Helena who can carry out some of the jobs that are given to expats. They can do and some has even done it. Why not give our own people the chance to prove what they can do. This is a good opportunity to speak our mind and comment so come on people post your views.
- I don't want to start an argument. But if a local person is clearly able to do a job successfully then why not allow and encourage them to work towards an internationally recognised qualification whilst they do the job? I often hear people say well they (the company or government even) had to get someone from the UK because the person who was doing the job don't have a degree. Obtaining a degree or other such qualifications on St Helena is not easy and we were not all given the same opportunities when we left school. It's always great to see school leavers now going to do their studies at university in the UK and returning to use those skills, but there is like mentioned in the above comment, a lot of saints who sadly is not being given a chance because although they have experience and potential they do not have the 'piece of paper' to prove it.
- *Non-Saint Helenian* - It's good to see this type of legislation coming in to law. St Helena will soon become of interest to many overseas citizens wanting to work. I witnessed Gibraltar who became overwhelmed by them in recent years and they brought a Gibraltarian first policy in. It went some way to help but it was a bit late and the pressures there were enormous. It wouldn't be like that on St Helena. I look forward to other measures which will preserve the islands culture and identity. My particular interest being strict controls of planning to identify the island style and heritage so it's preserved as they have done in Bermuda for example which quite stunning and uniquely identifies the island - great result.

The below is a conversation thread on Facebook regarding the proposed change to the Constitution:

- *(Saint Status)* **John Turner** - Proposed new "Saints First" amendment to the Constitution will say, in effect, that if a Saint is capable of doing the job they should get it, even if a non-Saint applicant is better qualified. But what if a Saint is currently not quite qualified but could be trained to do the job? Do they still get priority?

PS. I'm in favour of the change - just testing how far it goes.
- **Derek Richards** - I am not saying that I am not in favour of the proposed change, I just don't think enough thought has been given to the wider ranging implications on other legislation rising to conflicts of such legislation. It is not at all clear and the point you raise above is a clear example of this. I was approached by a councillor asking to sign a "supporting document" supporting the proposed change. I asked why is there not a category where I or anyone could sign to say we were not supporting it... was told that with a supporting document it needs to give one side of the story which is trying to be achieved... if a pressure group was trying to achieve something then yes, but when it is your Government, then you would expect to see a clear unbiased review. Putting it the way it is being done, the "man in

the street" (so to speak) would look at the first few words and agree without considering any additional implications. That aside, looking at a wider perspective, how does this affect direct foreign investment which our government is always crying out for? I still cannot understand why there is a tremendous push for this change a few months before a General Election?

- **John Turner** At present they are only working towards changing the Constitution to allow a Saints First policy. Working out the details of the policy will come later. I was simply adding one question to the many that must be answered in formulating the policy. I've emailed the same question to some councillors. Why the rush? Who knows? I'm sure it isn't just councillors looking for a vote winner just before a General Election!
- *(Non-St Helenian)* **Simon Pipe** In effect, Britain already has this policy - EU citizens can apply for jobs on equal basis with UK nationals, but Americans, say, should only get the job if there if no one suitable domestically.... and yet there are Americans lecturing at my university, despite there being lots of qualified academics. One rule is that a job has to have been advertised for a set period - a month, I think - before it can be given to a non-EU citizen. St Helena might like to lay down some rules.
- *(Non-St Helenian)* **Grahame Bond** I've seen those adverts abused by putting an IT job in the back of The Lady
- **Robbie Saintboy G** What about Saints is qualified like a non - Saint would the pay be the same... I've asked this before.
- **John Turner** I understand that if a Saint applies for a TC Post job, they are offered it only on a 'local salary'. I can see why this causes discontent.
- **Robbie Saintboy G** Bloody real shame... if they can afford it for non-islander plus perks at lease they should offer same salary and not the perks...
- **John Turner** Robbie Saintboy G It's an old policy. When Island-born Hudson Janish became Governor in 1873 they only paid him a 'local salary'! <http://sainthelena.island.info/governor.htm#govjanishmemorial>
- *(Non-St Helenian)* **Trevor Botting** John Turner I don't believe this statement is correct. You might want to check with SHG. There are more and more opportunities for Saints and a great deal of work being done to enable Saints to take on key posts.
- **John Turner** Trevor Botting I know it to be true, based on examples.
- *(Non-St Helenian)* **Trevor Botting** Best you ask as you are wrong.....
- John Turner I know it to be true, based on examples.
- *(Non-St Helenian)* **Lisa Niemand** Didn't the governor reply on a thread on here stating if a saint overseas applied (and was successful) for a Tc post they got the same package, if a saint on island applied for a TC post they would get salary without the additional benefits.
- **Trevor Botting** - John Turner knows it to be true, based on examples. We know the truth based on fact. John has often got the facts wrong and seems reluctant to establish the truth.
- **John Clifford** - It was on a Thread I was posting, and yes the Governor confirmed that if a Saint in the UK was appointed to a TC Job, they would get the full TC Package, but if local only the Local Package.
- **John Turner** - I have spoken with people to whom it happened. See also John Clifford's comment above. Your information is false. You can deny the truth as much as you want but it won't change it.
- **Jenny Pattenden** They should be given a chance.
- **Claire Stroud** John is there something similar on the Falkland Island and some other places
- **John Clifford** The Falklands have a Constitutional clause which protects the rights of a local person to be considered before an overseas person, on an otherwise level field. It works well here.
- **Joanna Crowie** If a post is advertised with salary rates and perks, regardless of who applies and is successful, those rates and perks should perhaps apply to all. I say 'perhaps' because: if a Saint is not fully qualified i.e. certificated in the field, but yet has the aptitude, expertise

