

# HOUSE OF KEYS OFFICIAL REPORT

RECORTYS OIKOIL  
Y CHIARE AS FEED

## PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 5th February 2019**

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**Present:**

The Speaker (Hon. J P Watterson) (Rushen);  
The Chief Minister (Hon. R H Quayle) (Middle);  
Mr J R Moorhouse and Hon. G D Cregeen (Arbory, Castletown and Malew);  
Hon. A L Cannan and Mr T S Baker (Ayre and Michael);  
Hon. C C Thomas and Mrs C A Corlett (Douglas Central);  
Miss C L Bettison and Mr C R Robertshaw (Douglas East);  
Hon. D J Ashford and Mr G R Peake (Douglas North);  
Hon. W M Malarkey (Douglas South);  
Mr M J Perkins and Mrs D H P Caine (Garff);  
Hon. R K Harmer and Hon. G G Boot (Glenfaba and Peel);  
Mr W C Shimmins (Middle);  
Mr R E Callister and Ms J M Edge (Onchan);  
Dr A J Allinson and Mr L L Hooper (Ramsey);  
with Mr R I S Phillips, Secretary of the House.

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## House of Keys

*The House met at 10.00 a.m.*

[MR SPEAKER *in the Chair*]

**The Speaker:** Moghrey mie, good morning, Hon. Members.

**Members:** Moghrey mie, good morning, Mr Speaker.

5

**The Speaker:** I call on the Chaplain to lead us in prayer.

### PRAYERS

*The Chaplain of the House*

### Leave of absence granted

**The Speaker:** Hon. Members, leave has been granted this morning to Mrs Beecroft, who is still unwell, and to Mr Skelly who is at an e-gaming conference. Mr Malarkey will join us as soon as he possibly can.

## 1. Questions for Oral Answer

### TREASURY

#### 1.1. Procurement process – Weighting for Manx companies

The Hon. Member for Onchan (Ms Edge) to ask the Minister for the Treasury:

*What weighting is afforded to Manx companies during the procurement process?*

10 **The Speaker:** We turn then to Item 1 on our Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

15 I would like to ask the Minister for the Treasury what weighting is afforded to Manx companies during the procurement process?

**The Speaker:** I call on the Minister for the Treasury to reply.

**The Minister for the Treasury (Mr Cannan):** Mr Speaker, the Isle of Man Government procurement policy is published on the Government website and sets out the objectives Departments, Boards and Offices must follow before undertaking any procurement process. No specific weighting is afforded to Manx companies, but the policy does specify that best value is to be achieved. In doing so, Departments consider the benefit to the local economy and social value as appropriate. This may include how the process can help to promote business and employment sustainability and whether the local community will benefit from a contract being awarded to a local company. This, however, should be balanced against the need to achieve overall best value for the public purse and must not become an at any cost approach.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I just wonder if the Treasury Minister could confirm is he aware if it is a set percentage for the benefits to the economy and the local benefits with regard to that within any specification? Obviously I am aware that the specifications are drawn up by the AGs, but if there is a percentage link to that?

Also would he consider reviewing the policy to look at whether there could be a possible weighting for local companies, which is the process of some other jurisdictions?

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, weighting is applied depending on the circumstances, but I would point out to the Hon. Member that in July 2017 Tynwald did universally approve a new procurement policy that this Government set out to redefine and set out within it the types of considerations that should be applied to procurement exercises when being undertaken by Departments. I would remind both her, this Hon. House and indeed the Government, that the purpose of the procurement policy was to ensure that the procurement activity is focused on best value for the public purse, whilst ensuring that Government's purchasing power is used to spend locally wherever possible and that the policy clearly and unequivocally set out our commitment to consider local economic benefits, social value and environmental and sustainability considerations when awarding contract decisions and that, I very much hope and trust, is being applied by the procurement officers and their Departments when they consider the procurement activities that they are undertaking.

**The Speaker:** Supplementary question, Chief Minister, Mr Quayle.

**The Chief Minister (Mr Quayle):** Thank you, Mr Speaker.

Would the Member for Michael and Ayre not agree with me that whilst supporting local produce and business on the Isle of Man has obviously a multiplier effect and it is absolutely key to business, it cannot be a blank cheque? And I say this as one of the founders of the 'I Love Manx' campaign, so hopefully my pedigree on supporting local items is well founded, but it cannot be a blank cheque.

**Mr Thomas:** Hear, hear.

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, thank you, I thank the Chief Minister for his comments.

I absolutely agree there are no blank cheques and procurement is not at any cost but I do think that the procurement policy sets out to try and achieve best value for the public purse and the local economy by trying to ensure that we are taking into account the benefits that would arise from using local produce and local businesses wherever possible.

70 **The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

Previously, prior to the policy coming in – which I appreciate is far better than what was in place previously – but there was always direction that if the contract value was within 15% it was actually that the local company were awarded it if the 15% was going to stay on the Island.

75 I think the other concern that I have got is particularly with construction contracts that are awarded, that there could be an advantage if people are not applying the same directions for construction companies if it is awarded to a UK company. I do have a few concerns around that but I just wonder if the Minister could confirm whether there is a plan to review, because it has  
80 been in since 2017, or whether it would be part of an audit process?

**The Speaker:** Treasury Minister to reply.

**The Minister:** Mr Speaker, I am not aware of any significant issues, and there will always be  
85 some circumstances, I think, which are not entirely satisfactory, perhaps to local politicians or national politicians I might suggest. And it is not always a black-and-white picture for officers when deciding the weighting of these procurement activities and deciding on the ultimate award of such contracts.

Nevertheless, I am happy ... although I will take this opportunity at this point to speak to the  
90 relevant senior officers who are conducting the procurement at the moment to try and understand a little bit more about whether there are any issues in the awarding of contracts or whether there are some improvements that could be made. And, obviously, if the Hon. Member has a particular circumstance that she has in mind or is able to provide some guidance as to some specific improvements, then that would be most welcome.

### **1.2. Persons contractually required to retire at 65 – Support where unable to claim pension until 66**

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

*What support is available for those who are contractually required to retire at 65 but who now cannot claim state retirement pension until they are 66?*

95 **The Speaker:** I turn to Question 2 and I call on the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

I would like to ask the Minister for the Treasury what support is available for those who are contractually required to retire at 65 but who now cannot claim state retirement pension until  
100 they are 66?

**The Minister for the Treasury (Mr Cannan):** Mr Speaker, to be clear with Hon. Members, the state pension age for both men and women has only just started to increase from the age of 65. It will gradually increase from 65 to age 66 between now and October 2020.

105 The protected characteristics of age under the Equality Act 2017 will come into operation on 1st January 2020 so that by the time the state pension age has reached 66 it will be unlawful for an employer to dismiss any employee of theirs on the grounds of their age unless the dismissal can be objectively justified. An employee dismissed on these grounds would have the right of complaint to the Employment and Equality Tribunal, which was established on 1st January this  
110 year.

It is possible that some employees may be compulsorily retired before they are eligible to claim their state pension and before the new protection against age discrimination comes into force. Such persons may be eligible to claim Jobseeker's Allowance if they are fit and available for work or incapacity related benefits if they are not capable of work, and/or other benefits which may be available to them depending on their circumstances.

In the event that someone has been contractually retired before they can claim their state pension I would urge them to attend the Social Security employment advisers to seek advice on short-term work opportunities, Jobseeker's Allowance and other benefits that may be available.

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

I would like to thank the Treasury Minister for very clearly articulating both the problem and the fact that it should not be a problem from 1st January 2020.

My second question for the Minister is: obviously when the state pension age was decided – that it would gradually increase this year – was this potential gap considered by Treasury? Obviously there are going to be some people who are now falling between the rafters, as it were, retiring at 65 but not being able to claim their state pension until they reach 66.

Even though it is a gradual increase, the Treasury Minister has identified there may be people that already fall in that gap. So was this gap considered by Treasury when they proposed the increase?

**The Speaker:** Treasury Minister to reply.

**The Minister:** I think like everything, Mr Speaker, many of these changes are an ever-moving feast and are planned often many years in advance and, as you know, the changes to state pension age have been on the cards for some considerable time.

I think we need to be proportionate about if there are individuals who may be falling through the cracks. Certainly that will not be the case, I understand, for Isle of Man Government employees; I understand there may be one or two potential isolated cases within local government; and as far as I am aware these types of cases have not been brought to my attention from the private sector. So in actual fact there is only one particular case and circumstance that has been brought to my attention.

I accept this is not a perfect scenario. I would obviously ask the Hon. Member to consider that this is a gradual process and that actually I would urge employers to take a reasonable view where they have employees on contracts that require them to retire at 65, given the changing circumstances of the state retirement age and given the forthcoming new legislation that will be in place from 1st January 2020.

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker, and I thank the Treasury Minister again for that answer.

Can I just ask the Treasury Minister to confirm then what his Department's advice is? I know he mentioned earlier that anyone that finds themselves in this situation and they feel they may be facing financial difficulty should contact the benefit office, but I would just be grateful if he could just confirm what his Department's advice would be to anyone that finds themselves falling in that gap.

**The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, everybody's circumstances are different. As I have just said, I think our view would be to do everything we can to help somebody in a reasonable manner in terms



of either trying to assist them in getting some short-term work, which is not ideal circumstances, I appreciate that, but to try to help them through that period and if necessary to support them through the benefit system in whatever way we can do so.

**The Speaker:** Supplementary question, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

Would the Treasury Minister agree with me that it would be good practice for people who might have compulsory retirement ages in their retirement policy to review them as soon as possible?

**The Speaker:** Minister to reply.

**The Minister:** I would absolutely support that comment.

### **1.3. Procurement process – Weighting criteria for local supplies**

The Hon. Member for Onchan (Ms Edge) to ask the Minister for the Treasury:

*What criteria are utilised for the weighting of local supplies in the procurement process?*

**The Speaker:** We turn to Question 3 and I call on the Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I would like to ask the Treasury Minister what criteria are utilised for the weighting of local supplies in the procurement process?

**The Speaker:** I call on the Treasury Minister to reply.

**The Minister for the Treasury (Mr Cannan):** Thank you, Mr Speaker.

I would refer the Hon. Member to my Answer on the first Question asked this morning: there are no specific criteria utilised when determining the weighting of local supplies during any procurement process. It is the responsibility of the Departments, Boards and Offices to recognise the social value and local economic benefits when making a determination on a quality assessment. Although the policy states social value is about looking beyond the price of each individual contract again, as previously stated, this must not be an at-any-cost approach otherwise we would not be observing the value-for-money objectives.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

Obviously numerous times we have had it raised in here about using Manx produce in our schools for school meals, or at the Hospital. I am just a bit concerned that there is actually specification going into some of these contracts to say use local produce, which is flying in the face of the actual policy.

So I am just wondering: there are obviously elements within a policy somewhere that we can state that for supplies, but we do not seem to be able to do it for the Manx companies for contracts.

205 **The Speaker:** The Minister to reply.

**The Minister:** Well, as I said earlier, Mr Speaker, if the Hon. Member has a very specific example that she would like me to look at I am very happy to do that. I gave a commitment in my first Answer that I am happy to take a breath at this stage and go and review, with the senior officers, the progress of the procurement policy; and as a result of that review I will look to see whether there are any improvements that need to be made.

But I would of course welcome specific examples, and it is always helpful at least to understand where local produce might be supplied versus where it is being supplied by or through an overseas producer.

## HEALTH AND SOCIAL CARE

### 1.4. Capacity legislation – Introduction into the Branches

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Health and Social Care:

*When he intends to introduce capacity legislation into the Branches?*

215 **The Speaker:** Question 4, and again I call on the Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I would like to ask the Minister for Health and Social Care: when he intends to introduce capacity legislation into the Branches?

220

**The Speaker:** I call on the Minister for Health and Social Care to reply.

**The Minister for Health and Social Care (Mr Ashford):** Thank you, Mr Speaker.

225 Draft Capacity Bill policy proposals, including a statutory framework to address Article 5 of the European Convention on Human Rights in respect of deprivations of liberty regarding persons who lack capacity to consent, have been developed by legislative officers of the Department. However, Hon. Members should note that a Mental Capacity (Amendment) Bill has been introduced into the Westminster Houses of Parliament. The purpose of that Bill is to amend the UK Mental Capacity Act 2005, reforming the process of authorising arrangements that enable care or treatment of people who lack capacity to consent to the arrangements which give rise to deprivation of liberty. The Public Bill Committee has now completed its work in Westminster and will have its Report Stage and Third Reading on a date to be announced.

