



St Helena
Government

ST HELENA PUBLIC ACCOUNTS COMMITTEE
REPORT TO LEGISLATIVE COUNCIL ON THE FORMAL
SESSION OF THE PUBLIC ACCOUNTS COMMITTEE
HELD ON THURSDAY, 10TH AUGUST 2023

L.A.B. ON THE TABLE 25th MARCH 2024

St Helena Public Accounts Committee

Report to Legislative Council on the Formal Session of the Public Accounts Committee held on Thursday, 10th August 2023

1. Introduction

In accordance with Section 69(6) of the Constitution of St Helena, Ascension and Tristan da Cunha, the Public Accounts Committee (PAC) hereby reports to Legislative Council on the Third Formal Session of the Committee, held on the 10th August 2023 to examine the Annual Report and Financial Statements of the Equality & Human Rights Commission for the financial year 2021/22.

Membership of the Committee comprise:

Chairman:	Mr Mark Yon
Vice Chairman:	Mr Bramwell Lumukwana
Members:	Hon Gillian Brooks
	Hon Dr Corinda Essex
	Hon Karl Thrower

The Committee is advised professionally by the Chief Auditor, Mr Brendon Hunt and administrative support is provided by the Clerk, Miss Anita Legg.

A transcript of these proceedings will be made available in the Public Library and on the St Helena Government (SHG) website at <http://www.sainthelena.gov.sh/public-accounts-committee/>.

2. **Order Paper – Third Formal Session 2023, Thursday, 10th August 2023**

I. Chairman's Address

II. Equality & Human Rights Commission Annual Report and Financial Statements
2021/22

I. Chairman's Address

Chairman's Address

The Chairman opened the meeting and welcomed all in attendance and everyone listening via radio and live streaming.

As is customary, the Chairman explained the Constitutional role of PAC in accordance with Section 69 of the Constitution of St Helena, Ascension and Tristan da Cunha and Standing Order 26. He went on to explain the Committee's primary function which is to objectively scrutinise how the Government spends the public purse and advised further that the PAC is protected to act independently and is not subject to the directions and control of the Governor, the Executive Council, or any other body or authority and, has power to call any person to give evidence orally.

The composition of the Committee together with the key advisory and administrative support roles were then highlighted. However, to ensure the Committee operates independently and free from any bias or conflict of interest, the Vice Chairman was recused as his wife is a serving Commissioner of the Equality & Human Rights Commission and Mr Anthony Leo was accordingly appointed temporary independent Member of PAC for this Formal Session.

The Chairman was pleased to welcome Mrs Nancy Locke, Secretary to the Falkland Islands PAC, who was on a study visit to St Helena; this was made possible through the UK Overseas Territories Project Phase Two, led by the Commonwealth Parliamentary Association UK Branch. The visit had been very positive thus far and PAC looked forward to establishing a strong relationship and regular collaboration between PACs.

The Chairman also took the opportunity to congratulate the Chair and Members of Select Committee 1 in conducting their first public hearing.

The Chairman moved on to explain the business under scrutiny and concluded the session by thanking everyone. PAC would then evaluate the evidence heard and submit a report to Legislative Council on its findings.

The evidence taken on the Third Formal Session of PAC for 2023 is summarised below.

II. Equality & Human Rights Commission Annual Report and Financial Statements 2021/22

On Thursday, 10th August 2023 PAC examined the Equality & Human Rights Commission (EHRC) Annual Report and Financial Statements for the financial year 2021/22 and the following persons attended to give evidence:

- Chairman – Mr Andrew Pearce
- Chief Executive Officer (CEO)/Commissioner – Mrs Catherine Turner

The Chief Secretary from St Helena Government was unable to attend on this date and was therefore recalled to a PAC meeting held on 7th September 2023.

PAC conducted a further recall and invited the Deputy Financial Secretary from SHG to attend and give evidence at a PAC meeting held on 28th September 2023.

The EHRC financial statements and annual report are required by Ordinance to be laid before Legislative Council and were then referred for PAC scrutiny, under Section 69 of the Constitution and Standing Order 26.

The Commission's annual report and audited accounts for 2021/22 were laid before Legislative Council on 6th October 2022 as Sessional Paper 41/2022 and 42/2022 respectively, in accordance with Section 14(d) of Schedule 1 of the EHRC Ordinance. The Chief Auditor's report was unqualified with an emphasis of matter regarding the liability for non-payment of income tax.

The following is a list of the key issues PAC enquired of Officials:

- EHRC being the first human rights commission in an UK Overseas Territory to become a member of the Commonwealth Forum of National Human Rights Institutions;
- The number of files within the year, shown in the annual report, decreased in number, the number of themes raised also decreased from the previous year and the files remaining open increased from the previous year;
- A report entitled "A Commentary on Housing and Human Rights on St Helena" published in December 2021;
- A section of the annual report entitled "Research" referring to Children's Rights and the Sustainable Development goals;
- Clarity on the obligation (if any) to report to the United Nations;
- Non-compliance with the Income Tax Ordinance;
- Progress made in updating the Framework Agreement;
- An ex-gratia payment made to staff on the basis of good performance;
- A number of planned actions not being completed due to a lack of budget;
- Recommendations made in the annual report which are to be actioned by SHG;
- Alignment with the new SHG Portfolios.