and ability his/her perks should initially be 'the chance to qualify'. Once qualified, those perks that go with the initial advert should be on a par as if he/she were a non-Saint...along with the Salary for the post of course. Saints should not be rejected or turned away 'unsuccessful' if they have the qualities mentioned above minus 'certificate of qualification'

- **Joanna Crowie** 'Perks' for a successful Saint could take the form of trips abroad to connect with others (colleagues in similar roles) to broaden outlook, perspectives and to keep abreast with modern trends. Saints are fast learners - they only need to be given 'the chance'.
- *(Non-St Helenian)* **Samantha Rose** Hi John I don't disagree but to be clear it's different for in each of the ~~bots~~ British Overseas Territories and not all have similar policies (certainly most have something) I'm in tci and they have a 'belonger' priority for all jobs under 23,000 dollars but the cost of living here is a lot higher than St Helena (cost of bread £5 and butter £6, min wage 4 pound equivalent not enough people so they advertise three times than employ externally - for all other jobs of course they prefer an islander but have to offer incentives to employ from abroad such as cost of living allowances these are not 'perks' but because they need people who have to move home and technical posts - I am all for training and exposure visits as all staff in the bots need to share knowledge and that's great, there are plenty of those opportunities already, saints just need assistance in making sure people let them know them; just saying the grass is not greener on the other side and I think the wording will be really important for you guys to consider or it could make things worse.
- *(Non-St Helenian)* **Grahame Bond** This is extremely complicated. As the expected change on island takes place all sorts of employment factors may come into play. This is a good start for now so best not delay it or it may bog it down. St Helena specific issues will arise (who knows what/which ones first or last). As long as Saints are fast on its heels to anything that flags up as a problem and the legal side responds quickly sure it will be fine. The same goes for many other island laws which will need fast updates no doubt so I'd focus more on response time than prediction.
- **Tim Thomas** If job advertised on Saint Helena salary non Saint offshore employment 23 k but if the same post give to a Saint on the island 8k surely this is discrimination.
- *(Non-St Helenian)* **Simon Pipe** Yep.
- **John Turner** As I understand it, the correct process SHOULD be: 1) job is advertised locally at local salary; 2) if nobody suitably qualified applies, job is advertised as a TC Post on a TC Post salary. So any suitable qualified Saints should apply the first time around.
- *(Non-St Helenian)* **Grahame Bond** There should be a central database of available jobs that employers have to register by law- that's how the Swedish have done it for 40 years.
- **Joanna Crowie** Hey Grahame.....please visit St Helena, please do....then you'll see that there's little point comparing STHL with Sweden, Switzerland or Timbuktu. If you are 'hard-up' and can't go, I'll ask the Bank of England to help you, it will save my little head a terrible ache and my face from cracking!!! Lol.
- *(Non-St Helenian)* **Grahame Bond** Worth taking knowledge from all over, you never know when it might be useful. Will visit St Helena as soon as possible but never had good sea legs so the RMS not for me.
- **Joanna Crowie** Grahame Bond Kwells might be better....they do have good sized brown paper bags on board....
- *(Non-St Helenian)* **Simon Pipe** If the job is advertised at the higher salary the second time round, then surely everyone - Saint or otherwise - should apply the second time round? Just being mischievous.

18 July 2017

APPENDIX 1

Comments from members of the public who attended the Public Consultation meetings were as follows:

