

## Human Rights Commission: PATI Information Statement

The Office of the Human Rights Commission is strongly committed to transparency and to best practices under the Public Access to Information Act 2010 (**PATI Act**). The PATI Act gives the public a right to access the records of public authorities. It supports the idea that public records should be considered a national resource. Throughout the world, public access to information laws help to strengthen democracies. These laws allow the public to know more about how and why public authorities do particular work or make certain decisions, and how public money is spent.

The PATI Act grants Bermudians and residents of Bermuda a legal right to access public records. Importantly, the PATI Act requires that if a request is made, the public authority may only refuse to turn over the record in specific circumstances set out in the Act. Otherwise, access to the information must be granted. A public authority does not have the freedom to deny access to public records unless the denial is permitted by one of the reasons listed in the PATI Act. The law strikes a balance between the public's right to know information and the public authority's need to keep some information confidential.

The PATI Act also makes more information from public authorities available to the public as a matter of routine. This information is either made public by the authority or the authority will grant access to it when requested.

The purposes of the PATI Act are specifically set forth under section 2 of the PATI Act as follows:

- a) give the public the right to obtain access to information held by public authorities to the greatest extent possible, subject to exceptions that are in the public interest or for the protection of the rights of others;
- b) increase transparency, and eliminate unnecessary secrecy, with regard to information held by public authorities;
- c) increase the accountability of public authorities;
- d) inform the public about the activities of public authorities, including the way they make decisions; and
- e) have more information placed in the public domain as a matter of routine.

The Office of the Human Rights Commission (**Commission**) provides this Information Statement to foster the public's awareness of the role and duty of Bermuda's National Human Rights Institution (**NHRI**) and to facilitate the public's access to records held by this office. The statement provides an overview as follows:

- Organisation structure;
- Governing legislation;
- Functions, powers, and duties of the Commission;
- Vision, mission, and core values;

- Description of complaint resolution process, education mandate and adjudicative functions;
- Classes of records held;
- Decision-making processes; and
- Public Access to Information arrangements including contact information for the persons designated to respond to requests.

Note that section 4(1)(b) makes the PATI Act inapplicable to records ‘obtained or created’ by the Human Rights Commission ‘in the course of carrying out’ its functions. This means that some records we hold will not be subject to PATI Act disclosure. These records include documents created or obtained throughout the intake screening process. These records are confidential, although a public hearing may be held, subject to the views of the Human Rights Tribunal, where a matter is referred for adjudication.

The Commission may not grant a request if it is:

- information which is exempt under Sec. 4(1)(b)(ii) of the PATI Act, or which is otherwise protected from disclosure;
- information that does not exist or cannot be found after all reasonable steps have been taken to find it;
- information that is not held, or which has been disposed of in accordance with privacy obligations and an authorized disposal schedule; and
- information which is in draft form.

The Commission’s general administrative records are subject to the PATI Act. Some of our general administrative records may be found on our website, [www.humanrights.bm](http://www.humanrights.bm), as they become available.

## Section A: Structure, Organisation and Legislation [s5(1)a]

### **Structure** (*see organisational chart*)

The United Nations Paris Principles (**Paris Principles**) require National Human Rights Institutions (NHRIs) to protect and promote human rights through complaint handling, education, outreach, the media, publications, training, capacity building, and advising the Government. The Paris Principles further prescribe the criteria, which must be met by NHRIs. NHRIs are State bodies with a constitutional and/or legislative mandate to protect and promote human rights. While they are part of the State apparatus and funded by the State, they operate and function independently from Government. The general role of NHRIs is to address discrimination in all its forms, as well as to promote the protection of civil, political, economic, social, and cultural rights.