PAC received explanations and assurances for the above-mentioned enquiries and a transcript of the proceedings from 10 August 2023 will be made available in the Public Library and on the St Helena Government website at

<http://www.sainthelena.gov.sh/public-accounts-committee/>.

In addition to the verbal evidence given, the Commission committed to provide the following information and this was subsequently received:

- The Financial Policies and Procedures, point 12, relating to cash reserves;
- Details of the salary recommendations from the Paris Principles.

Based on the responses provided by the Commission the below main conclusions were drawn, with recommendations proposed following PAC deliberations.

Main Conclusions

PAC congratulated the EHRC on being the first United Kingdom Overseas Territory to be granted membership into the Commonwealth Forum of National Human Right Institutions and was pleased to hear of the benefits accrued by virtue of this membership. Membership of this forum was granted to the EHRC at no cost and allowed the Commission benefits such as networking and the sharing of information across national human rights institutions. The forum meets once a year, a week before the Joint Ministerial Forum (JMC) takes place, with a communique being issued at the end of this meeting, which is then presented at the JMC. Regular meetings amongst forum members also take place when a scenario arises which needs external assistance. The requirements to join the forum are that the national human rights institution must be a member of the Commonwealth, have adopted the Paris Principles and be established by Ordinance.

The PAC heard that the number of cases closed in the 2021/22 financial year decreased as a result of reduced contact during the COVID-19 pandemic and largely because of the administrative disruption in updating files during the office move; whilst some files remained open for a long period of time due to their complexity. Examples included benefits paid to partners, the constitutional breaches of prisoners' rights, medical negligence cases and issues around the monetary amount of compensation paid in negligence settlement awards. PAC were advised that perhaps more cases had been closed at 31 March 2022 than was disclosed in the annual report, as the EHRC had not conducted a review of the client files due to moving to new office premises at this date.

The PAC was concerned to hear once again that there could be a business continuity risk if the CEO retired. The Committee had heard that there was partial mitigation of this risk in relation to case work distribution to other Commissioners, but this was not enough. Although this had given the CEO an opportunity to provide more strategic guidance, succession planning to ensure business continuity remained a concern.

The PAC was concerned that SHG had not responded to the EHRC following the publication of their report on 10th of December 2021, titled 'A Commentary on Housing and Human Rights on St Helena'. When questioned on the reason as to why the report was written, Commissioners cited a duty under the Equality and Human Rights Ordinance to take up issues related to human rights, citizens waiting more than three years for housing to be provided, the poor condition of existing housing and there being a lack of a definition as to what constitutes homelessness on the Island. PAC

was subsequently reassured by the Chief Secretary that SHG had taken the EHRC report into account in the review of the draft Housing Strategy.

The PAC was perturbed to hear testimony that the Strategic Plan of the EHRC is laid before Legislative Council without any feedback from SHG officials. Commissioners provided assurance that the Sustainable Development Goals (SDGs) referred to in the Annual Report are indeed the SDGs of the United Nations. They added that as SHG has adopted these goals it is appropriate for the EHRC to do the same. In the Commissioner's opinion, where statistics have been gathered, St Helena is progressing well or reasonably well in achieving these goals and it is their aim to work with Ministers and Portfolio Directors in areas where St Helena is not achieving the SDGs.

Commissioners provided the PAC with the context in which the Commission reports to committees of the United Nations (UN). The PAC heard the United Kingdom has adopted six (*evidence subsequently gathered by PAC suggests seven*) of the UN Human Rights Treaties and the reporting responsibilities associated with these adopted treaties extends to St Helena. Commissioners stated that each government submits a periodic report detailing their progress in implementing these treaties with the submissions of various national Human Rights bodies being shadow reports providing assurance on the government reports.

From evidence provided, the PAC concluded that the Independence requirements included in the Paris Principles meant the EHRC could not be directed as to how they use the funds allocated to them from SHG. The PAC however did note the assertion from Commissioners that there would be a moral obligation to use funds for the purpose as intended in their budget submission where these funds were appropriated for a specific purpose. The PAC was also alarmed to hear that the EHRC had not yet received a confirmation of their funding for the 2023/24 financial year. Following the hearing, PAC received evidence from the Deputy Financial Secretary that SHG's confirmation of 2023/24 funding had indeed been communicated to EHRC. The Commission continued to receive a month-on-month settlement as they had not agreed to the terms nor signed the Framework Agreement. PAC had been reassured SHG would escalate engagement on the signing of the Framework Agreement with all the Commissioners.

Based on evidence gathered from the Deputy Financial Secretary, PAC was disappointed that EHRC has not yet been able to attract additional funding following the Commission's office move in an effort towards enhanced independence and anticipated accreditation.

The Committee was pleased to hear testimony that the CEO's PAYE liability had been settled in October 2022. It was confirmed that the liability had been settled by a deduction off the CEO's salary on a monthly basis.