- Concern was expressed that the proposed change, if agreed, would be a deterrent to Saints returning to the island with spouses/partners who do not have St Helenian status, as theoretically, they would not be able to gain employment.
- Spouse/partners of individuals with St Helenian status should not be penalised by this proposed change.
- The Immigration law could be amended to provide employment protection for partners/spouses of St Helenians.
- How do we define an immigrant? If Saints returned with a partner from overseas, constituents were worried that the partner would not be able to get employment as they were not Saints.
- We want Saints to return but this could act as a deterrent. Saints will think twice about coming home with their overseas partners.
- Some Constituents thought that the proposed change would deter Saints who are the life partner or married to persons without St Helenian status, from returning to the island, as their partner/spouse would not be able to secure employment and because of the low salaries paid to Saints, the spouse would need to work. Spouses and partners of St Helenians should not be overlooked, especially since St Helena was seeking to encourage people to return to the island. How would the proposed change affect Saints who are married to overseas persons? Was it deliberate or was it overlooked, not to include spouses of Saints who have St Helenian status?
- Was it purely the intention to put 'Saints First' and not to refuse entry to certain groups of people?
- The view was expressed that local people do not object to the spouse/partners of St Helenians having jobs but the cause of concern is when the spouses of TC Officers are given jobs that St Helenians have also applied for.
- A clause should be put into the contracts of TC Officers to state that their partners/spouses are not allowed to take up employment on the island. TC officers on extended contracts was also a concern and some felt that when people come here on TC contracts, the time they spend on-Island shouldn't count as qualifying time for gaining Saint status, because even if the 'Saints First' policy did come into force then there would still be some disadvantage to Saints who were born and have worked on the Island all their life. Some also expressed that special conditions should be put in place for TC Officers i.e. they should only be on-Island for a set time and if after their contract is complete, they would like to apply for another job then they should return home and then come back to the Island if they have been successful for the post. Some were concerned that TC Officers were staying on-Island for their own purposes beyond their contracts and that there were Saints who were just as good who could be in these posts. Some constituents were of the view that the major objection is to the spouse/partners of TC Officers being given jobs advertised on local terms and conditions over and above people with St Helenian status.
- There was a cause for concern in that it was rumoured that expats are securing jobs over Saints even when Saints are qualified for the job – this must stop.
- Persons who came to the island to work for Basil Read have now got permanent jobs on the island – this should not be permitted.
- Constituents were happy that if local jobs cannot be filled by local people then they can be offered to expats but it should be on a contract.
- Local posts should be paid at local wages, even to expats.
- Expats who come to the island primarily for work purposes should be required to be on island longer than five years in order to qualify for St Helenian status.
- Some were concerned that people would favour this proposed amendment because they have tunnel vision and are passionate about not having TC workers on-Island and therefore would be biased about making a decision.

- Why was the application fee for naturalisation increased heavily from £200 to £948, is this to discourage applicants?
- Why is the Elections Ordinance being changed to do the reverse by only allowing persons with St Helenian status to register to vote – that demonstrates that there is already a move on the Island to oust non-Saints?
- We need to be ‘open- minded’ about St Helena; we cannot shut the door completely as we do need to bring in skills and expertise that are not on Island already. Saints can then learn from this – it is all about upskilling and sharing knowledge.
- Saints will have the ‘indigenous knowledge’ but they need to know the tools of the trade.
- Saints should however be given the privilege to apply for jobs and land before outsiders.
- People were interested to know what the employment situation is currently like on St Helena.
- Is this still the case and if so, why are Saints paid differently to overseas people when they have the same qualifications, such as nurses and qualified accountants?
- One person felt that we have family and friends and even ourselves who go overseas for a better quality of life and to seek employment so why don’t we want new people to come here and have that opportunity.
- At the moment, Saints lose out at the job interview stage when they are up against non-saint applicants, as they do not have good interviewing skills – they can’t ‘sell themselves’ well and consequently are not successful for the post they are applying for.
- The islands appeal to Saints abroad was questioned with a constituent saying there is not enough here to encourage Saints to return.
- It was commented that it was hoped that St Helena does not become like South Africa where there is “black” empowerment and employers are being made to employ a certain proportion of “blacks” and “whites” are deemed to be held back, which could be considered a form of racism
- The amendment would not be beneficial in cases where persons from other countries tender for contracts, as they were of the view that SHG’s policy was to accept the lowest tender anyway.
- The view was that to make a more informed decision, constituents felt they needed more information about how this affects the bigger picture of St Helena. On the one hand we want to encourage inward investors but then there are implications for overseas spouses who are returning home with their partners.
- Care would need to be taken not to “shoot ourselves in the foot” as the island was looking for investment.
- Will this deter inward investment?
- Would the proposed change seek to undo the MOU and be seen as a breach of trust, as that was intended to attract inward investors?
- Concerns were raised about land prices and whether this proposed amendment would have any effect on the current purchase price of land. Constituents were concerned that SHG had no control over private land prices and when you are able to bid for SHG land there have been occasions where the land is still sold to an expat for a substantial amount of money which Saints cannot afford.
- Concern was also raised as to whether making this change would have any effect at all especially on buying land at a cheaper price. Others were concerned that this change wouldn’t change anything. A constituent was in favour of a particular property being sold to a “non-Saint” and it was explained this had now taken place.
- What happens in a case where a property is on the market and a Saint is unable to afford the price? It was felt that we should not be amending the Constitution but focusing on other individual laws. Additionally it was asked whether we should first be amending the legislation and then changing the Constitution.
- What kind of laws are Members of Legislative Council thinking about introducing if the Constitution amendment goes through? What would MLCs change if the amendment to the Constitution goes ahead?