230 While the policy work in our Department on the draft Mental Capacity Bill considered the proposed Mental Capacity (Amendment) Bill compiled by the Law Commission of England and Wales, the Bill actively under consideration in the UK has notable variations from the revision proposed by the Law Commission. Before our own Capacity Bill is progressed further, consideration will need to be given to the final version of the legislation approved by the UK Parliament. I expect that work will recommence on our Capacity Bill in April or May this year.

240 **The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Sorry, I am not sure I heard the Minister say when the UK final version is expected – if he could just confirm that, please.

245 **The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

As I said in the original Answer, it is yet to be announced. In the UK Parliament in Westminster it is now within the House of Commons, with the Bill having started in the House of Lords. The House of Commons completed its Committee Stage proceedings on 22nd January and it is now moving to Report Stage on a date yet to be announced. For those who think legislation can be slow going through this place, if you look across the water it can be an awful lot slower, but we are expecting that it will have completed both Report Stage and Third Reading and have had any consideration again of amendments before April, which is why I expect we will then recommence work on our Bill in April or May.

**The Speaker:** Supplementary question, Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

I would like to thank the Minister for his reply. Could he confirm that the planned legislation coming through in the Isle of Man will also deal with some problems with power of attorney, both in terms of invoking the power of attorney but also drawing up in the first place?

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

I have dealt with a couple of issues in relation to constituents on this very matter, so I know it is an area that needs to be clarified and it is something that would fall within the scope of the Bill.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thanks, Mr Speaker.

Could I just ask the Minister: he said they will commence work from about April 2019 on this legislation again – that is commencing within the Department? The original Question was when will it be introduced into the Branches – if he could give some indication, I would appreciate it.

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

As I said in Tynwald at the last sitting in relation to the Social Affairs Policy Review Committee Report into Mental Health, it is a priority for the Department. If we recommence work in April or May, we have already got the framework, we would then have to look at other legislative provisions, because we have still got the schemes to come back in place. At the moment in the Programme for Government this piece of legislation is down for completion before the end of the administration, but it is a priority for me, so I would say if we recommenced work in April or May I would want to see it into the Branches as soon as practicably possible. It is the legislative priority, in terms of Bills, for the Department as far as I am concerned.

**INFRASTRUCTURE**

**1.5. Speed limits –  
Consulting local communities**

The Hon. Member for Middle (Mr Shimmins) to ask the Minister for Infrastructure:

*How he consults with local communities when considering what speed limits are appropriate in their areas?*

**The Speaker:** Question 5 and I call on the Hon. Member for Middle, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

I would like to ask the Minister for Infrastructure how he consults with local communities when considering what speed limits are appropriate in their areas?

**The Speaker:** I call on the Minister for Infrastructure to reply.

**The Minister for Infrastructure (Mr Harmer):** Thank you, Mr Speaker.

It is perhaps important to note at the outset that the determination of appropriate speed limit at a given location is not *political* determination but one made by appropriately qualified and experienced officers who are supported by appropriate policy and guidance.

When the Department's Highway Services Division receives a request for a change or the introduction of a speed limit from a Member of Tynwald, a local resident or a local authority, the request is assessed against this Department's Speed Policy and Guidance. The Department also reviews accident statistics from around the Island and investigates those locations and routes as a routine matter of priority. These investigations can lead to the consultation process that I have just outlined.

If the proposal for changing or for introducing a speed limit meets the criteria set within the policy, officers then consult with the Police, the local authority and the residents. If there is support for the change the proposed Speed Limit Order is advertised in the media allowing the public to consider and comment on the proposed Speed Limit Order. Based on the feedback received during those consultations the Department approves or rejects the speed limit proposal.

**The Speaker:** Supplementary question, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker, and I am grateful to the Minister for his reply.

He indicated it is not a political matter. Can he please advise who sets the policy and guidance?

**The Speaker:** Minister to reply.

**The Minister:** Obviously the policy is within the Department and we will also be working with the Road Safety Strategy – that is going to be an important consideration as we deliver the policy.

**The Speaker:** Supplementary question, Miss Bettison.

**Miss Bettison:** Thank you, Mr Speaker.

330 We heard at length about the Road Safety Strategy recently, which was very much about an evidence-based approach. Yet the Minister has just outlined an approach where there is a lot of opportunity for feedback and the decision would be made based on the feedback.

I wonder if we could have clarity because if it is very much about evidence based, actually that would have to be our default position.

335 **The Speaker:** Minister to reply.

**The Minister:** It is absolutely evidence based, but when a change is made obviously there is a consultation process that we go through and it is important to go through that consultation process.

340 **The Speaker:** Supplementary question, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

345 Acknowledging the evidence-based approach, is the Minister aware that a number of my constituents who are concerned about the speed limits where they live, outside their homes, feel that they are not being listened to? Will he come with me to meet my constituents to see the situations, look at the evidence and consider what can be done?

350 **The Speaker:** Minister to reply.

**The Minister:** Mr Speaker, absolutely he will do that.

**The Speaker:** Supplementary question, Miss Bettison.

355 **Miss Bettison:** Thank you.

I wonder if the Minister could just give reassurance that when the consultation process is engaged with, there is expectation management undertaken within that, that if the evidence does still clearly point to one thing then it is likely that will be the outcome.

360 **The Speaker:** Minister to reply.

**The Minister:** Yes, obviously.

365 I mean, the key thing is evidence but obviously we have a process to go through and we will consult, and as part of that consultation more evidence may come up and so it is important to do that.

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker.

370 Will the Minister just confirm that when he is going through this consultation process that some consideration is given to the availability of enforcement resources? I am sure the Minister would agree that his Department is doing an absolutely excellent job in slowing traffic by the poor maintenance quality of some of our roads, but I am sure he would agree that actually without proper road traffic enforcement there is no point bringing in new or lower speed limits?

375 **The Speaker:** Minister to reply.

**The Minister:** Just to take issue with the first point, obviously this year we have been able to do a lot more in maintenance but obviously there is a long way to go. And regarding the second

380 point: obviously enforcement is a key issue and that is why we work with our road safety partners, to have a considered approach.

**1.6. Car parking –  
Publication of detailed study for Douglas**

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Infrastructure:

*When the outcome of the detailed parking study for Douglas, outlining the future requirements for parking across the capital, will be published?*

**The Speaker:** Question 6, I call on the Hon. Member for Douglas East, Miss Bettison.

**Miss Bettison:** Thank you.

385 I would like to ask the Minister for Infrastructure when the outcome of the detailed parking study for Douglas, outlining the future requirements for parking across the capital, will be published?

**The Speaker:** I call on the Minister for Infrastructure to reply.

390

**The Minister for Infrastructure (Mr Harmer):** The Department is currently working on a parking strategy for Douglas and Onchan, which it expects to publish during this summer.

**The Speaker:** Supplementary question, Miss Bettison.

395

**Miss Bettison:** Thank you.

I wonder if the Minister might be able to comment on what work has gone on with third party operators in light of announcements such as that of Douglas Borough Council relating to charging for parking at weekends? So although the parking strategy is not yet published we are seeing some key changes within parking provision, cost and availability already.

400

**The Speaker:** Minister to reply.

**The Minister:** Just to flesh a little bit of detail of where we are with our timetable: at the moment stage 1, production of a high level evidence base, is complete; stakeholder engagement is currently underway and we hope to complete by the end of March, so we are in that process of stakeholder engagement. Production of a parking strategy we hope to complete in June 2019.

405

Obviously Douglas Borough Council run car parks and they have to run them as they see fit. The parking strategy will look at the availability, it will talk with stakeholders and it will look to see what parking requirements are needed.

410

**The Speaker:** Supplementary question, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

415 Would the Minister agree that Douglas Promenade should be a gem of our Island, where our children can play and where people can walk, run and cycle? And what would he say to those people who despair when they see it, once again, turned into a parking lot?

**The Speaker:** Minister to reply.

420

**The Minister:** Thank you.

There is another Question about temporary parking arrangements so I do not know whether to address that then.

425 But, in essence, the vision that we have for the prom is a vision of Tynwald, it is our vision for the promenade and incorporates all of those amazing aspects of heritage, of people walking, cycling, of space in the context of public space. But it will take us two years to get to that vision. And, as I said, whilst we are getting to that vision I would just urge people to be patient, to accept that there will need to be inconvenience and in that respect where there is loss of parking we have provided temporary parking, but I know that is an answer for another Question.

430 But in answer to the Member, the vision is absolutely ... it is not all about parking. The next 20 years will see a revolution in car and travel technology and the Isle of Man has to be ready for this change and obviously the parking strategy has to address this. So we are looking at a holistic approach that brings together the needs of residents, commuters, shoppers, businesses and our aspirations to move creating a better place in which to live, where pursuing an active lifestyle is made practical and enjoyable.

435

**The Speaker:** Supplementary question, Miss Bettison.

**Miss Bettison:** Thank you.

440 I wonder if the Minister could say when the detailed parking study process was started – if stage 1 has only just been completed and we have only just moved on to stage 2 – so when was that process commenced?

**The Speaker:** Minister to reply.

445

**The Minister:** It was commenced in December last year. There have also been a number of other engagements. As I say, we have already met with some partners such as NCP and so forth.

**The Speaker:** Supplementary question, Mr Thomas.

450

**Mr Thomas:** Thank you, Mr Speaker.

Does the Minister agree with me that, given he is taking a holistic approach to car parking, that we need to look at off-street and on-street and it would be wrong to talk with people who are operating car parks just about the silo of their operation of car parks, and we need to have a holistic approach about the whole of parking in Douglas?

455

**Mr Robertshaw:** Hear, hear.

**The Speaker:** Minister to reply.

460

**The Minister:** I absolutely agree and it is absolutely right to look at the strategy and look at the holistic process, I completely support that. Also in terms of how we build space on the promenade, for example, but also use multi-storey car parks and so forth. So we have to look at the whole thing across the board.

465

**The Speaker:** Final supplementary, Miss Bettison.

**Miss Bettison:** Thank you.

470 Just to get some clarity. In January 2018 the Minister said the Department was already undertaking a detailed study but he has just implied that was started in December 2018, so did he mean 2017 or did we take 14 months to achieve part 1 of the process?

Thank you.

**The Speaker:** Minister to reply.

475 **The Minister:** Thank you.  
I can come back to the Member with the detail on that one.

**1.7. Promenade redevelopment –  
Question deferred**

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Infrastructure:

*Why a further passing place is required for horse trams between the point of cessation of the double tracks and the next passing point approximately 300 metres away?*

**The Speaker:** Question 7 has been deferred until next week.

**POLICY AND REFORM**

**1.8. Civil Service entry requirements –  
Supporting evidence for reduction**

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Policy and Reform:

*What evidence there is that reducing Civil Service entry requirements will increase the number of successful applicants without affecting the quality of work?*

**The Speaker:** Question 8, I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

480

**Mr Moorhouse:** Thank you, Mr Speaker.

I would like to ask the Minister for Policy and Reform what evidence there is that reducing Civil Service entry requirements will increase the number of successful applicants without affecting the quality of work?

485

**The Speaker:** I call on the Minister for Policy and Reform to reply.

**The Minister for Policy and Reform (Mr Thomas):** Thank you, Mr Speaker, and I thank the Hon. Member for the Question.

490

In 2018, following a recommendation from the Office of Human Resources, it was agreed by the Public Services Commission to make the entry requirements of five GCSEs desirable, rather than essential.

One of the reasons for this change is that the Office of Human Resources are seeking to remove any barriers to the Isle of Man Public Service being an attractive employer and wants to attract the widest range of quality applicants.

495

Recruitment is moving towards a more skills- and behaviours-based focus when assessing people's suitability for a vacancy. This will raise the quality of hiring decisions for all roles and in turn reduce reliance on generic GCSE or equivalent requirements placed on roles at an entry



level, administrative officer, executive officer and the secretarial grades, which are deemed to be an inadequate method for assessing the current suitability for a role.

In addition, there has never been a requirement for five GCSEs for roles at HEO or above and there is no evidence that not having specific qualifications is a hindrance to quality as the essential requirements are linked to the needs of the role.