The Office of the Human Rights Commission as the NHRI for Bermuda is one of the independent, Non-Ministry Offices with a responsibility to administer the Human Rights Act, 1981 (**Act**) in Bermuda. The Commission was transferred to a Non-Ministry Section in 2016, and our status as a Non-Ministry Office has bolstered the independence and neutrality of the Commission as Bermuda’s NHRI, which serves the public through the promotion and enforcement of human rights. Furthermore, the transfer strengthened

the Commission's ability to effectively fulfil its statutory mandate. The Commission plays a crucial role in promoting and monitoring the effective implementation of international human rights standards at the national level.

The Commission has a statutory remit to protect and promote human rights under the Human Rights Act, 1981. The Commission's mandate is to both educate and promote the principles of non-discrimination and to investigate and endeavour to settle allegations of discrimination. The Commission currently receives an operational grant from the Legislature in accordance with section 13(5) of the Act and is accountable for the administration of the Act to the Minister responsible for human rights.

The **vision** of the Commission is a Bermuda that honours human rights for all. The **mission** is to protect and promote human rights through education, collaboration, advocacy, and enforcement.

The 2023-24 Budget for the Human Rights Commission is \$1,347,268.00.

### **Commission**

The Executive Officer of the Commission is appointed by the Governor, acting upon the recommendation of the Public Service Commission. The Executive Officer is the Head of the Public Authority for the purposes of the PATI Act and has operational responsibility for the Commission. Under the Financial Instructions issued by the Ministry of Finance, the Executive Officer is the Accounting Officer and is solely responsible for the expenditure of the funds allocated to the Commission.

A body of five (5) to twelve (12) Human Rights Commissioners are appointed for terms not exceeding three (3) years by the Selection and Appointment Committee. The Office of the Commission is staffed by eight (8) full-time Public Officers.

### **Selection and Appointment Committee**

The Selection and Appointment Committee (**Committee**) is separate from the Commission. The Committee consists of five (5) members in total, comprised of the Head of the Committee, one (1) representative recommended by the Premier, one (1) representative recommended by the Leader of the Opposition, and two (2) representatives from the general public appointed by the Head of the Committee. The Committee recruits, selects and appoints individuals to serve on the Human Rights Commission as Commissioners and on a panel as members of the Human Rights Tribunal in accordance with the Act.

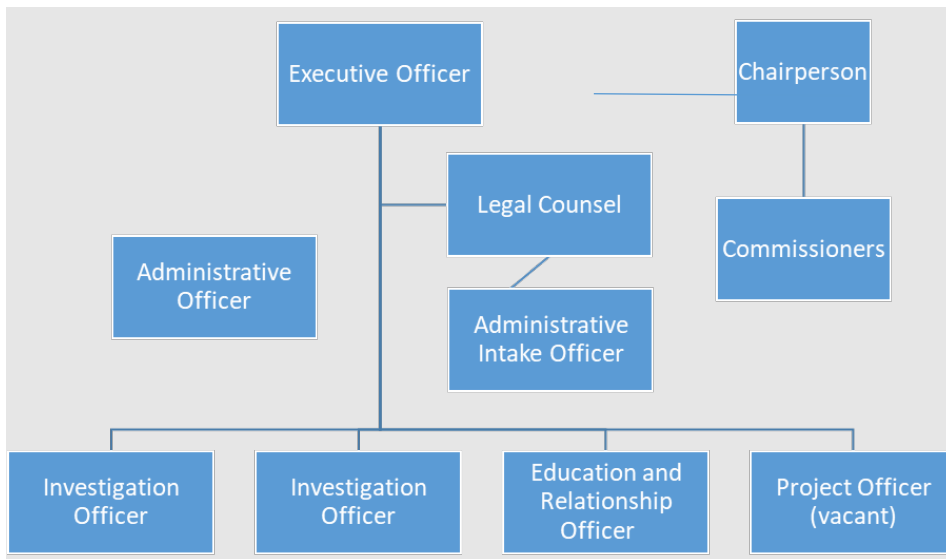
### **Human Rights Tribunal**

The Act stipulates that the Committee shall appoint a panel of not less than twelve (12) and not more than fifteen (15) individuals as follows to serve as members of the Human Rights Tribunal - not more than six (6) barristers and attorneys of not less than five (5) years' standing; and not more than nine (9) individuals with experience, interest in, understanding or knowledge of human rights law or human rights issues. Furthermore, the Committee appoints from the panel a Chairperson and a Deputy Chairperson