- Some questioned the urgency of getting this change made to the Constitution if it will still take a long time to amend individual laws.
- Why was this not undertaken as part of the 2009 Constitution process?
- Would Members consider a referendum on this proposed change alongside the General Election this year if FCO support the change?
- It was felt that the Constitution should not be looked at in isolation but other areas must be looked at as well.
- The view was expressed that more publicity should be given to this proposed change to enable people to consider the issues and it should not be rushed through.
- There should be radio discussion about this proposed change.

Appendix 2



PWD Yard, The Castle, Jamestown, St Helena

Tel : 22133

Email : admin@humanrightssthena.org

Hon. Brian Isaac,
Elected Member,
The Castle,
Jamestown.

27th April 2017

Dear Brian

Re Public Consultation on “Saints First Policy”.

The Equality & Human Rights Commission (EHRC) has discussed the proposed changes to the Constitution and considered the various human rights implications for the residents of St Helena.

While we understand that some in the ex-patriot community, might view this change as discriminatory it is too simplistic to consider the proposed changes purely in those terms.

Human rights are not just about everyone being treated the same, they are also about ensuring that the more vulnerable members of our society have opportunities too. Where resources (in this case jobs) are limited it is accepted in human rights law and practice that measures may be put in place to ensure the weakest members of society are protected.

In addition when people from overseas decide to accept a TC post on the island they chose to accept the terms and conditions on which that post is offered. Therefore so long as they are aware of the restrictions on working imposed by this policy, their rights are not being infringed as they have consented to the terms.

This does however raise a question about those currently here, who have come here on the understanding that they can work and those who are currently employed. We would recommend that consideration is given to the transitional arrangements, allowing the employment to continue until the end of the contract.

The Commission supports this change in policy.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Catherine Turner".

Mrs Catherine Turner
CEO/Commissioner
Equality & Human Rights Commission

To whom it may concern

We write to express our concern with the recent consultation process on the *Proposed Amendment to the St Helena, Ascension & Tristan Da Cunha Constitution*.

The consultation has been promoted that the "Amendment will allow for the prioritisation of persons with St Helenian status for employment and in additional ways such as Immigration, Engaging in any Business or Profession and Movement or Residence within the Territory, to provide the same opportunity that local populations in other British Overseas Territories already have" (extracted from press release 25/04)

The topic is highly emotive and whilst we also share concerns and disappointment when we see posts being filled by expatriate workers and not locals we are not convinced that it drives the need to change the constitution. If this is a large scale problem has a review been undertaken to research why these roles have not been filled by saints? Did they apply? Is there a skills shortage etc? As an Island developing its skills and economy we need to ensure that the best person fills the role available. The larger employers on the Island include Saint Helena Government, Solomon's, Sure and Connect Saint Helena all of whom have robust recruitment procedures in place. We need to take advantage of any skills and knowledge that is bought to the island not create barriers and there must be a way of doing this without changing the constitution.

The recent consultation has been rushed with little or no information given on the long term impact of such change. It is also difficult to make an informed decision without knowledge of the underpinning legislation and the full impacts of these subsequent changes.

Of concern is:

- The breach to the MOU (extract below) what impact will this have to current and future funding?

2.1 Current policies and legislation relating to land use and disposal, as well as immigration and investment, are restrictive and seriously inhibit inward investment. This MOU confirms the commitment of SHG to establish an appropriate legislative and policy environment in all those areas. Policies will be as simple as possible, transparent and predictable, non-discriminatory (in accordance with the Constitution), and compatible both with each other and with other relevant policies and legislation. *SHG further confirms its understanding that eventual signature of a contract for the financing of an airport will be conditional on these reforms being in place and operational.* This will be subject to a full assessment by DFID before a contract is signed.

- The impact to returning saints with partners and children who do not have Saint Helenian Status. Will St Helena be as attractive?
- Impact to local business
- Impact on future investors at a time when St Helena needs to develop its economy
- The impact on TC Officer posts (Will we attract a high calibre of personnel if it will be difficult for their families to maintain their skills.)
- Land disposal – under the current policy ENRD operate a bidding scheme which is not financial based but considers the needs of the applicant, this should be sufficient to control land sales. Splitting the proposed CDA into homes for locals and homes for expats is likely to create a divide in the community.

We understand that the changes proposed are used in other territories, however are the economies of these territories comparable with Saint Helena at the time they introduced the change?

With regard to the consultation process itself we are highly concerned that Councillors have been collecting names only of those who agree with the change. This is not truly representative of the community.

We trust that additional information will be made available to enable the community to make a more informed decision.

Thanking you

Keith, Gloria and Tracey Williams

From: James Kellett

Sent: 11 April 2017 16:58

To: Nicole Plato

Cc: Councillor Isaac

Subject: RE: Press Release: Consultation on a Proposed Amendment to the St Helena, Ascension & Tristan da Cunha Constitution

Thanks for that Nicole.

I am not clear, for example, on the implications on those without Saint status when future laws are passed. Am I 'positively' discriminated against by this change in law and by future laws because I am not a Saint? Will it make it more difficult or even deny me the right to acquire Saint status in the future (which is something I want for me, my wife and my son since we want to settle permanently on Island)? Will this mean that St Helena will introduce a two-tier system on many aspects of life (for example, the tax regime), that favours Saints and disadvantages non-Saints? Is this designed to turn away non-Saints and thus reduce the richness of diversity on Island?