It has also been noted that recruitment in the private sector rarely asks for GCSEs and is not routinely requested for lower graded roles in the UK Civil Service. There is no evidence to suggest that this compromises the quality of work undertaken in these sectors. That said, managers are able to assess using the GCSE requirement if they have a requirement to do so.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker, and thank you, Minister, for that reassuring Answer.

The message here is quite reassuring, but I still think it is worth asking and making a link to what the Universities Minister warned about across with regard to unconditional offers. What I said last July was they were ‘undermining the credibility’ of higher education and potentially, by ‘dumbing down’ in certain areas, the same thing could happen to our Civil Service.

**The Speaker:** You should be careful from straying too far from the Civil Service entry requirements.

Minister to reply.

**The Minister:** Thank you, Mr Speaker.

This is not about dumbing down, this is about skills- and behaviours-based focus. It is an important part of the People Strategy. That People Strategy is now backed up with five action plans. We have thought a lot about the best way to optimise the Public Service across the piece and this is an important part of our response to that optimisation.

**The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

I would just like to ask the Minister with regard to: I looked last night online to see what posts we had available, we had four AOs and three EOs; to me, that is not an excessive amount to start reducing entry qualification criteria.

I am interested also that he has just commented with regard to HEOs, that you never needed a qualification. To be able to get into the Civil Service previously you used to have to have a minimum of five GCSEs, no matter what grade you went in; you had to have that previously.

But I did note last night that there was a job advertised on there where it was desirable for an HEO position, which is quite a high qualification. So what I ask the Minister is with regard to our specialist people, which are usually our frontline services, I looked at a teacher’s post last night, they have to have qualifications – a salary less than what is getting offered for an EO. I looked at nurses – a salary less than what is getting offered for an EO. These people have to train for at least three years.

I am just really concerned that we are looking at the calibre ... Where has the pride gone in our Public Service and Civil Service to implement this without it ever coming before this Court?

**The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker.

This is not about losing any pride in working for the Civil Service. This is not about in any way reducing the quality of the people who work in our Public Service. This is about a behaviours- and a skills-based approach. If you need three years’ professional training that can still be a

requirement. If you need certain backgrounds, certain professional experience, certain educational experience, certain academic experience, that can still be a requirement. But what it is saying is that five GCSEs done when you are 15, 16, 17, 18, 21, 30, 40, whatever, is not necessarily always the right way of going about it.

555 I can stand here and I can talk about rhetoric and dialectics and the semantics of political discourse. I can quote to you Hegel and Chomsky and Wittgenstein and Derrida and Foucault, but does that make me a better politician when I am involved in the political discourse? No, it does not. What matters is my ability to master public policy and to bring that and persuade this Hon. House of it and so on. That is what this is all about. It is substituting formal qualifications  
560 for behaviours and skills, and better recruitment and better retention strategies and better HR overall. (A Member: Hear, hear.)

Thank you very much, Mr Speaker.

**The Speaker:** I have got four supplementaries, none of which I am going to ask them to quote  
565 Chomsky!

Dr Allinson, supplementary question.

**Dr Allinson:** Thank you very much, Mr Speaker.

I am impressed that he knows the writings of Noam Chomsky and would like to thank the  
570 Minister for his philosophical views, but does he agree that this obsession with rigid school qualifications actually is not helpful? If we are going to enhance and improve social mobility on the Island and get the right people for the right jobs surely this concentration on skills and ability is the key to that?

Thank you.

575

**Several Members:** Hear, hear.

**The Speaker:** Minister to reply.

580 **The Minister:** Thank you, Mr Speaker.

Yes, I agree. This is an Island of enterprise and opportunity and it is an important part of opportunity which is about social mobility.

**The Speaker:** Supplementary question, Mr Hooper.

585

**Mr Hooper:** Thank you, Mr Speaker.

I think I am rising to pretty much make the same point my hon. colleague just made.

One of the objectives of the Programme for Government is to increase the economically  
590 active population and actually reducing or removing some of these tick-box mentality approaches to employment and recruitment helps address the issue of underemployment. I hope the Minister would agree with me that this is a welcome change to help increase accessibility to the Civil Service to those people that may be highly experienced and skilled but may have been barred from application in the past simply by virtue of the fact they do not have a very specific paper-based qualification from their teenage years.

595

**The Speaker:** I would warn that this is not a debate on the subject; this is Question Time and the purpose is to elicit information from the Minister.

Minister, would you agree?

600 **The Minister:** Thank you, Mr Speaker.

I agree completely with the Hon. Member for Ramsey. This is an inclusive and caring society. That is what we want: to make it more inclusive and caring, exactly as the Hon. Member says. That is what this policy is contributing to.

605 **The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

A lot of what has been said I totally agree with, but my concern again is how do you identify somebody's skillset until you have actually worked with them? You have also removed  
610 probationary periods. So are we going to end up with a situation within our system ...?

From an EO point of view you have removed the criteria that you have to have two years' management experience or skillset to be able to apply for an EO position, which is our first rung of management within the Civil Service on the Isle of Man. We quite often hear in this Hon. Court how many times we have not got data, we have not got this, and mistakes have been  
615 made and lessons will be learned. These lessons need to be learnt by making sure that the right people are in the right jobs with the right skillset, (**A Member:** Hear, hear.) which requires some element of management experience to be able to deliver what the Government wants.

So would the Minister actually advise the Hon. House how that skill is going to be assessed, because I could walk in today and say I have got everything, but once I am there I might not? So  
620 what are going to be your exit criteria or your probation period for these positions?

**The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker.

I can assure this Hon. House and the wider general public that the assessment processes, the monitoring processes early on in somebody's career and later on in somebody's career are good  
625 inside the Isle of Man Public Service. I am proud of them.

If you have got any specific questions about probation, about how we run assessment centres, how we can test behaviours and skills, please do not hesitate to ask specific questions.  
630 But I can assure this Hon. House and the wider public that there are not issues along the lines suggested by the Hon. Member for Onchan.

**The Speaker:** Supplementary question, Mr Robertshaw.

635 **Mr Robertshaw:** Thank you, Mr Speaker.

If it is a given that entrepreneurial brilliance cannot in any way ever be reasonably associated or correlated directly with academic attainment, dare we begin to think that this new approach by the Government will open us up to perhaps a more entrepreneurial broader based use of talent as it comes into Government's employment?  
640

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

Entrepreneurialism is one skill and behaviour that might be valuable in some roles and I am  
645 sure the assessment centre and the processes beyond that will be employed in that case.

**The Speaker:** Supplementary question, Mr Quayle.

**The Chief Minister (Mr Quayle):** Thank you, Mr Speaker.

Would the Hon. Member not agree with me that the Island's aim is to increase the skilled workforce on the Isle of Man and the fact that we have over 4,000 European Union residents on  
650

the Isle of Man who may not have an English O-level to their name, does that mean that they are not capable of working for the Government?

655 As long as they have the skills and experience, would he not agree with me that this is an eminently sensible move by this administration to open up our Government jobs to eminently qualified people who may not technically have the qualification but are more than capable of doing the job, and surely common sense comes down to this?

660 **Several Members:** Hear, hear.

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

You are right, it is common sense.

665 Basically, the issues that we had in the Public Service were: delays in time to hire; loss of good candidates; frustration; the possible reputational damage because we were not acknowledging the valuable experience and skills that can be demonstrated in other ways rather than at 16 or 17, whenever you are doing your GCSEs.

670 Exactly as the Chief Minister says, this is entirely a positive. It is about enabling people. It is about making sure our society and the Public Service that serve it are more inclusive, caring and providing opportunity for everybody.

**The Speaker:** Final supplementary, Ms Edge.

675 **Ms Edge:** Thank you, Mr Speaker.

Can I just ask: one of my concerns is that we are devaluing the people that have worked hard to get into the sector and the Minister has alluded that that is not going to, so I would like to ask the Minister, how is he going to ensure that through the education system people get the broad skillset that he is clearly looking for to get into these roles, because the qualification criteria are not met?

680

**The Speaker:** Minister to reply.

**The Minister:** Thank you, Mr Speaker.

685 The Education Department of Government, working with Enterprise and many other parts of the Public Service are constantly looking to improve the way that we provide opportunities for people to acquire qualifications but also skills and experience and behaviours, to enable our Public Service and all the other employers in the Isle of Man to be in a better place, because people are the most important thing for most organisations.

690

**A Member:** Hear, hear.

### **1.9. Year of Our Island – Plans for legacy projects and remaining funds**

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Policy and Reform:

*What plans are in place for the Year of Our Island legacy projects and remaining funds?*

**The Speaker:** Question 9. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

695 **Mr Moorhouse:** Thank you, Mr Speaker.

I would like to ask the Minister for Policy and Reform: what plans are in place for the Year of Our Island legacy projects and remaining funds?

700 **The Speaker:** I call on the Minister for Policy and Reform to reply.

**The Minister for Policy and Reform (Mr Thomas):** Thank you, Mr Speaker.

A total of £75,000 of the Year of Our Island *bona vacantia* funding has been allocated to the following legacy projects: the continuation of the garden in St John's for a further five years; a contribution towards a lighting project within Glen Helen; a contribution towards creating and extending trails within the Conrhenny Community Woodland; improvements to Dark Skies Discovery sites; community beach-cleaning kits and community website; and Manx language signs in the Sea Terminal. The completion of these projects together with the closing ceremony will see the planned budget spending for the Year of Our Island spent by the end of March 2019.

705 I hope Hon. Members will agree with me and my political colleagues on the Year of Our Island board that these projects will form a lasting legacy from this special year initiative, where we have worked in partnership across Government and across the community to encourage everyone to explore more and do more on our Island and share more about what makes this Island so special.

715 **The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker, and thank you, Minister.

For clarification, the Minister used the figure of £75,000. In terms of the money allocated to projects and events, it was £74,411. Is the higher figure including everything?

720 **The Speaker:** Minister to reply.

**The Minister:** Thank you very much.

It might be helpful to the Hon. Member and to the House and the wider public to remind people of the budget for the Year of Our Island – which was outlined in another place in May 2018, from memory: £75,000 was for partner grants, as was detailed in a Question recently; £60,000 was for Year of Our Island events and activities – things like the Dark Skies events, the Trail, Easter Walks, Island Rocks, creative workshops, Seas and Shores evenings, cultural treasure hunts, booklets, the Vintage Cinema Bus, Hop Tu Naa events, literature and so on; £50,000 went on the garden in St John's; £75,000 was the total cost for project management, event co-ordination, all the communication about the project; and £70,000 is the final budgeted cost for these legacy projects, which we will be announcing more about in the coming weeks as we move on to the continuation of the ethos and theme behind the Year of Our Island, which is incredibly valuable for our community.

735 I am absolutely delighted that the running of the Year of Our Island has linked together Programme for Government projects across the Departments for the benefit of our society and our Island more generally.

**The Speaker:** Supplementary question, Miss Bettison.

740 **Miss Bettison:** Thank you, Mr Speaker.

Would the much-anticipated 2018 Year of Our Island coin be considered by the Minister now as a legacy project?

**The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker.

Much anticipated? I think that is the first time I have ever heard mentioned the coin! *(Laughter)* There was no coin that was actually produced for Year of Our Island. We had stamps and we had all sorts of other activities, but there was no coin produced for Year of Our Island.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker.

Two points of clarification. The first one is regarding St John's: how will that be maintained, funding-wise, into the future?

The other is the Conrhenny Trail, which is a very positive thing: in terms of that project, it did not receive any funding but it seems to be going forward as a legacy project. How did you go from a refusal to a legacy project on that one?

**The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker, and again to the Hon. Member for his helpful questions.

The officers in the Department of Infrastructure from the autumn have worked with the year of our Island person, in this case, to actually put together a proposal that has been made to Patrick Commissioners to take the land for the next five years so the Year of Our Island Garden stays in St John's as an important part of the cultural centre of our Island, which is what Tynwald and Tynwald Hill in St John's is. That garden is being linked to the heritage trail as part of the linked active travel strategies. It is close to the glens and the uplands that are being encouraged because that is a place where you can do a lot, explore a lot, keep healthy and take part in community activities if you do it in certain ways. That is the whole ethos of supporting the community to do more to make our Island special to live and work, and we hope, if this theme takes off, it will be discovered by people outside our Island who want to come here to take part in everything that we have got going on.