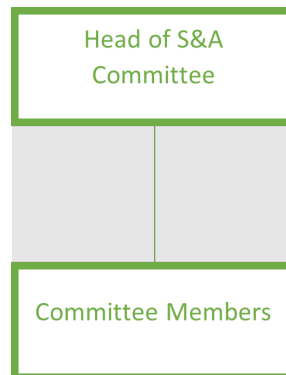
who are to hold office for a period of three (3) years and may be reappointed from time to time for a like period.

Matters referred to the Human Rights Tribunal for adjudication are empanelled by the panel Chairperson, who selects three (3) members from the panel to adjudicate a matter. The panel Chairperson selects from those three (3) members, one (1) to serve as the Chairperson of the empanelled tribunal. The empanelled tribunal has the power to determine whether the Act has been contravened and to impose penalties on non-compliant parties to complaints.

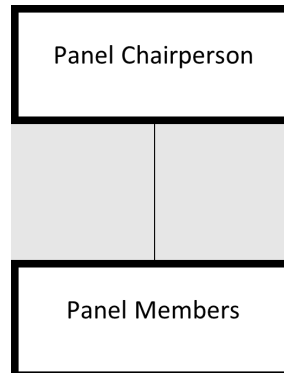
### Human Rights Commission - Organisational Chart



### Selection and Appointment Committee (Structure)



### Human Rights Tribunal (Structure)



### Governing Legislation

- Bermuda Constitution Order 1968
- Human Rights Act, 1981 (**Act**)
- Commissions of Inquiry Act 1935 (*sections 9, 10, 12 and 13*)
- Human Rights (Appeals) Rules 2018

(legislation available at [www.bermudalaws.bm](http://www.bermudalaws.bm))

### International Human Rights Instruments and Charters

- The Universal Declaration on Human Rights
- The European Convention on Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Convention on the Rights of the Child
- Convention on the Elimination of Discrimination Against Women
- Convention on the Elimination of Racial Discrimination
- Convention of the Rights of Persons with Disabilities

### Section B: 1) Functions, powers, duties of the Authority [s5(1)b]

The Human Rights Act, 1981 (**Act**) was enacted by the Bermuda Legislature in December 1981 and, shortly thereafter in early 1982, the Human Rights Commission was established to administer the Act.

As conferred by Section 14 of the Act, the functions of the Human Rights Commission are to:

- Encourage an understanding of the fundamental rights and freedoms of the individual guaranteed by Chapter 1 of the Constitution and of the principle that all members of the Community are of equal dignity, have equal rights and have an obligation to respect the dignity and rights of each other;
- Promote an understanding of, acceptance of and compliance with the Act;
- Develop, conduct research, and arrange educational programmes designed to eliminate discriminatory practices;
- Encourage organizations within the Community and individual persons to carry on activities which will attract all members of the Community whatsoever;
- Encourage and co-ordinate any activities which seek to forward the principle that every member of the Community is of equal dignity and has equal rights; and
- Use its good offices for the conciliation, mediation and settlement of any complaints or grievances arising out of acts of unlawful discrimination and, where in its opinion such good offices are inappropriate, institute prosecutions for contraventions of the Act.