Kind regards,
James

James Kellett
Deputy Airport Contracts Manager
Airport Operations Section
Airport Directorate
St Helena Government
Tel: 290 22721

From: W B [<mailto:usa90210@hotmail.com>]

Sent: 25 April 2017 19:56

To: brian.isaac@helanta.co.sh

Subject: Constitutional amendment

Dear Mr Isaac,

I do not have Saint's status, I only have long-stay visa. I'm not seeking employment or any Saint's benefits, either, so I'm completely impartial to this matter. I just wanted to voice unbiased opinion.

There is no discrimination in prioritizing citizens over temporary residents, or overseas job applicants. Every country's primary obligation is to its own citizens first, since they, and their parents, are the ones supporting the government, and their efforts had established the very government that is considering this very proposal.

With kind regards
Walter Barshai

Hon. Brian Isaac
Chairman, Social & Community Development Committee
The Castle, Jamestown

Re: Proposed amendment to the St Helena, Ascension and Tristan da Cunha Constitution.

Dear Cllr. Isaac,

Thank you for the opportunity to input comments on the proposed amendments to the St Helena Constitution which will seek to positively discriminate against Saints in various categories. My comments are outlined below, and mainly consider the employment category; I look forward to them being considered.

Firstly, while I fully understand the desire to prioritise employing qualified local people I do feel that there needs to be more time to fully consider all potential implications of these proposed amendments. The issue is a very important one for the island with potentially significant consequences, yet the process appears to have been hastily pushed through, it seems because of the upcoming election. It would be preferable that more time is given for public consideration and consultation even if this means a new Council has to take this on.

It would also be useful to have examples of what these amendments could mean. During the meeting I attended there seemed to be a great deal of conjecture and personal opinion on what these changes would mean, but I would like to see prepared worked examples along the vein of: "in xxx situation, the outcome would be xxx". It would also be useful to have a 'plain English' version of the text for the consultation. The document later provided at the Half Tree Hollow public meeting was the councillor's briefing document, and although useful did not provide enough satisfactory detail in explaining what the changes would mean.

It was suggested that the Saints First policy would also encourage Saints abroad to return home. However, many Saints who live abroad meet and have non-Saint life partners. In these cases the policy would essentially discourage these Saints from returning home, as there is no real incentive to if they are likely to struggle with living expenses because their partner cannot find a job even though they are the most qualified person applying.

Related to this is an argument that is heard frequently that a 'saint could do that job much better'. While this could be true in some cases, it needs to be considered that sometimes Saints just don't apply for the jobs; in which case it is unfair to criticise the person recruited to the post if they are not Saint. Additionally, during some recruitment processes it can be difficult to select Saints during the interview as they do not fully show that they can meet the requirements of the role; thus the panel is compelled to go with the person who does and that might not always be a Saint. In cases such as these it would be beneficial for more opportunities for Careers guidance e.g. more support in completing applications and preparing for interviews. There was a Careers centre run by ESH that used to operate in the Post Office on Thursdays, but no longer seems to be available. Having drop in sessions around the island would also be useful. Sessions like this will help Saints to show that they are qualified for the jobs and guide them on how best to present this.

There is also a risk that the island will potentially lose out on excellent skills and qualities as foreigners feel they are no longer welcome on the island. This seems to be completely against the spirit of the Memorandum of Understanding (MoU) between DfID and SHG to develop air access. It is also not clear what, if any, ramifications there are for St Helena if the island is now reversing sections of the MoU now that we have an airport in place.

Another issue that is not fully clear is whether employers are likely to be obligated to employ a Saint over someone who would be more qualified and a better fit for their business. I would hesitate to support this as I feel an employer should have the freedom to employ the person most suitable for their business.

Finally, during the meeting I attended there was a document that we were asked to sign if we were 'for' the proposed amendments and thus the Saints First policy, yet there was no document for those 'against' to sign. It was stated that the 'against' comments would simply be recorded in the minutes taken at each meeting. From what I have been told of subsequent meetings, it would seem that the intention is for this 'for' document to be presented to FCO as an indication of the number of local people on the island who support this policy. However, this would not be a fair and unbiased representation of the wishes of the people of St Helena if there is not also a document indicating the numbers who are also against, or indifferent to, the proposed changes. To only present a 'for' petition is extremely misleading and I would hope that this is not the intention of our elected members. Every effort should now be made to have a similar document made available for those 'against' or 'indifferent' to the changes to sign if they wish, and they should be given a similar timeframe to sign as the 'for' petition was given.

To conclude, as it stands I would not be supportive of these proposed amendments without further consideration and communication of the potential long and short term implications of these changes.

Yours sincerely,

(Name withheld at request of author)

Subject: Re: Consultation on the Proposed Amendment to the Constitution

Hello Brian

Thank you for sending this through to me.