The PAC heard that progress towards achieving commitments made in the Framework agreement, such as pension contributions for staff members, is being hampered by a lack of growth in the subsidy given to the EHRC on a yearly basis. Commissioners informed the PAC that ordinarily they present to SHG on a yearly basis, an aspirational budget to achieve all strategic priorities and framework

agreement commitments, plus a second budget prepared on a basis of the prior year's budget with a percentage increase for the current year. They confirmed that SHG does not state what the subsidy provided by them should be used for.

PAC subsequently gathered evidence from the Deputy Financial Secretary who asserted that based on his understanding, EHRC could not comply with the Framework Agreement entered into between the Commission and SHG due to the pay grade scale of EHRC staff not being equivalent to SHG. PAC was troubled by the fact that this matter has not yet been resolved.

The testimony given provided assurance to PAC that there was a formal approval process governing the payment of ex-gratia payments (bonuses) to staff in the 2021/22 financial year. Commissioners disclosed that all staff received a bonus and the total bonuses paid equalled £2,400. The payment of these bonuses followed the formal performance appraisal process wherein it was acknowledged that staff had taken on extra duties during the COVID-19 pandemic therefore the Chairman thought it appropriate that staff be remunerated for this extra work. As the EHRC annual budget did not facilitate salary increases a decision was taken to pay these bonuses from opening cash reserves.

The PAC was disappointed that the bonuses were paid out during a roll over budget before the full year's budget was approved. It was also concluded that it was irresponsible of the Commission to draw down the opening reserves prior to knowing the budget allocation.

The Deputy Financial Secretary informed PAC of the former Social and Community Development Committee's (SCDC) intention to verify that the expenditure of the EHRC aligned to the Framework Agreement and the requirements of the Commission for Equality and Human Rights Ordinance.

PAC was pleased to hear the EHRC amended its cash reserve policy to state that the Commission should have as a minimum £6,000 available in its bank account.

PAC was disappointed to hear that funding amounting to £40,000 from the Conflict, Stability and Security Fund (CSSF) had been withdrawn as a result of the COVID-19 pandemic. PAC was however reassured to hear that the EHRC is considering bidding for these funds again. The Commissioners stated that a number of actions had been included in the 3 year rolling Strategic Plan which were linked to this funding. With the funding being withdrawn these actions could not be completed. Commissioners acknowledged that for the following action: 'Schools Policies to be reviewed to strengthen general equality and general diversity. Through diversity training with HR,' the commentary in the annual report stating that a lack of budget was the reason for this action not being completed is not correct.

Recommendations

In relation to its scrutiny of the Equality & Human Rights Commission Annual Report and Financial Statements for the financial year 2021/22, **PAC recommends that:**

1. SHG amend their policies or procedures to notify entities of their annual subsidy as soon as the SHG annual budget is approved in Legislative Council.

2. SHG undertakes an urgent full revision and update of the Framework Agreement. This should include detailed provisions to guide the Commission's budget submission process, allocate responsibilities to officials in SHG to ensure there is adequate feedback to the EHRC during this process and incorporate financial accountability provisions in line with both the Paris and Belgrade principles.
3. SHG must prioritise ensuring that the revised Framework Agreement is signed by EHRC by 31 March 2024.
4. EHRC prepare a time-bound Action Plan to meet the commitments in the Framework Agreement in liaison with SHG officials.
5. Commissioners ensure that expenditure and priorities are aligned with the approved budget submission and the accompanying business case.
6. Legislative Council should debate with EHRC their Strategic Plan and its programme of activities in relation to the annual budget in line with Section 1 B.8 of the Belgrade Principles; whilst not exerting financial control over the Commission in line with Section 2 under 'Composition and guarantees of independence and pluralism' of the Paris Principles.
7. The reserves should not be depleted by drawdowns prior to the appropriation of the budget for the subsequent year.
8. EHRC should maintain a tracker which monitors the progress made on recommendations issued in their published reports, which must also be discussed with the Chief Secretary in their quarterly meeting.
9. The Commissioners should prepare and publish a report following participation in the Commonwealth Forum of National Human Right Institutions. It should include the key actions identified for implementation and the specific assistance EHRC sought from the Forum.
10. SHG should ensure that the Housing Strategy takes into consideration the recommendations made in the EHRC Housing Report titled "A commentary on Housing and Human Rights on St Helena" which was issued in December 2021.
11. SHG prioritise verifying that the EHRC has utilised its budget in accordance with the requirements of the Framework Agreement and the Commission for Equality and Human Rights Ordinance.

3. Concluding Remarks

The Public Accounts Committee acknowledges the work of the Chief Auditor and staff of Audit St Helena in assisting with the production of this Sessional Report to Legislative Council. The Committee also thanks attending officers of the Equality & Human Rights Commission and St Helena Government for providing evidence in response to lines of inquiry.

This Sessional Report on PAC proceedings held on Thursday, 10 August 2023 is hereby authorised for issue to Legislative Council pursuant to Section 69(8) of the Constitution of St Helena, Ascension and Tristan da Cunha.



Mark Yon
Chairman

15 March 2024