**The Speaker:** Supplementary question, Miss Bettison.

**Miss Bettison:** Thank you, Mr Speaker.

I find myself slightly astonished because in March 2018 in another place we approved an Order for a £5 Year of Our Island coin, and in fact in May 2018 the Minister himself said the coin was on sale – and yet I have been contacted by a number of coin collectors who are interested to know when that coin will be available now that 2018 Year of Our Island has in fact finished. I would be grateful for his comments on those points.

**The Speaker:** Minister to reply.

**The Minister:** Pre-orders will be taken if they are of sufficient size.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker.

Just returning to the Conrhenny Trail, in terms of it not receiving any initial funding, how do you go from that step to becoming a legacy project?

**The Speaker:** Minister to reply.

**The Minister:** Thank you.

I think as I explained last time this helpful question was asked by the Hon. Member, projects that did not receive funding as part of the partner project bids usually, if not often, received assistance with other sources of potential funding and other support, and basically the Year of  
800 Our Island continued to work with the volunteer group to extend the trails on the Conrhenny Community Woodland and build on the great work already completed by volunteers and DEFA in this area. This project did not have a great amount of money compared to the £1 billion of public expenditure every year in the Isle of Man, but the great thing about it was it could break down silos, it could join people up, and the work in the woodlands, the work in the glens and the  
805 work on active travel was an important part of linkage, as outlined in last year's Budget.

**The Speaker:** Supplementary question, Miss Bettison.

**Miss Bettison:** Thank you.

810 In a previous Question that I asked about another coin that was delayed, in fact, I was told by the Treasury Minister that there is an eight-part process for coins. The first six parts actually lead us to getting the Order to Tynwald, so are we saying that six parts out of eight have been achieved and wasted because we are not doing the coin?

815 **The Speaker:** Minister to reply.

**The Minister:** Thank you very much, Mr Speaker.

I will circulate the full information about the stages that were undergone in the process of thinking about producing a coin and I will make that available.

820 Producing a coin is complex and under small budget in the Year of Our Island. Every penny that has been spent has been spent wisely and trade-offs were made at certain points between the value of spending money and what was achieved for it for our community in the Isle of Man.

**The Speaker:** Supplementary question, Ms Edge.

825

**Ms Edge:** Thank you, Mr Speaker.

I just wonder if the Minister could confirm: he said it was pre-orders – does he know what the minimum order would be for the production of a coin?

830 **The Speaker:** Minister to reply.

**The Minister:** I will circulate information.

**The Speaker:** Final supplementary, Miss Bettison.

835

**Miss Bettison:** Thank you.

I wonder if the Minister might consider whether the separation of the stamps and coins operation actually may have led to some loss in revenue potentials anyway from these coins, because we have released the stamps that would historically have been released with a coin and  
840 we have lost that opportunity because we have not actually done a coin?

**The Speaker:** Minister to reply.

845 **The Minister:** I think that Mr Speaker will probably agree with me that we can perhaps follow this up at a later stage, but the Hon. Member is correct that stamps are the responsibility of the Post Office and we work well with the Post Office to launch a special coin issue. We also work well in the early stages with the Treasury regarding the coin issue.

As I have promised, I will work with the Treasury Minister to circulate full information about the coin process in general and the specifics of this particular situation.

## INFRASTRUCTURE

### 1.10. Car parking – Temporary provision during Promenade construction

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Infrastructure:

*What alternative temporary parking provision has been arranged for use by those affected during the Promenade construction?*

850 **The Speaker:** Question 10 and I call on the Hon. Member for Douglas East, Miss Bettison.

**Miss Bettison:** Thank you.

I would like to ask the Minister for Infrastructure what alternative temporary parking provision has been arranged for use by those affected during the Promenade construction?

855

**The Speaker:** I call on the Minister for Infrastructure to reply.

**The Minister for Infrastructure (Mr Harmer):** Thank you, Mr Speaker.

860 The walkway adjacent to Loch Promenade is to be used for temporary parking throughout the duration of construction work. This provides in excess of 200 spaces. Parking will be up to two hours, free.

865 Residents of the promenade with the parking permits will be able to park on the walkway without time constraint while there is disruption to parking in the area. In addition a planning application has been made to permit up to 51 vehicles to park on the Summerland site as part of Douglas Park and Walk scheme. Parking there will cost £1 a day.

Discussions will continue on an ongoing basis with individual residents and businesses to address wherever possible parking issues that may arise throughout the reconstruction of the new promenade.

870 **The Speaker:** Supplementary question, Miss Bettison.

875 **Miss Bettison:** Thank you, and I am very grateful for the Minister, his officers and the MyProm team for working with us to try and resolve some of these issues, but I just wonder whether this perhaps should have been considered and confirmed earlier in the process to provide that surety for businesses and residents living and working and owning businesses along the promenade?

**The Speaker:** Minister to reply.

880 **The Minister:** Thank you.

885 If I recall correctly I did allude to the fact in this House or in another place, that we would be probably using the walkway for parking. I completely agree: communication is key, and I am very grateful for the meeting with both Members for Douglas East and I think that is the most important thing, that we continue to communicate with businesses much earlier, and that we understand their concerns and we mitigate them as far as possible.



Not everything can be done but where we can be innovative and where we can alleviate issues, absolutely we should do that; but that requires good communication. So that is a very strong message that the team fully understands.

890 **The Speaker:** Supplementary question, Mr Callister.

**Mr Callister:** Thank you, Mr Speaker; and I thank the Minister for his Answer.

I was wondering if the Minister could make a statement because, going along the prom, my understanding is it is meant to be a rolling scheme which then minimises the parking concerns.  
895 The scheme seems to be going longer and longer along the prom which is now reducing the number of parking spaces on the prom.

I was wondering what message, or reassurance the Minister can give to businesses especially hoteliers on the promenade that are now really struggling with parking on the promenade because of the length of these works, which was meant to be a rolling programme.

900

**The Speaker:** Minister to reply.

**The Minister:** Thank you.

Again I do ask Hon. Members and everyone really to bear with us.

905 This project has not just been talked about in the last two years during this parliamentary session, but also different options have been talked about for seven or eight years. This has been a project that has been talked about for 20 years. I mean, from some of the estimates that were talked about originally when we talked about the prom, it was actually going to take 10 years to construct. We have listened, as far as possible, to constrict the development to less than two  
910 years and that is an ambitious project.

Obviously any further reduction would result in a loss of being able to ... You could close the prom completely but in doing so you would kill the life of what goes on on the prom. So we have to make compromises and in essence one of the key compromises – and actually that we have still been able to deliver – is two-way running of the prom, so that it is maintaining the traffic  
915 flow. And that has been *really* important. In addition, however, during the works there will be reductions in parking.

Now, one of the issues is that in preparing the ground where it has broken up and so forth, then comes later a team that fills in the concrete plinth. And I keep going to the detailed design stages and this perhaps is not the place. However, during any project there will be unforeseen  
920 problems – so, for example, we have had an unmarked water main that was in the prom and you cannot just disconnect that, you have to investigate that, you have to identify where the problem is and you have to take necessary action. Obviously that should not stop the forward team to then continue their work in removing the old construction.

So at the moment we are still on track to deliver within a very short timeframe. As I say, we have gone from 10 years to less than two, and we are delivering that. Obviously we are working  
925 with the contractor on this. We will mitigate parking as much as possible. There are some innovative ideas that have come through meetings and we will do that. Summerland was actually one of those, and there is a reduction of a number of spaces, and actually today I have announced 251.

930 The key thing is that we retain momentum, we keep strong and we get this done, because the sooner we can do the northern end that will then release that area as it gets completed and we can then move forward. Soon we will be starting the southern end. But this is an ambitious project. It is a huge project but it is so vital for the Island that it is done and that we will transform our gateway.

935 So I would urge Members and everyone to bear with us as we conduct this project.

**A Member:** Hear, hear.

**The Speaker:** Supplementary question, Miss Bettison.

940 **Miss Bettison:** Thank you, Mr Speaker.

I think the Minister said in his first Answer that there were the 51 spaces on the Summerland site and he was going to charge £1 per day per vehicle, if I am correct? (**The Minister:** Yes.)

Just with that in mind, my concern then would be that that does become predominantly parking for people working for the whole day. I would be grateful if he would look at consideration of some of those spaces being demarcated for short-term parking to enable those using the shops, restaurants, cafés and so on at the north end of the promenade to be able to access that, and not get there and find that 51 spaces have been sucked up with a £1 charge by people who are not going to be returning to their vehicles until 6 p.m.

950 **The Speaker:** Minister to reply.

**The Minister:** I think on all of this I am not going to give any sort of cast-iron issues because I think this is a daily and a weekly management issue that we will talk with all the residents, as we deal with that. There have been other ideas of using space on the north promenade walkway and so forth. We will do that, we will work with hoteliers, and I have really made very firm to our team that communication is absolutely key, and where we can mitigate we absolutely will mitigate. But there will be disruption and then inevitably as we do this work there will be temporary parking lots.

955 But, as I say, I think the best thing is communication – working with everybody on a day-to-day basis and communicating as we move this through.

**The Speaker:** Supplementary question, Mr Callister.

**Mr Callister:** Thank you, Mr Speaker, and I thank the Minister for his responses once again.

965 My concern from speaking to hoteliers and businesses already on the promenade, with the tourist hat on, is that some of these businesses will be lost before the works are completed. I would ask the Minister if possible to give us some reassurances about the timeframe, that we can get the work done as quickly as possible as a rolling programme so we can move down the promenade.

970 Can I ask the Minister also if he or the Department would consider opening up parts of the promenade walkway as additional parking to allow people to park close to businesses, hotels, in order for them to keep running during this difficult period, which does need to happen. I think we all agree that the promenade has to be refurbished. I think we all get that. But what I am seriously concerned about in the duration of this is that we find that we lose a couple of really key businesses along the way.

**The Speaker:** Minister to reply.

**The Minister:** Thank you.

980 We have already opened the walkway and that is giving us 200 spaces. So that is absolutely there; we are doing that.

We will, as I say, continue to work with businesses. We have had innovative ideas of using the horse tram stables – parking, for example – and so we are working with business all the time.

985 But the walkway is open for parking.

**1.11. Sale of Flybe –  
Statement by Minister for Infrastructure**

The Hon. Member for Douglas North (Mr Peake) to ask the Minister for Infrastructure:

*If he will make a statement on the sale of Flybe?*

**The Speaker:** Question 11, I call on the Hon. Member for Douglas North, Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

I would like to ask the Minister for Infrastructure if he will make a statement on the sale of Flybe?

**The Speaker:** I call on the Minister for Infrastructure to reply.

**The Minister for Infrastructure (Mr Harmer):** Thank you, Mr Speaker.

The sale of Flybe to a Virgin Atlantic-led consortium that includes the Stobart transport group appears to be very good news for the Island. As people will know, Stobart already operates services to and from the Island. Since the sale the company has reconfirmed its intention to reopen a base at Ronaldsway, from the end of March. It will be basing two aircraft here on the Island.

The Department is looking forward to working with the new company to grow the routes to Birmingham, Liverpool and Manchester that are currently operated by Flybe, and hopefully to take advantage, in the longer-term, of the links between Connect Airways, as the new company will be known, and Virgin Atlantic.

**The Speaker:** Supplementary question, Mr Peake.

**Mr Peak:** Thank you, Mr Speaker.

Would the Minister agree or acknowledge that it is very important for businesses here in the Isle of Man and also for passengers wishing to plan their holidays to have this policy stated here in this House, I think it is important to do that. Would the Minister agree then that all the policies that have been in place in the past, that he will be seeking to reassure everybody that, as he has just stated, the base will be here in the Isle of Man and the technical base will be based here in the Isle of Man as well for the planes to be overnight, here in the Isle of Man?

**The Speaker:** Minister to reply.

**The Minister:** Thank you.

Obviously it is a decision for the management of Flybe and the new group, but what we can say at this stage is that should the takeover complete, because it is still within its 100 days, then it is a really good news story for the Island and I think a really positive one and obviously one that we would welcome.

**The Speaker:** Supplementary question, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

With the huge investment that is going into Manchester Airport, making it a really serious player in terms of international connections for the whole of the north of Britain, has he any fear that Virgin's interest in Flybe might well be more about the landing slots in Manchester than perhaps Flybe itself? We all remember with some bitterness the loss of landing slots when Manx Airlines was sold many years ago and the damage that did to us.