I fully support the amendment to protect the Saints when it comes to jobs on the islands.

The Falklands have the same sort of legislation, all jobs have to be advertised and preference must be given to local applicants. There has to be a very good reason not to take on a local resident if he/she is qualified to do the job. If there are no suitable applicants then the employer applies for a work person for the applicant who is not a resident.

Work permits are usually issued for 2 years when the job has to be advertised again and the same process applies. In 2 years, there maybe college or university students returning to the islands looking for a job.

I have always said that I hope that St Helena puts something in place when the airport opens and there are more people coming to the island with a view of settling.

Please can you advise me on the process for a resident permit or St Helena Status.

Kind Regards

(Name withheld at request of author)

From: Phil Sharman

Sent: 05 May 2017 17:06

To: brian.isaac@helanta.co.sh

Cc: Nicole Plato <nicole.plato@sainthelena.gov.sh>

Subject: Consultation on Proposed Amendment to the St Helena, Ascension & Tristan Da Cunha Constitution

Dear Brian

I feel obliged to write to you on the above subject as I have several perspectives on this issue – in my role as Chief Auditor to promote public accountability under section 111, in my role as an employer of staff members, in my personal perspective as a British Citizen resident in St Helena.

I have no particular issue with the Saints First employment policy providing that the choice is made between otherwise equally suitable candidates – indeed this already exists in the SHG Code of Management as extracted below:

New Code of Management

GUIDANCE ON APPLYING EQUAL OPPORTUNITIES WITHIN SHG

Race

It is discriminatory, unlawful and unacceptable to treat job applicants, employees or service clients less favourably because of their race, ethnicity, skin colour, nationality or national origins. Except that it is SHG recruitment policy that, as between otherwise equally suitable candidates, preference will normally be given to a candidate who has St Helenian Status and who meets the residency requirements of the role.

In the light of this policy it is not immediately apparent as to why the Constitution requires revision? Unless of course the political objective is to ensure that the Saints First policy applies to all employers in St Helena as the Code of Management clearly only applies to employment practice within SHG.

I am perhaps more concerned that the proposed amendment to the Constitution goes way beyond the employment argument which was the subject of the motion before Legislative Council. There are significant ramifications of this widening of scope which upsets the balance and risks going against the primacy of fairness and equality for all being enshrined in the current Constitution. Moreover I am not aware of any actual instances of persons with Saint Helenian heritage being disadvantaged under the current constitutional provisions – so I am struggling to see why there is a need for this change in the first instance? Is this more about popular perception than reality? However the application of the proposed change and attendant imbalance will I suggest be detrimental to the wellbeing of the Island in the long term.

In my professional role I am genuinely concerned about any attempts to erode or unwind the policies and provisions enacted to give a procedural and statutory effect to the undertakings in the MOU in which SHG

gave a commitment to reforms in land and immigration necessary to open the economy to inward investment and increased tourism in parallel with the development of air access in St Helena. In my view it is entirely wrong to contemplate rescinding these agreements after the UK taxpayer has invested £250m in developing the Islands infrastructure.

It is clear that the economic development of St Helena will be significantly impaired without a more welcoming immigration policy – just look at the success of other British Overseas Territories let alone countries like Australia and New Zealand which promote inward migration to grow the economy. I would argue there is a clear duty for responsible politicians to promote managed inward migration as a way of driving prosperity for all and help dispel the negative connotations that currently pervade and potential divide community cohesion.

Finally Saint Helenians are after all British Citizens and rightly may enjoy permanent residency and voting rights in the UK after lawfully residing there for six-months. Should there not be some equivalent if not reciprocal provisions whereby British Citizens from UK can enjoy permanent residency and voting rights in St Helena? In short St Helena is a British Island but as a British Citizen I am feeling much less welcome now that I did 25 years previously – and in that time the resident population has reduced by a third from 6000 to 4000.

To develop a sustainable economy the Island needs to grow the population and I am worried that the provisions being promoted through this Constitutional change will have the opposite effect. I therefore invite you to think again before progressing the proposed amendment.

Kind regards Phil

Phil Sharman BSc CA CPFA

Chief Auditor

St Helena Audit Service

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Administratively, the Saint Helena Audit Service is hosted by the Government of St Helena, but (in accordance with section 111(3) of the Constitution) the Chief Auditor acts independently and is not subject to the direction or control of any person or authority.



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Response to Public Consultation "Saints First Policy"

15th May 2017

The role of Enterprise St Helena is to support the St Helenian population through economic growth and encouraging prosperity to all members of the community. It does this by supporting local businesses and by encouraging investment in the island to build a sustainable economy for the island's future generations.

Introducing the proposed change to the Constitution to allow a 'Saints First' policy recognises the needs of St Helenians to be able to protect their interests in the face of a potential influx of immigrants. As a piece of enabling legislation the proposed changes create the possibility for discriminatory legislation to be brought

forward. The passage of such legislation must be subject to checks and balances to ensure that any discriminatory aspects do not undermine the economic growth of St Helena through the investment by individuals and businesses not holding St Helenian status.

