

## Human Rights Commission: PATI Information Statement

The Public Access to Information Act, 2010 (“PATI Act”) grants Bermudians and residents of Bermuda 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. The PATI Act seeks to strike a balance between the public’s right to know information and the public authority’s need to keep some information confidential.

Additional 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 manner in which they make decisions; and
- e) have more information placed in the public domain as a matter of routine.

In creating a right of public access, pursuant to the provisions of Section 5(1) of the PATI Act, the legislation requires each public authority to make available details about the kind of information it holds and provide information as to how they may be accessed by preparing an information statement.

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 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.

### **PATI Exemptions and Information That May Be Withheld**

Pursuant to Section 4(1) of the PATI Act, the PATI Act does not apply to records relating to the exercise of judicial or quasi-judicial functions by any court, tribunal, or other body or person or records obtained or created in the course of the Commission carrying out its statutory functions.

The Commission may not grant a request if it is:

- information which is exempt under Sec. 4(1)(b) 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 a legally authorized disposal schedule; and
- information which is in draft form.

When a request for information is not permitted, the requester will be informed with an explanation of the decision and, as well, information on how to request a review of the decision.

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

The Office of the Human Rights Commission (**Commission**), is a Non-Ministry Office with responsibility for the administration of the Human Rights Act, 1981 (**Act**) in Bermuda.

### **Vision**

The Commission envisions a community that honours and protects human rights for all. The **MISSION**, as the National Human Rights Institution for Bermuda, is to eliminate discrimination through advocacy, education and enforcement.

### **Role**

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.

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

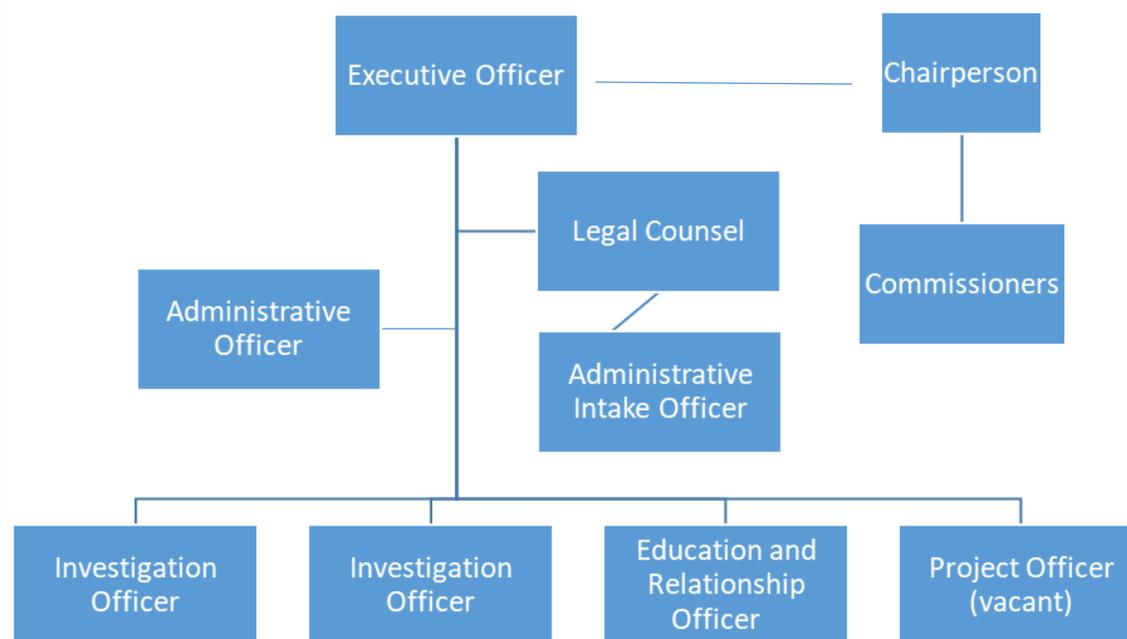
The Commission was transferred to a Non-Ministry Section in 2016 to establish the public's direct access to the resolution of human rights complaints. This transfer also bolstered the independence and neutrality of the Commission as a National Human Rights Institution (NHRI) and strengthened the Commission's ability to effectively fulfil its statutory mandate. The Commission currently receives an operational grant from the Government of Bermuda and is administratively accountable to the Minister responsible for human rights.

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 also the Accounting Officer and is therefore solely responsible for the expenditure of the funds allocated to the Commission.

A body of up to twelve Human Rights Commissioners are appointed for terms not exceeding three years by the Selection and Appointment Committee. The Selection and Appointment Committee exists separately from the Commission, selecting and appointing Human Rights Commissioners pursuant to independent processes external to the Commission. The Office of the Commission is further staffed by eight full-time Public Officers.