**The Speaker:** Minister to reply.

**The Minister:** Thank you.

1035 The information I have, and as I say it is early days, is that the airline would be a separate  
airline called Connect Airways and therefore at this stage would actually supplement – and I  
know Virgin have looked in the past at having a regional airline. But I take on board your fears all  
along, as previously has happened where you do get a moving picture, it is the same with  
Citywing and so forth. You have to keep an eye on that, you have to maintain relationships and  
should have backups should other things happen.

1040

**The Speaker:** That concludes Questions for Oral Answer.

We turn to Item 2, Questions for Written Answer and those will be circulated.

## 2. Questions for Written Answer

### TREASURY

#### 2.1. Charitable and non-government projects – Treasury financial support over last five years

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for the Treasury:

*Which charitable and non-government projects have received (a) one-off or (b) continuing financial support, broken down by the total given to each organisation each year in each of the last five years?*

**The Minister for the Treasury (Mr Cannan):**

	2018-19 to 31 Dec £	2017-18 £	2016-17 £	2015-16 £	2014-15 £
<b>One-off</b>					
Manx Wildlife Trust (Note 6)	-	-	-	-	16,917
The Family Library (Note 7)	100,000	100,000	-	-	-
<b>Continuing</b>					
Manx Citizens Advice Service	3,511	3,795	3,626	3,770	3,970

#### Notes

1045 Figures provided in this table are for the Treasury only.

In answering the Question I have assumed that 'non-government projects' are charitable type organisations even if they may not be registered as such.

1050 In relation to registered charities, it has not been possible in the time given to cross-reference all of Treasury's payments to the Charities Register; therefore the information supplied is somewhat subjective and based on officers' understanding and knowledge, although all reasonable efforts have been made to get a full and complete picture.

Financial support excludes payments made for supplies and services provided by charitable organisations in the normal course of Government business.

1055 Amounts exclude Lottery Duty distribution to Manx Lottery Trust and Manx Heritage Foundation which are registered charities.

This was a payment in respect of the Manx Rivers Improvement Association.

1060 In 2018-19 an interim payment of £100,000 has been made pursuant to the June 2018 resolution 'Tynwald is of the opinion that Isle of Man Government should provide funding to the Family Library Limited up to a total of £125,000 per annum for a maximum of two years to allow time for a Working Party to report into the future provision of the library services.'

**POLICY AND REFORM**

**2.2. Charitable and non-government projects –  
Policy and Reform financial support over last five years**

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Policy and Reform:

*Which charitable and non-government projects have received (a) one-off or (b) continuing financial support, broken down by the total given to each organisation each year in each of the last five years?*

**The Minister for Policy and Reform (Mr Thomas):** The Cabinet Office has not provided financial support to charities other than through the International Development and Year of Our Island grant funding. For the purposes of this Answer support has been interpreted to exclude direct payment to a charity for the provision of goods and services.

1065 Full details of Year of Our Island grant funding was provided in answer to a Tynwald Question last month: <http://www.tynwald.org.im/business/hansard/20002020/t190115.pdf>.

Details of International Development Funding are published in full in the annual reports: <https://www.gov.im/about-the-government/departments/cabinet-office/international-development/annual-reports/>

**2.3. Public servants' pay –  
Policy where wrongly paid**

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Policy and Reform:

*What the public service policy is where an officer has inadvertently been wrongly paid where the employee inputted the payment details (a) correctly and (b) incorrectly?*

1070 **The Minister for Policy and Reform (Mr Thomas):** In instances where an issue of this nature is highlighted OHR Payroll work in partnership with the Treasury, Banking and Investments Team.

- OHR Payroll would be notified in one of two ways:
  - by the individual due to lack of funds in their account; or
  - by the Treasury, Banking and Investments Team that a BACS payment has been rejected.
- Treasury, Banking and Investments work with the Bank to return the payment.
- Once the payment has been returned, OHR Payroll re-issue the payment to the correct details via an individual 'quick pay' payment.

1080 The standard approach, in order to protect Department budgets and avoid any duplicate payments being made, is to await the return of the first payment before re-issuing it. This usually occurs within two working days. In instances where a payment takes longer than this to return, Payroll will undertake further investigation into the matter. The Payroll Manager or Director of HR Services may then apply judgement regarding whether to immediately re-issue payment. This decision is made on the basis of balancing the impact on the individual and level of financial risk involved for Isle of Man Government.

1085 This type of error is likely to impact on all of an individual's pay. The process to resolve this issue is the same regardless of whether the error was with the employee or OHR Payroll.

**2.4. Tynwald Commissioner for Administration –  
Decisions on continued role**

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Policy and Reform:

*What decisions have been made about the continued role of the Tynwald Commissioner for Administration; who is filling this role; and what appointments are expected to be made?*

**The Minister for Policy and Reform (Mr Thomas):** In line with the Tynwald Commissioner for Administration Act 2011 ('the Act') the Selection Committee, which consists of the Chair of the Tynwald Management Committee (Hon. Juan Watterson SHK), the Vice Chair of the Tynwald Public Accounts Committee (Mr Tim Crookall MLC), and the Chief Minister (Hon. Howard Quayle MHK), agreed that an appointment process should commence on 10th December 2018 with a closing date of 10th January 2019.

The Selection Committee agreed a term of appointment in line with Schedule 1, Paragraph 4 of the Act, to make a three-year commitment to the role.

It is intended that the Clerk of Tynwald's Office will submit, on behalf of the Selection Committee, a recommendation of appointment to the February 2019 sitting of Tynwald.

**ENTERPRISE**

**2.5. Charitable and non-government projects –  
DfE financial support over last five years**

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Enterprise:

*Which charitable and non-government projects have received (a) one-off or (b) continuing financial support, broken down by the total given to each organisation each year in each of the last five years?*

**The Minister for Enterprise (Mr Skelly):**

Charity	Description	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Douglas High School Old Boys Football Club	TT and Festival of Motorcycling camping site for medics.				£384	£2,016	£2,400
Joey Dunlop Foundation	Purchase of two evacuation chairs.				£1,000		£1,000
Manx Harriers	Contribution to events in return for branding at events.	£6,625	£6,325	£2,500	£4,000		£19,450
Manx Whale & Dolphin Watch	New Product - contribution of spotter guide.			£100			£100

It has not been possible in the time given to cross-reference all of the Department's payments to the Charities Register, therefore the information supplied is somewhat subjective and based on officers' understanding and knowledge, although all reasonable efforts have been made to get a full and complete picture.

1105 Financial support excludes payments made for supplies and services provided by charitable organisations in the normal course of Government business and support provided under the Enterprise Act 2008. It also excludes support grants provided under the Vocational Training Assistance Scheme prior to that function being transferred to the Department of Education, Sport and Culture in 2017.

## EDUCATION, SPORT AND CULTURE

### 2.6. Charitable and non-government projects – DESC financial support over last five years

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Education, Sport and Culture:

*Which charitable and non-government projects have received (a) one-off or (b) continuing financial support, broken down by the total given to each organisation each year in each of the last five years?*

1110 **The Minister for Education, Sport and Culture (Mr Cregeen):** In response to the Question above the Department of Education, Sport and Culture has given no such support during the past five years.

This Answer is based on the following assumptions:

- 'Non-government projects' are charitable type organisations even if they may not be registered as such.
- 1115 • Financial support excludes payments made for supplies provided by charitable organisations in the normal course of the Department of Education, Sport and Culture's operations such as the Manx Medium School and Junior Achievement.
- The response excludes Lottery Duty distributions.
- The response excludes student and training grants.
- 1120 • All reasonable efforts have been made to obtain a complete picture subject to timeframe and interpretation of the requirements of the question.

## ENVIRONMENT, FOOD AND AGRICULTURE

### 2.7. Environmental food inspector reports since 2015 – Closures of food premises; legal actions

The Hon. Member for Garff (Mrs Caine) to ask the Minister for Environment, Food and Agriculture:

*How many environmental food inspector reports since 2015 have (a) recommended closure of a food premises; and (b) resulted in closure or legal action?*

1125 **The Minister for Environment, Food and Agriculture (Mr Boot):** The Department's Environmental Health Officers inspect food premises to ensure they are operating safely and hygienically and are compliant with Food Hygiene Regulations 2007 and the Health and Safety at Work etc. Act 1974 as applied to the Isle of Man.



All premises used as a food business must be registered with the Department. Registration enables the Department to keep an up-to-date list of all food premises on the Island, so that visits can be made when required. The frequency of the visits will depend on the type of business and associated risk. Currently there are over 1,450 food businesses registered with the Department.

Since 2015 the local food industry has grown significantly, with over 600 new food businesses registering with the Department. All of these businesses have received guidance and support from the Environmental Health team to ensure they are aware of and compliant with food safety requirements. Environmental Health Officers also provide food hygiene guidance and investigate food related complaints made by the public, including potential food poisoning incidents.

Environmental Health Officers follow the Department's Enforcement Policy and proportionate enforcement action is always taken with each case. Enforcement action ranges from advice on food safety matters and informal reports to formal improvement notices or prohibition of operations and prosecution. Since 2015 the Department has investigated over 800 food related complaints and requests for assistance, with proportionate intervention taken in each case.

Prohibition of operations and 'closure' of food businesses are rare. Since 2015 there have been no formal prohibitions issued and the Department has not had to resort to prosecution. Four enforcement notices have been issued within the period, which were complied with and no further action required. In addition, there have been six voluntary closures of registered food businesses within the period, all of which reopened once the officers involved were satisfied food safety was no longer compromised.

## HEALTH AND SOCIAL CARE

### 2.8. DHSC procurement – Details of goods, services and contracts

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Health and Social Care:

*What (a) goods and type; and (b) services his Department has procured and how long each contract runs, where applicable*

**The Minister for Health and Social Care (Mr Ashford):** The scope of the Hon. Member's Question was particularly wide-ranging and I therefore sought clarification from her. With her agreement, my Answer relates to the following specific question only: 'What goods (over the last five years) used to be purchased locally by the Department, but are now purchased off-Island; and under what contracts?'

The Treasury has confirmed that the Government's accounting system, AX, does not hold the data necessary to answer the question. Therefore, regrettably my Department has no definitive source of information with which to answer the question. However, my officers have reviewed those contracts for goods which have been subject to procurement during the last five years. The Department has been unable to identify any contracts for goods, subject to competition, that had previously been '...purchased locally by the Department, but are now purchased off-Island...'

I should add Mr Speaker, that as there is no definitive record of such changes, the Department cannot rule out the possibility that inadvertent errors or omissions may have occurred in answering this question.

1165 For completeness, I can inform Hon. Members that a small number of consumable items such as hand sanitiser, toner cartridges and paper towels are now supplied from the UK. Although these items had previously been purchased locally they were not subject to formal supply contracts. These items are now purchased on the Department's behalf by the NHS in the UK on a reimbursement basis. In many cases the Department is realising savings of 40% or more as a result of this supply arrangement.

1170 This arrangement with the NHS in the UK has been established with the knowledge of the Treasury and the Attorney General's Chambers, and complies with Financial Regulations. The contracts for the supply of such items are between the NHS in the UK and third party suppliers, and are openly procured in accordance with UK and EU law. The Department is not party to the specific details of these contracts.

### **2.9. Endoscopy staff at Noble's Hospital – Effects of 2018 reduction on waiting lists and costs**

The Hon. Member for Onchan (Mr Callister) to ask the Minister for Health and Social Care:

*Why the number of endoscopy staff at Noble's was reduced in September 2018; and what effect will this have on service delivery; if the Minister will publish endoscopy waiting times alongside the other waiting times on a quarterly basis; and how much this reduction in staff saved?*

1175 **The Minister for Health and Social Care (Mr Ashford):** The establishment for Endoscopy unit staff has not changed in the Financial Year 2018-19. There has been no reduction in the funded establishment.

As there has been no change in the established staffing of the unit, there has been no saving.

1180 Between June and September 2018 a short-term waiting list initiative for this service was in place which cost £87,000.

The DHSC publishes quarterly data. Waiting times for endoscopy will come under 'Waiting Time, Diagnostics' and will start to be published this summer. Planning for this new set of public information has taken some time due to the complexity of reporting from multiple diagnostic systems running throughout the hospital.