A positive step is to continue to develop the local population to ensure that they are the employee of choice because of their skills, positive attitude, aptitude and commitment to deliver excellent service to the customer on behalf of the employers. With an eager motivated and committed local workforce available, investors will be prepared to pay a premium and not incur the cost of bringing labour from elsewhere, which in turn may well attract Saint Helenians back to the island in a similar manner to that seen when Basil Read started their recruitment campaign in earnest.

Enterprise St Helena is concerned that the proposed changes may, if care is not taken when being forward subsequent legislation, have an adverse effect on investment and prosperity by creating barriers and uncertainty in the minds of investors. For St Helena to have the best prospects of success in securing the inward investment, it needs to offer policies that are clear and certain. Introducing uncertainty and discretion into processes of employment or securing land ownership may deter essential investment.

St Helena has thrived on immigration, the diversity of the population reflects this. The economy has high levels of employment and economic growth will be limited if future investment from outside the island is deterred. Unless appropriately skilled labour in sufficient quantity is available businesses will not choose to invest. St Helena is already in a significantly disadvantaged position globally because of its remote location and lack of valuable natural resources.

It should be further noted that the Population Census undertaken in 2016 demonstrates a relatively modest increase (255 as compared to 2008 Census) in the number of resident St Helenians as a result of the airport project proceeding and skilled Saints returning for employment on the associated contracts. However it also highlights that age dependency on the island is increasing and the current trend is *“placing St Helena amongst the very highest of aged dependency in the world.”*¹ The Statistical Office has indicated that, as a result of known median age 47.1 years (ranging between 44.7 and 51.8 across the 8 Districts identified within the Census), the island currently faces a critical situation in terms of economically active residents and age dependency that will potentially emerge within the next 10 to 20 years, unless more can be done to attract younger people to reside on the island.

Regular (quarterly) population updates from the SHG Statistical Office also suggest that the growth in resident St Helenians as a result of the airport project has already started to reverse, with a trend towards seeking opportunities overseas once again, reducing the potential to create further employment opportunities for St Helenians.

Therefore whilst the proposed changes to the Constitution intend to protect the St Helenian population and should be welcomed for that, care must be taken when introducing subsequent legislation that the ability to invest, singularly or in partnership with local businesses, is encouraged and businesses and individuals continue to be positively welcomed by the St Helena community.

¹ St Helena Government – St Helena 2016 Population & Housing Census (Summary Report)

From: Helena Holck Løchen

Sent: 19 May 2017 11:14

To: Lisa Phillips

Subject: Proposed changes to section 21 of the 2009 Constitution

Dear Governor,

Unfortunately, I missed the start of ExCo yesterday, as I was attending the Employee Representative Committee meeting across the hall. I am fully aware it is up to me to be on time to listen in to your meetings, however, I must say I was a bit disappointed that the open agenda was altered from how it was presented to the public. As one of the agenda points was a subject of great interest to me, namely the proposed change to section 21 of the constitution, I am sorry to have missed out on the opportunity to hear how the chairman of the Social and community development committee presented the matter.

In our constituency meetings, we were informed that if a substantial number of people were for the change, it would be brought forward to the FCO, and we were invited to sign a petition to show our support. Was there any talk of this petition and the number of signatures yesterday? What was the number considered "substantial" enough for it to be put forward? What number of signatures did the committee actually receive?

Myself and others opposing this proposed change strongly advised that names should be taken down "against" as well, and that such a biased act of only noting names of the one side is a disgrace from a government that should serve the entire community. We were told the names/numbers would be noted down. Was there ever any mention of numbers against the proposed change?

Further, all our objections and concerns raised through emails and constituency meetings, brushed away by elected members by saying "we don't want saints to be second class citizens" and "we only want to be in line with the rest of the overseas territories" - was there ever any mention of any of our many objections by the chair of the Social and community development committee? Obviously nobody wants Saints to be second class citizens; opposing the proposed change does not mean that's our aim. It means we manage to look at the bigger picture, and worry about the effects of such a change on other legislation; our economy, our society, our image - the future of this island. Was there any talk of such possible effects the proposed change will have by the council committee chair?

I note with a heavy heart that the Executive Council has decided to put forward a suggested change to section 21 of the constitution, making it quite clear to me that I and others like me, who have given up our lives (and high paying jobs) in our birth countries, moved away from family and loved ones to make a new life here, bringing with us knowledge (and youth), are not welcome here.

Kind Regards

Helena Holck Løchen

From: Island Images [<mailto:office@islandimages.co.sh>]

Sent: 26 May 2017 10:27

To: Lisa Phillips

Subject: Proposed change to the St Helena Constitution.

Good morning Your Excellency.

I write as indicated in the subject line on the proposed amendment to section 21 of the St Helena Constitution. I was very disappointed to learn that Executive Council has proposed to put forward to the FCO that this change be made to the Constitution as I oppose this change on which I believe are sound reasons. I have listed these below trusting that you will also consider these when making any submission to the UK Government.