## Section B: 2) Obligations under PATI Act [s5(1)b]

The Human Rights Commission shares the same general obligations under the PATI Act as all public authorities:

- To provide an information statement for the public and promulgate it [s5],
- To provide other information to the public so that the public needs only to have minimum resort to the use of the Act to obtain information [s6]. This includes:
  - General information, e.g., activities of the Authority
  - Log of all information requests and their outcome
  - Quarterly expenditure (upon request) [s6(5)]
  - Contracts valued at \$50,000 or more
- To respond to information requests in a timely manner [s12-16]
- To track information requests, and provide this data to the Information Commissioner
- To respond to requests from the Information Commissioner [s9]
- To amend personal information held by the Authority that it is wrong or misleading following a written request by the person to whom the information relates [s19]
- To conduct an internal review if formally requested [part 5]
- To give evidence for review by the Information Commissioner [part 6, 47(4)], or for judicial review [s49], if required
- To provide an annual written report to the Information Commissioner of the status of information requests [s58 (3)]
- To do anything else as required under the PATI Act and subsequent Regulations [s59, 60], including:
  - Fees for Requests for information
  - Management and maintenance of records
  - Procedures for administering the Act
- To train staff and make arrangements so as to facilitate compliance with the Act [s61]

- To designate one of its officers to be the person to whom requests are directed [s62]

### Section C: Services and Programmes [s5(1)c]

The Commission has a statutory remit to protect and promote human rights under the Human Rights Act, 1981. The Commission provides the following public services:

- Confidential facilitation of all queries and complaints that come before the Commission (services are free of cost). Members of the public may call (295-5859), email (humanrights@gov.bm), visit our site (www.humanrights.bm) or visit in person at our office (Milner Place, Ground Floor, 32 Victoria Street, Hamilton);
- Dispute resolution and voluntary mediation services for human rights complaints;
- Referral services
- Education and engagement with all stakeholders to promote understanding of the protections afforded under the Act, and Bermuda's human rights framework;
- Stakeholder consultations and education to support compliance with the Human Rights Act, 1981; and the,
- Administration of Human Rights Tribunals.

The Commission's Intake Screening Process can be found on our website, [www.humanrights.bm](http://www.humanrights.bm).

### Section D: Records and documents held [s5(1)d]

#### Classes of Records Held

Throughout the course of carrying out its statutory functions, the Commission creates and receives records from members of the public, organizations, stakeholders, the Government, and international NHRIs. Some of these records are obtained further to the confidentiality provisions within the Human Rights Act, 1981.

Records held by the Commission fall broadly into the categories described below. The listing of these categories does not necessarily mean that all documents are accessible in full or in part under the PATI Act. Among the document types referred to below, consists of records the authority expects to receive, records the authority currently holds, and records that are historic and no longer created. Furthermore, some of the records referred to may cease to be held by the authority following the publishing of our Information Statement, to ensure our compliance with privacy laws. Where this is the case, the authority's Information Statement will be updated to ensure an accurate portrayal of records held.

#### Document Types

The types of documents held by the Commission include:

- Annual budget records
- Annual reports

- Complaint Management records
- Documents relating to the statutory functions of the Commission
- Documents relating to the statutory functions of the Human Rights Tribunal
- Documents relating to the statutory functions of the Selection and Appointment Committee
- Financial records
- Human resource records
- Human Rights Tribunal Judgments
- Intake Form
- Intake Statistics
- Investigation Statistics
- Legal records
- Media Statements
- Minutes
  - Meetings of Commissioners
  - Team Meetings
- Operational files
- PATI Act Request Disclosure Log
- Policies/procedures
- Public awareness/educational records
- Register of Interests
- Quarterly expenditure reports

The following types of documents are publicly available at the Offices of the Commission upon request:

- Annual budget records
- Annual reports
- Human Rights Tribunal Judgments
- Intake Form
- Intake Statistics
- Investigation Statistics
- Media Statements
- PATI Act Request Disclosure Log
- Quarterly expenditure reports
- Register of Interests

#### **Section E: Administration (all public access) manuals [s5(1)e]**

The following manuals are used by the Commission to guide its processes:

- Financial Instructions
- Bermuda Public Services Union Collective Bargaining Agreement
- Civil Service Conditions of Employment and Code of Conduct
- Public Service Commission Regulations



## Section F: Decision-making documents [s5(1)f]

The Human Rights Act, 1981 and associated Commission policies outline the functions and jurisdiction of the Commission and also establishes decision-making protocols to be followed by members of the Commission (together with the documents referred to in Section E).