1185 <https://www.gov.im/about-the-government/departments/health-and-social-care/waiting-times/>

### **2.10. DHSC management structures – Details and officer grades**

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Health and Social Care:

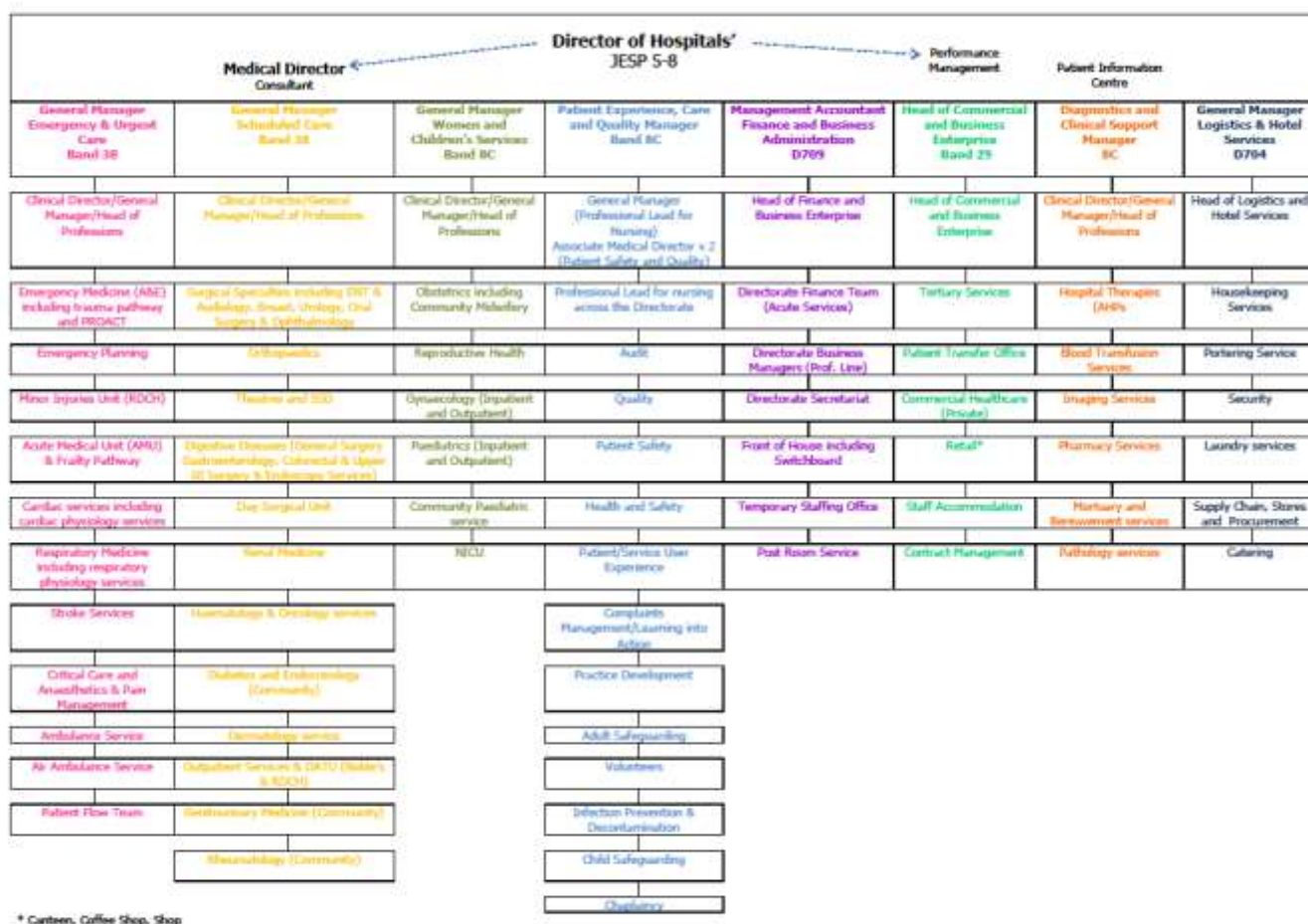
*What the management structures, with officer grades are in his Department?*

**The Minister for Health and Social Care (Mr Ashford):** The management structure of the Department of Health and Social Care, including grades of posts is attached below. Organisation charts are provided for the following:

- 1190
- Hospital Services Directorate
  - Corporate Services Directorate
  - DHSC Senior Management Structure

1195

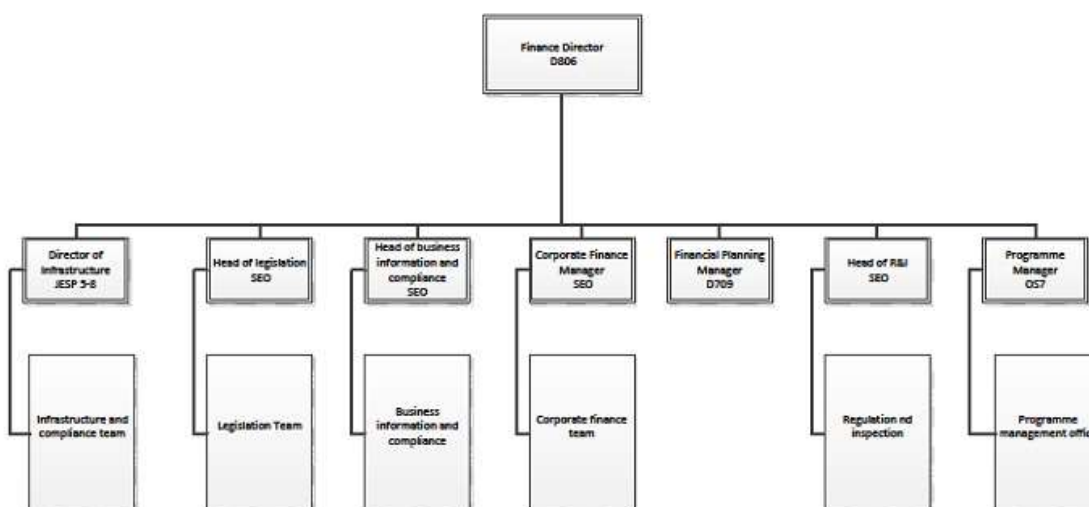
- Community Care Directorate
- Children & Families Division
- Public Health



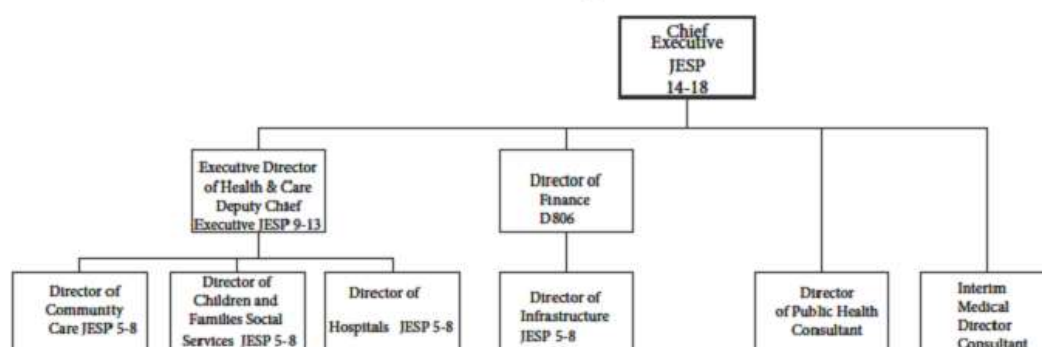
\* Canteen, Coffee Shop, Shop

## DHSC corporate services

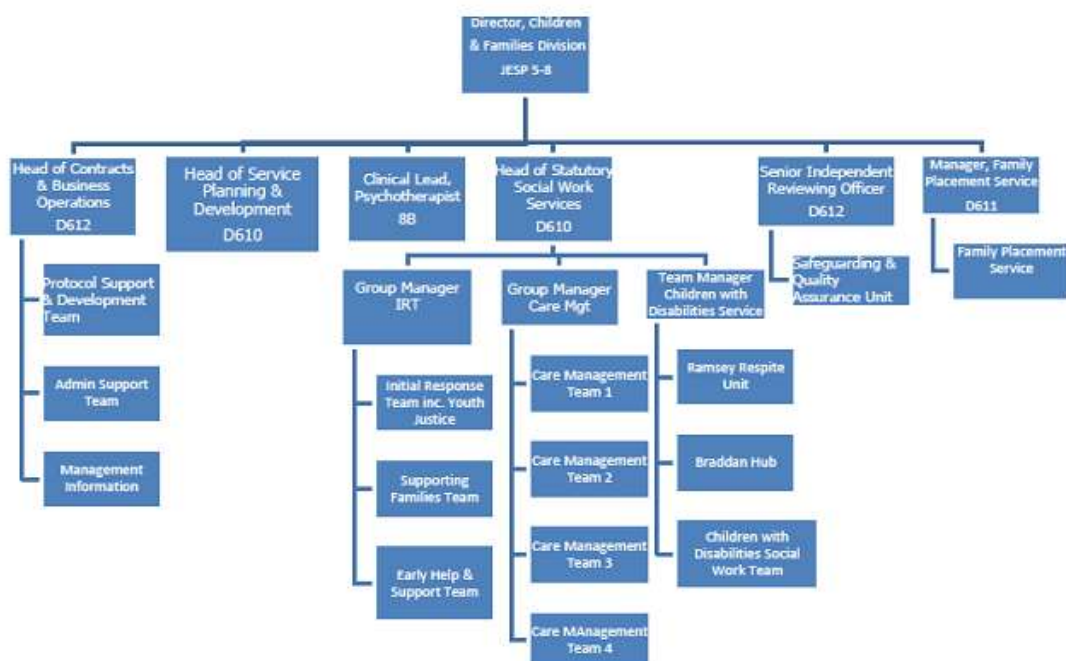
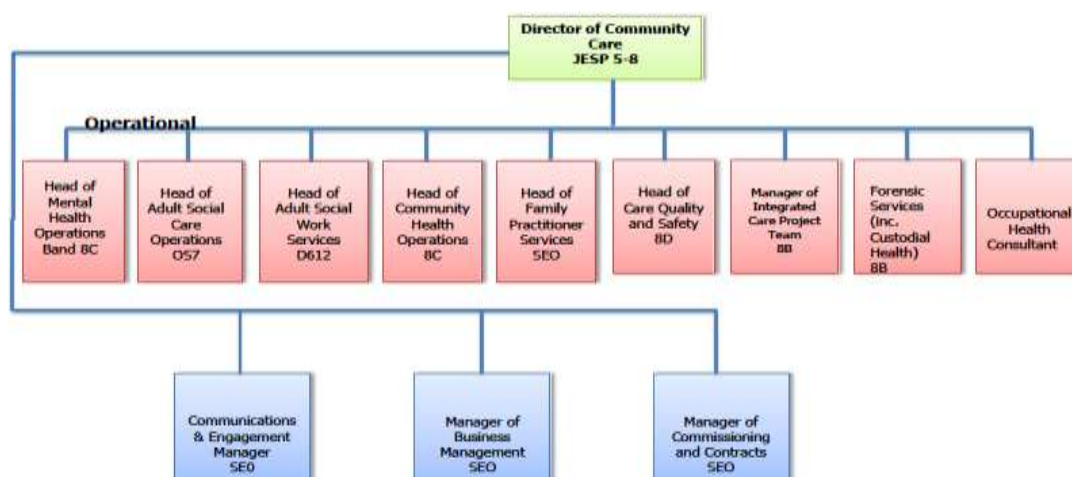
SEO and above