1. I believe that the time frame in which the change was publicised and dealt with was far too shallow and whilst consultation meetings were held, the public were not fully informed and not given the same opportunity to oppose the change as they were to support it. I cannot agree that the claim (by Councillors on Radio) that this change “to bring St Helena on line with the rest of the overseas territories” is a valid one. Each OT has its own unique set of circumstance and St Helena has its own which I will outline below.
2. I was approached by a Councillor to sign a paper supporting the amendment. Having looked at the paper I advised the elected member that I do not agree with its intentions and asked where is the paper so that I can object, I was told there wasn't one. A few days later I was again approached and told that in submitting a petition alternative reasoning is not supported only the option to achieve the aim of the petition,. I agree that “pressure groups” when presenting a petition aims simply to achieve what they desire and remove any resistance. A Government should not be adopting this approach as they are required to give a balanced view. I further believe that people were not fully informed nor given the time and information to make informed decisions. This coupled with any documentation showing numbers for and against would be very misleading as only a vote for was promoted.
3. In a later interview on radio, Councillors Essex and Isaac advised that those who did not wish to sign had their names recorded. I would like to know if my name was recorded in opposition, because at no point did I see my name recorded.
4. “It is the public perception” said Councillors when being interviewed – I hardly see this as a reasonable enough ground to change our constitution. Throughout the interview, no evidence was provided for any of the claims being made and without this I am afraid the considerations given to this were insufficient.
5. St Helena has a population of just over 4000, to make St Helena a vibrant and booming economy, the number of persons resident on Island needs to increase. In the early days of discussions about the airport, it was estimated that to make everything viable, including all the of the investments made, we (St Helena) would need to boast 6.5k people on island at any one time, equating to 6000 resident people and additional visitors..... numbering circa 500 per week (our infamous 30K visitors). We are currently 2000 below this target and I believe that to amend the constitution would restrict us as a developing Island and deflect direct foreign investment which we very much need.
6. It is a well-known fact that we have an aging population and as we grow older we will lack the necessary skill sets to manage and develop the island and to this end we should be looking to increase the population though bringing in additional skills and or younger people.
7. In the past few years and more specifically the past 1-2 years, Saints have been promoted to key positions on the Island and are paid similarly if not identically to what imported skills are.... Yes there are those who will say that the “saint” does not get the benefits or whole package” but these are ill informed individuals who should at some point be enlightened as to what these (extras) are. This move shows that SHG is protecting and developing the local skills and I am aware that the SHG code of management outlines this very clearly in terms or recruitment.
8. As in 4 above, evidence has not been shown in relation to the current status of the Island, we have less than 1% unemployment on the Island. This is a clear indication that Saints are not being discriminated against, particularly when you can choose from any of any number of job opportunities advertised weekly. In many cases, Saints are not applying for jobs...maybe they are comfortable in their current role, maybe they lack the confidence, maybe they hate interviews. More concentration should be given to developing our saints, building them through imported expertise as opposed to adopting a Saints First policy without having the “saints” to fill the roles.
9. I work in the private sector. I employ staff. I do not believe that I should be obligated to employ a person who could do the job, rather than someone who is more qualified and more experienced. As an employer my right should be to employ the candidate most suitable for the role and not just accept someone because they are a “saint”. This I am also sure will be playing on the minds of potential inward investors.
10. No one has advised what effect this amendment will have on the agreed MOU between DfID and SHG as I see it in total contrast to what was agreed. Will we be driving investors away... will we lose

the skill development from expats who no longer want to come here or leave because they believe they are not accepted? Will there be funding implications? – There are far reaching implications attached to this amendment which we as a public have not been advised of or had explained.

11. It is very clear that this has been a hasty push for a change, constituents have been bullied² into signing a document which gives no clear evidence as to why there needs to be a change, have we been told what percentage of jobs go to “non saints” when Saints have applied?. Mention has been made of the number of people being granted Saint Status... what evidence has been given to the people?... I have tried to remember and believe (personal opinion) that there may have been about five or six in the past year... in ten years this ratio does not help us to increase our population to the desired target. Where is the evidence that shows us how many jobs within the major employers market are repeatedly advertised? Where is the evidence to show why Saints are not filling these repeatedly advertised posts?

St Helena is a growing Island, to develop this sustainably, we need to grow the population, we need to encourage the necessary skills and experiences to join us, we need to be looking towards an improved inward migration policy which will help us grow this island, our government depends on this, our youngsters depend on this and so do our local businesses. I believe that the proposed amendment will have further reaching implications that the simple employment argument which is currently being touted by our elected members. I see no clear reason why there should be changes, more so in the limited timeframe given which did nothing more than provide limited information leading to ill-informed constituents and which could have a serious impact on this island for years to come.

Kind Regards

Derek Richards

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² Mr Richards was asked to clarify to what this allegation refers but has not done so.