The working relationship between the Executive Officer and the Chairperson of the Commission is a constructive partnership which enables interdependence and a culture of shared responsibility, while providing distinct lines of decision-making and authority. The Executive Officer has the statutory power to investigate complaints, collect evidence, and determine whether a complaint is without merit or falls outside of the jurisdiction of the Commission. The Executive Officer is also responsible for referring complaints to a Human Rights Tribunal (“Tribunal”). The Tribunal will only hear a complaint once it has been referred to a Tribunal by the Executive Officer and the established 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



### Governing Legislation

- Bermuda Constitution Order 1968
- Human Rights Act, 1981 (“Act”) (*available at [humanrights.bm](http://humanrights.bm) or [bermudalaws.bm](http://bermudalaws.bm)*)
- Commissions of Inquiry Act 1935 (*sections 8 – 13*)

### **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 International and Political Rights
- Convention on the Rights of the Child
- Convention on the Elimination of Discrimination Against Women
- Convention on the Rights of Persons with Disabilities
- Convention on the Elimination of Racial Discrimination

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

The Human Rights Act, 1981 was enacted by the Bermuda Legislature in December 1981 and, shortly thereafter in early 1982, the Human Rights Commission was established to administer the Human Rights 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 C: Services and Programmes [s5(1)c]**

The Human Rights Commission works with individuals, organisations, industries, schools, community groups, the Government of Bermuda and the public at large to promote understanding of human rights and their rights and responsibilities under the Act. To that end, the Commission provides the following services:

- Fair and timely investigations of complaints of discrimination or harassment;
- Education about the Act;
- Complaint resolution by way of conciliation and mediation;
- Training and education about human rights, anti-discrimination practices and complaint mechanisms; and,

- Referral of human rights complaints for formal adjudication before a Tribunal.

### **Core Values**

The Officers of the Commission hold these values as the foundation of their performance and conduct. The Officers act in a manner that prioritizes fairness, confidentiality, effectiveness, courage, personal responsibility and accessibility.

The Commission is committed to:

- Building organisational capacity in order to perform as a modernised regulatory body ensuring that complaints are dealt with swiftly and fairly;
- Providing educational information to the public to ensure that all segments of the community are knowledgeable about human rights issues and, as well, are empowered to seek redress where offences may have occurred; and
- Creating meaningful partnerships with stakeholders to advance equality and human rights in Bermuda.

The Commission's strategic priorities are to:

- Maximize the protection of human rights;
- Provide impactful awareness and education;
- Demonstrate operational excellence; and
- Increase knowledge and capacity.

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

### **Classes of Records Held**

The Commission creates and receives a large number of documents and records in the course of carrying out its functions. Documents held by the Commission fall broadly into the categories described below. The listing of these categories does not necessarily mean all documents are accessible in full or in part under the PATI Act. Some of the documents listed are historic and are no longer created.

### **Document Types**

The types of documents held by the HRC include:

- Annual reports
- Financial records
- Complaint and Inquiry records
- Operational files containing correspondence, memoranda, etc.
- Documents relating to the functions of the Commission and its statutory authority
- Legal documents including legal advice, documents filed in courts and Tribunals, contracts and correspondence with parties to a complaint
- Minutes of meetings of the Commissioners

- Minutes of team meetings
- Human resource records and files relating to the employees of the Commission
- Policies and procedures
- Research reports, including surveys, research material and statistical data
- Tribunal files
- Tribunal Judgments

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

- Annual budget and quarterly expenditure reports
- Annual reports
- Public awareness and educational materials
- Forms including those to process complaints
- Intake and investigation statistics
- Media statements
- PATI Act Request Disclosure Log
- Tribunal Judgments
- Register of Interests for the Executive Officer

#### **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 and Relationship Officer.

Applications may be:

<p><b>Submitted in Person</b> Human Rights Commission Milner Place, Ground Floor 32 Victoria Street (opposite Sears on Victoria Street) Hamilton HM12 Bermuda</p>	<p><b>Submitted By Post</b> Human Rights Commission PO Box 734 Hamilton, HM CX Bermuda</p>	<p><b>Submitted By Email</b> <a href="mailto:humanrights@gov.bm">humanrights@gov.bm</a></p> <p>Please include "PATI Request" in the subject line.</p>
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### 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.

### Reasonable Accommodation and PATI

The Commission is committed to providing inclusive access to educational opportunities to learn about human rights and to facilitate the resolution of human rights complaints. Pursuant to Schedule 1 of the Act, the Commission offers reasonable assistance when requested to applicants with disabilities. Where a requester has asked that the information provided be in an accessible format, the Commission will make reasonable attempts to honour that request.

## 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 28 days after the date of the initial decision.

Upon receiving such application, the Executive Officer will complete the review and notify the requester of the decision, reasons for the decision, and 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:** [*January 7, 2021*]

**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***      ***January 8, 2021***