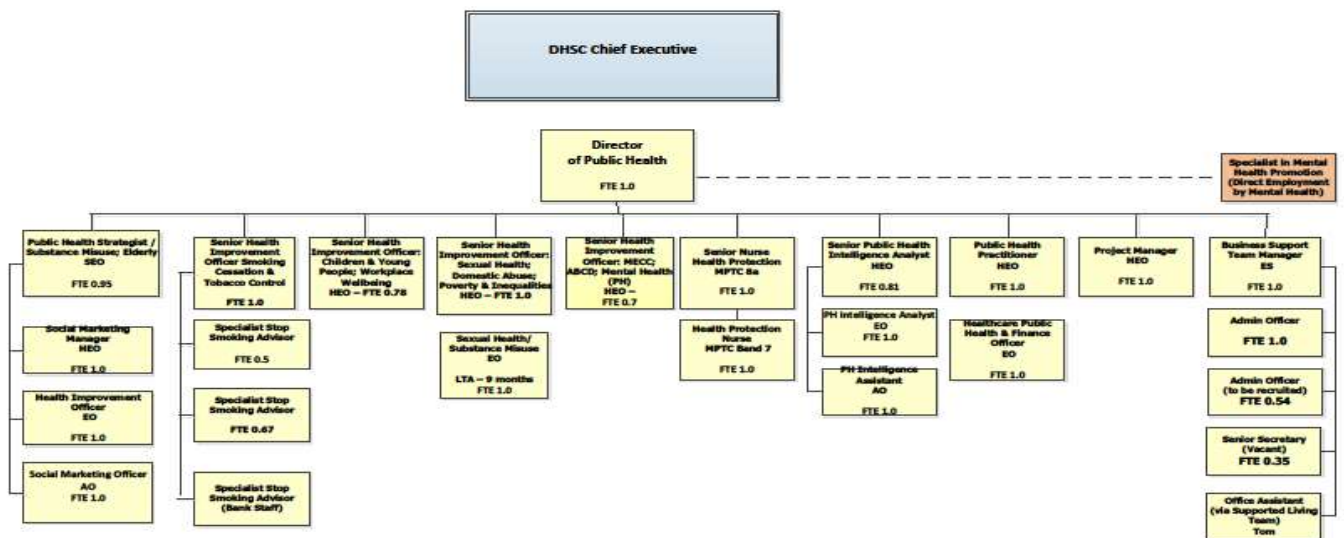


## Department of Health and Social Care Organisational Chart



### Community Care Directorate





January 2019 PH Structure

## 2.11. Adoption processes – Support available for birth parents

The Hon. Member for Onchan (Mr Callister) to ask the Minister for Health and Social Care:

*What support, or support groups, are available for birth parents who have been through  
(a) a closed or (b) open adoption process?*

**The Minister for Health and Social Care (Mr Ashford):** The Adoption Act 1984 section 14 states:

(1) It is the duty of the Department to establish and maintain a service designed to meet the needs in relation to adoption of,-  
(a) Children who have been or may be adopted;  
(b) Parents and guardians of such children; and  
(c) Persons who have adopted or may adopt a child;  
And for that purpose to provide appropriate assessment, placing and counselling facilities or secure that they are provided by approved adoption societies.

The law makes no distinction between open or closed arrangements.

1200 An adoption can occur through either the birth parent seeking to relinquish the child at birth for adoption, or is agreed through public law proceedings determining a child cannot return to the care of its birth parents and adoption is agreed as the permanence plan for that child.

The support provided by the Department is delivered by the family placement service. It is tailored to each individual's needs and may include any of the following:

- 1205
- Advice about what adoption is and what it means for that individual.
  - Counselling and help to support the loss and grief the parent is experiencing.

- In the case of relinquishment counselling and support to ensure the individual is making a fully informed decision about adoption.
- Support to share information about themselves and their family history in order to create a 'life story' for the child being adopted.
- 1210 - Act as a point of contact for any ongoing contact with the child in the future – most parents will engage in 'letterbox' contact, where information is exchanged, for example once or twice yearly to assist the child growing up knowing they are adopted.
- Offer support and advice once the adoption order is made.

1215 Birth parents will be referred by the child's social worker or can self-refer, and there is no time limitation on the service available, so a parent could seek advice over many years if required.

1220 Birth parents do not have to engage with the service, and if this is the case as a minimum written information would be provided to them to assist their understanding of the Adoption process.

Currently all services are offered on an individual basis. There has recently been a request for a support group from a birth parent and the feasibility of this will need to be considered given the numbers involved and that often confidentiality is a paramount consideration for most individuals.

## HOME AFFAIRS

### 2.12. Charitable and non-government projects – DHA financial support over last five years

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Home Affairs:

*Which charitable and non-government projects have received (a) one-off or (b) continuing financial support, broken down by the total given to each organisation each year in each of the last five years?*

1225 **The Minister for Home Affairs (Mr Malarkey):** Department of Home Affairs charitable donations:

	2018-19	2017-18	2016-17	2015-16	2014-15
(a) one off	Nil	Nil	Nil	Nil	Nil
(b) continuing					
Youth Motor Project	£10,000	£10,000	£10,000	Nil	£10,000
Victim Support <sup>(1)</sup>	£77,750	£77,750	£77,750	£77,750	£77,750
	£87,750	£87,750	£87,750	£77,750	£87,750

#### Notes

<sup>(1)</sup> Although the grant to Victim Support is not for a project, for the purposes of completeness it is included here.

**INFRASTRUCTURE**

**2.13. Energy from Waste Plant –  
Financial value of electricity generated each year since 2012**

The Hon. Member for Onchan (Mr Callister) to ask the Minister for Infrastructure:

*What the financial value of the electricity generated at EfW Plant was in each year from 2012 in the Energy from Waste Plant?*

1230     **The Minister for Infrastructure (Mr Harmer):** The table below sets out the net income received from electricity generated in each of the financial years from 2012-13 to 2017-18, the last year for which complete figures are available.

Financial year	Net income received
2012-13	£880,466.48
2013-14	£925,440.15
2014-15	£805,679.77
2015-16	£830,761.22
2016-17	£779,137.90
2017-18	£609,498.47

**2.14. Energy from Waste Plant –  
Waste amounts incinerated in 2017-18**

The Hon. Member for Onchan (Mr Callister) to ask the Minister for Infrastructure:

*How much waste was incinerated at the Energy from Waste Plant in 2017-18 in (a) the primary incinerator; and (b) the secondary incinerator?*

1235     **The Minister for Infrastructure (Mr Harmer):** During 2017-18, 50,829.6 tonnes of waste was incinerated in the primary incinerator and 243.32 tonnes of waste was incinerated in the secondary incinerator.

## Order of the Day

### 3. BILL FOR SECOND READING

#### 3.1. Highways (Amendment) Bill 2019 – Second Reading approved

Mr Harmer to move:

*That the Highways (Amendment) Bill 2019 be read a second time.*

**The Speaker:** Item 3, Bill for Second Reading, Highways (Amendment) Bill 2019. I call on the Minister, Mr Harmer, to move.

**Mr Harmer:** Thank you, Mr Speaker.

1240 I am pleased to promote this short Bill on behalf of the Department of Infrastructure to rectify a deficiency in the definition of planning approval within the Highways Act 1986, which I will refer to in this speech as ‘the Act’.

The Department has powers within the Act to make highway closure or highway diversion orders under section 33.

1245 These powers enable the Department to divert or extinguish a highway for the purpose of enabling development to be carried out in accordance with a planning approval. Where the Department is satisfied that it is expedient to do so, it may then make an order to deal with extinguishment or diversion of the highway, and therefore enable the development to proceed.

1250 However, it should be noted that planning approval, as defined in section 119 of the Act, only means approval to the development of land granted pursuant to a development order under Part 2 of the Town and Country Planning Act 1999, and to no other approvals.

The situation has arisen due to the Transfer of Planning and Building Control Functions Order 2015. At that time, planning approvals via an order or an application would give sufficient reason for the Department to extinguish or divert a highway.

1255 However, the Transfer of Functions Order amended the definition of a development order within the Town and Country Planning Act by limiting it to approvals granted by an order. Inadvertently, this had the effect of stopping the Department from making orders to close or divert a highway so as to enable development to occur, even where an approval had been granted via a planning application.

1260 The Bill is proposing to omit any reference to a development order from the definition of planning approval in the Act, which in turn will allow the Department to make the necessary highway orders to enable development to occur.

This Bill is simply reinstating the powers contained within the Act before the Transfer of Functions Order came into operation.

1265 The opportunity presented by this Bill is also being used to improve an anomaly in the process for highway closures and diversions with regard to public footpaths. Public footpaths are classed as highways, and if a highway closure order or highway diversion order, which requires Tynwald approval, is made for a footpath, the Department is then required to make a subsequent order under a different section of the Act, and again seek Tynwald approval, to amend the definitive map itself, i.e. Tynwald is asked twice to approve the same change.

1270 Highway closure orders and highway diversion orders have to be approved by Tynwald, essentially giving agreement to the principle of the proposed change to the definitive map. Therefore, this Bill will amend section 92A to provide that an order made under that section as a consequence of: (a) an order under section 33, 34 or 91; or (b) an agreement under section 4



1275 or 87; or (c) both such an order and such an agreement, need only to be laid before Tynwald, because in these circumstances the process is essentially administrative in nature.

I must stress the Department is not intending to change the procedure set out in the Act where any proposed closure or diversion orders are advertised and open to objection by the public. These orders will still be subject to public scrutiny and the scrutiny of Tynwald.

1280 Having outlined the broad principles of the Bill I hope that Hon. Members will give it their full support.

I beg to move that the Highways (Amendment) Bill 2019 be read for a second time.

**The Speaker:** I call on the Hon. Member for Ayre and Michael, Mr Baker.

1285

**Mr Baker:** Thank you, Mr Speaker.

I beg to second and reserve my remarks.

**The Speaker:** The question is that the Highways (Amendment) Bill 2019 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

1290

#### 4. CONSIDERATION OF CLAUSES

##### 4.1. Dormant Assets Bill 2018 – Clauses considered

Mr Shimmins to move.

**The Speaker:** Item 4 on the Order Paper, consideration of clauses, Dormant Assets Bill 2018, and I call on Mr Shimmins to move.

**Mr Shimmins:** Thank you, Mr Speaker.

1295 As outlined in the Second Reading, the main aim of the Dormant Assets Bill 2018 is to enable dormant assets held by local banks to be transferred to a central fund and, subject to their being sufficient funds retained to meet any repayment claims, to allow a proportion of the amounts transferred to be distributed to good causes in the Island.

1300 The Bill is underpinned by three core principles: firstly, the transfer of a dormant asset to the central fund should be a last resort for assets whose owners cannot be traced; secondly, customers' rights should always be protected; and thirdly, dormant assets funds should be applied for public benefit.

1305 A number of points were raised at the Second Reading of this Bill and I have since discussed these further with the Hon. Members involved. I very much welcome this constructive engagement and the progress made to resolve these issues and I will cover each of these in detail as I work through this clauses reading.

1310 I would also advise Hon. Members that a number of amendments have been tabled to this Bill today and I would encourage you to support each of these, which are listed on the Order Paper. The majority of the amendments will clarify how the Bill will work in practice and so will remove any doubt over its operation. I would like to extend my thanks to Mr Hooper and to Mrs Corlett for working with the Treasury and then moving amendments today. The Treasury Minister will also be proposing a small number of amendments. These seek to correct a minor drafting irregularity and, in addition, add further clarity in some areas whilst addressing the concerns some Members have raised about protecting customer rights where assets are transferred to the central dormancy fund.

1315

Mr Speaker, with Hon. Members' agreement, I would like to move clauses 1 and 2 together, and I will then address each of the remaining clauses in turn.

**The Speaker:** I call the Hon. Member for Douglas North, Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

**The Speaker:** The question is that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 3, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 3 provides definitions for the key terms used in the Bill and indicates where the meaning of others may be found.

These definitions include that of an 'asset holder', which with particular reference to an account is anybody who under existing arrangements can seek payment of the account. To be absolutely clear on this definition, the Bill will not diminish those groups that under existing arrangements have a rightful entitlement to the account from claiming their money.

I beg to move that clause 3 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

**The Speaker:** We turn to amendment 1 in the name of Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

There are a number of amendments in here that are removing references to partial asset transfers. The aim of these amendments is to ensure that when the time limits that are outlined in the Bill are reached the banks are required to transfer in full any balances of assets that exist directly to the Fund, just to remove any potential for banks to transfer a small portion into the Fund and retain the rest for themselves. It is purely a tidying-up, clarification exercise.

This amendment in particular just removes the phrase 'the whole or any part of' from the definition of a transferred asset in the interpretation clause.

Mr Speaker, I beg to move:

*Amendment to clause 3*

*1. On page 13, in line 34 omit 'the whole or any part of'.*

**The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

I beg to second.

**The Speaker:** Hon. Members, putting first the amendment in the name of Mr Hooper, those in favour, please say ... As there is no debate, unless the Hon. Member wishes to respond to the amendment – okay, in which case I will put first the amendment in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 3 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1365 Clause 4 provides the definition of an 'asset' to which the legislation will be applied. An asset is limited to any account held by a licenceholder in the Island, but this may be extended to other assets by way of an order under clause 10(1).