## Section G: The Information Officer [s5(1)g]

In accordance with the PATI Act, applications for access to information must be made in writing to the public authority that holds the records. The Commission's PATI Information Officer ("PIO") is responsible for validating and processing all PATI requests received by requesters. The PIO will liaise with the requester, relevant decision maker or internal reviewer and third parties, in order to process requests in accordance with the PATI Act.

The Commission's PATI Information Officer is Ms. Sara Clifford, Education Officer. Applications may be submitted in the following ways:

**In person:** Human Rights Commission, Milner Place, Ground Floor, 32 Victoria Street (opposite Sears), Hamilton, Bermuda.

**By post:** Human Rights Commission, P.O. Box 734, Hamilton, HM CX, Bermuda.

**By email** at [humanrights@gov.bm](mailto:humanrights@gov.bm). Please include "PATI Request" in the subject line.

### **Process to Request Information Through PATI**

Pursuant to Section 13 of the PATI Act, the request must:

- Be made in writing to the authority that holds the record;
- Identify the record or contain sufficient information to enable the authority to identify the record;
- Specify the form or manner the requester wishes to be given access.

Once a request is received and validated, an acknowledgement letter will be sent to the requester acknowledging receipt of the application and that an Information Officer will process the request in accordance with the PATI Act.

The Office of the Information Commissioner's website also details the process for making a PATI request: [How to Make a PATI Request – Information Commissioner's Office \(ico.bm\)](https://www.ico.bm)

### **Reasonable Accommodation and PATI**

The Commission is committed to ensuring inclusive organizational practices. Please advise if you require any form of reasonable accommodation to enable your participation in the request for information process.

### **Section H: Any Other Information [s5(1)h]**

As new policies, procedures, guidelines and other information for the Commission are approved and adopted, they will be posted on the Commission's website, [www.humanrights.bm](http://www.humanrights.bm).

### **Fees and Charges**

The purpose of this Information Statement is to make the maximum amount of information readily available at minimum effort and cost to the public. There is no charge to the public for requesting information under PATI, however there may be costs to reproduce documents pursuant to the Government Fees Regulations 1976.

### **Rights of Review**

If you are dissatisfied with the response received, the PATI Act provides requesters with the right to appeal a decision via an internal review and external review process. In accordance with Part 5 of the PATI Act, internal review applications should be made to the Executive Officer within twenty-eight (28) days after the date of the initial decision or any failure by the authority to respond.

Upon receiving such application, the Executive Officer will complete the review and notify the requester of the decision, reasons for the decision, and if necessary, notice of the requester's right to apply to the Information Commissioner for an external review of the Executive Officers decision in accordance with Part 6 of the PATI Act.

### **Section I: Information Statement: Copies and Updates [s5(2,3,4,5)]**

Every public authority shall update its Information Statement at least once a year, and make it available for inspection by the public at reasonable times by [s5(1-5), PATI Act]:

**Date Information Statement was updated:** [*December 15, 2023*]

**Locations of Information Statement:**

*Confirm copies of Information Statement are available at the following sites:*

Office of the Human Rights Commission	Yes
The Bermuda National Library	Yes
The Bermuda Archives	Yes
Available electronically	Yes
Independent website for public authority ( <a href="http://www.humanrights.bm">www.humanrights.bm</a> )	Yes

Have you published a notice in the Gazette indicating the places where the information statement is available for the public? Yes

With the Information Commissioner. Yes

**Sign and Date:**



**Lisa M. Reed, Executive Officer**

**December 15, 2023**