1370 Subsection (2) prescribes what may not be considered as an asset for the purpose of the legislation. Essentially, any assets that are subject to ongoing proceedings relating to money laundering, terrorist financing or sanctions, or any other civil or criminal matters, will not be included within the scope of the legislation.

I beg to move that clause 4 stand part of the Bill.

**The Speaker:** Mr Peake.

1375

**Mr Peake:** Thank you, Mr Speaker.

I beg to second.

1380 **The Speaker:** The question is that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1385 Clause 5 sets out the meaning of 'balance'. A balance for the purpose of this Bill is the value of an asset owing to an asset holder at any time once all adjustments have been made for interest due and charges and fees payable in accordance with the terms and conditions under which that asset is held by a licenceholder. A balance does not, however, include any amount subject to a security interest.

1390 I would reiterate here that the balance should include all interest owing to an account by a licenceholder up to the point of transfer and I would like to thank the mover of the amendment to this clause which will ensure the Bill is clear on that point.

1395 If a licenceholder miscalculates the amount of interest owing to an account and the balance is transferred to the Fund without that amount being added, the licenceholder will be liable for payment of the outstanding amount of interest. This is of course specified, for the avoidance of doubt, in clause 18 of the Bill.

I beg to move that clause 5 stand part of the Bill.

**The Speaker:** Mr Peake.

1400 **Mr Peake:** Thank you, Mr Speaker, and I beg to second

**The Speaker:** We turn to amendments 2 and 3 in the name of Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

1405 Amendment 2: Mr Shimmins just helpfully clarified that the balance is defined as the value of an asset owing to the asset holder. Unfortunately, the Bill as originally drafted omitted the phrase 'owing to the asset holder'. Amendment 2 is simply to add that clarification in.

1410 Amendment 3: again, Mr Shimmins helpfully clarified the intention was that the value of the asset would be after any adjustments, including interest due both to the licenceholder and to the asset holder. Again, the Bill simply was not particularly clear in that respect and so removing the phrase 'to a licenceholder' adds a little bit of clarity.

Mr Speaker, I beg to move both amendments:

*Amendments to clause 5*

*2. On page 15, in line 4 after 'or value,' insert —*

*'owing to the holder of the asset'.*

*3. On page 15, in both lines 5 and 9, omit 'to a licenceholder'.*

**The Speaker:** I call on the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

I beg to second both amendments.

**The Speaker:** I will put first amendments 2 and 3 in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 5 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 6 defines the licenceholders to which the legislation will apply. A licenceholder is the holder of a class 1 deposit taking licence in accordance with paragraphs 1(1) and 1(2) of Schedule 1 of the Regulated Activities Order 2011, which will essentially be any bank or building society that accepts deposits in the Island.

I beg to move that clause 6 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

I beg to second.

**The Speaker:** I put the question that clause 6 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 7, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 7 provides the definition of a 'dormant' account. In general, an account will be classed as dormant if it has been 'open' for a period of 15 years during which there has been no customer activity.

An account is considered open whenever it holds a residual unclaimed balance, except where it has been closed upon the instruction of the account holder.

Subsection (2) provides that an account is not to be treated as dormant if the nature of the account is such that withdrawals are not permitted, or if such withdrawals would incur some form of penalty.

I am aware that some concern has been expressed about accounts being misclassified as dormant when they are in fact 'nest eggs' or long-term savings accounts for children and I would just like to address that particular issue.

To be dormant, an account must have been open throughout a period of 15 years and during that period no transfers in, or withdrawals from the account must have been carried out. As a further protection, if the account holder holds additional accounts with the same licenceholder, any activity or contact in respect of the other accounts would preclude the inactive account as being classified as dormant.

If an account does end up being inactive for genuine reasons, but is not in fact dormant, banks will follow their own tracing procedures within a few years of account activity ceasing, to seek to identify if the account is in fact active. Customers will have the opportunity at this stage to respond to their bank's contact.

Notwithstanding these earlier efforts to contact a customer, the asset holder notification that must be sent before a dormant asset transfers to the Fund, provides a further opportunity for a customer to advise their bank that their account is not in fact dormant.

1465 The amendments proposed to clauses 15 and 33 should also provide more comfort on this point.

The Hon. Member for Onchan, Ms Edge, raised the points on powers of attorney and the question of capability. This is a separate matter which is not impacted by this proposed legislation. I would stress that this Bill safeguards customers' rights in perpetuity.

1470 Hon. Members, I feel it would be difficult to provide for every single potential scenario that could possibly cause an account to be misclassified as inactive, but I believe sufficient protections are built into this clause to accommodate most situations that may arise where an account is inactive for genuine reasons.

I again remind Hon. Members of the right to reclaim that customers are granted under this proposed legislation, which will continue indefinitely.

I beg to move that clause 7 stand part of the Bill.

**The Speaker:** Mr Peake.

1480 **Mr Peake:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** We turn to amendments 4 and 5 in the name of Mr Hooper.

1485 **Mr Hooper:** Thank you, Mr Speaker.

These two amendments, again, are tidying up amendments. On reading through the Bill I realised that some sections made references to an account holder or an authorised representative of an account holder, some sections did not. So in order to ensure a bit of consistency I had a conversation with Treasury and they correctly highlighted that in the clause that was approved earlier, clause 3, which talks about interpretation, the definition of asset holder itself already includes any potential authorised representative or anyone entitled to reclaim money on behalf of the asset holder themselves so these references for an authorised representative are implications and they are actually completely unnecessary and so in order to ensure some consistency both of these amendments simply remove that reference.

1495 So Mr Speaker, I beg to move amendments 4 and 5:

*Amendments to clause 7*

*4. On page 16, in line 2, omit 'or an authorised representative of the holder'.*

*5. On page 16 in lines 23 to 24, omit 'or the holder's authorised representative'.*

**The Speaker:** Thank you.

I call on the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen.

1500 **Mr Cregeen:** Thank you Mr Speaker.  
I beg to second.

**The Speaker:** I put to you first amendments 4 and 5 in the name of Mr Hooper, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1505 Clause 7, as amended, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1510 Clause 8 deals with circumstances where a licenceholder is unable to identify the exact dormancy age of an account, or is unable to confirm whether the account is in fact dormant.

The clause gives licenceholders the opportunity to apply to the Treasury for these accounts to be considered as dormant despite their dormancy classification having not been confirmed.

I beg to move that clause 8 stand part of the Bill.

1515 **The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

1520 **The Speaker:** The question is that clause 8 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9, Mr Shimmins.

**Mr Shimmins:** Thank you Mr Speaker.

Clause 9 provides for the amendment of the definitions given in clauses 3 to 7.

1525 During the Second Reading, the Hon. Member for Douglas East, Miss Bettison, requested clarity on the term 'reasonable excuse', which is not otherwise defined under clauses 3 to 7.

The Attorney General's Chambers have kindly provided further explanation in a briefing which I have forwarded to the Hon. Member. It is a common term which is widespread in Manx legislation and perfectly usual.

1530 In summary, the interpretation of what constitutes a 'reasonable excuse' is determined on a case-by-case basis and will depend on the circumstances of the offence committed and the circumstances of the offending body. There is no defined list of what a 'reasonable excuse' would constitute, as what is considered a reasonable excuse will naturally vary from case to case.

1535 It is not practicable therefore to determine what might be considered by a court as a reasonable excuse in the case of offences committed by licenceholders under the Act.

I beg to move that clause 9 stand part of the Bill.

**The Speaker:** Mr Peake.

1540

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 9 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1545 Clause 10, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1550 Clause 10 permits the Treasury by order to apply the Act to other assets and in consequence to make other categories of persons holding such assets licenceholders for the purposes of the Act.

1555 As I outlined in my summing up at the Second Reading of this Bill; at this time we have not explored any further options for the application of the Dormant Assets legislation in the Island. Any steps we may take will of course be subject to full consultation with the relevant licenceholders and to their being sufficient evidence that benefit will be borne through the additional asset classes.

Any further application of the Act and consequential modification will require Tynwald approval.

I beg to move that clause 10 stand part of the Bill.

1560 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.  
I beg to second.

1565 **The Speaker:** The question is that clause 10 stand part of the Bill. Those in favour, please say  
aye; against, no. The ayes have it. The ayes have it.  
Clause 11, Mr Shimmins.

**Mr Shimmins:** Thank you Mr Speaker.  
Clause 11 deals with the establishment and structure of the Dormant Assets Fund.  
1570 It provides that the Fund shall be under the care and management of the Treasury and that it  
will be made up of a reserves account and a distribution account.

The reserves account will receive all amounts transferred to the Fund and will pay out  
amounts as required in respect of any repayment claims and any other liabilities.

1575 Funds identified for distribution must be transferred from the reserves account into the  
distribution account before any distribution can be made in accordance with Part 5 of the Bill.

Subsections (7) to (9) make provision for ensuring the Fund can meet repayment claims, as  
any deficiency in the reserves account will be made good by a transfer from the distribution  
account in the first instance, and, if necessary, by a transfer into the reserves account from  
General Revenue.

1580 Subsection (8) enables the Treasury to transfer to the Fund from General Revenue an amount  
in the case the Fund is unable to meet a repayment claim. This enabling power is intended to be  
a backstop to ensure repayment claims can always be met, and I can assure Hon. Members that  
it is not intended that it will ever be invoked. It is, however, important that there is some  
mechanism in the legislation to ensure that, if for whatever reason the Fund is unable to repay  
1585 an asset holder, there is an ability to make that payment.

If any such loan was provided from General Revenue to the Fund, it would have to be repaid  
once the Fund had rebuilt enough reserves to meet any further potential repayment claims, and  
so to this end, the taxpayer would not ultimately be disadvantaged by the process.

1590 I beg to move that clause 11 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

1595 **The Speaker:** The question is that clause 11 stand part of the Bill. Those in favour, please say  
aye; against, no. The ayes have it. The ayes have it.  
Clause 12, Mr Shimmins.

**Mr Shimmins:** Thank you Mr Speaker.  
1600 Clause 12 sets out the responsibilities and duties of the Treasury under this legislation.  
Under this clause the Treasury will be responsible for the day-to-day administration of the  
Fund, including dealing with transfer and repayment arrangements.

1605 Under paragraphs (c) and (d) of subsection (1) the Treasury must always ensure enough  
money is retained in the reserves account of the Fund to meet any repayment claims and any  
other liabilities arising.

The Treasury will also be responsible for: the preparation of distribution policies, which we  
will come to later under clause 24; transferring any amounts identified for distribution to the  
Fund's distribution account; and, for making amounts held in that account available for onward  
distribution.

1610 The Treasury will also be responsible for the relationship with licenceholders and any  
distribution organisation that is appointed.

I beg to move that clause 12 stand part of the Bill.

**The Speaker:** Mr Peake.

1615 **Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** The question is that clause 12 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 13, Mr Shimmins.

1620 **Mr Shimmins:** Clause 13 allows monies held in the Fund to be invested and ensures that any interest accrued on any such investment remains within the Fund.  
I beg to move that clause 13 stand part of the Bill.

1625 **The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

1630 **The Speaker:** The question is that clause 13 stand part of the Bill. Those in favour, say aye; those against, no. The ayes have it. The ayes have it.  
Clause 14, Mr Shimmins.

**Mr Shimmins:** Thank you Mr Speaker.

1635 Clause 14 provides that the Treasury must lay a detailed annual report on the operation of the Fund before Tynwald each year.  
I beg to move that clause 14 stand part of the Bill.

**The Speaker:** Mr Peake.

1640 **Mr Peake:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** The question is that clause 14 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1645 Clause 15, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 15 provides arrangements for the initial part of the annual transfer cycle, which will take place between 1st July and 31st December each year.

1650 This notice stage consists of two key parts, which are set out in subsections (1) and (2): at any time between 1st July and 30th September each year, a licenceholder must notify the Treasury of the assets they hold that became dormant during the previous July to June period, otherwise known as the previous relevant year and, in respect of those assets; a licenceholder must send out a notification to the last known contact details of each asset holder to try to reunite them with their account before it is transferred to the Fund. These asset holder notifications may be sent at any time after the asset became dormant but before the end of September.

1655 A number of Hon. Members expressed some concern during the Second Reading of this Bill about the lack of clarity over the content of the asset holder notification that must be sent under subsection (2). It was intended that the Treasury would, shortly after the introduction of this Bill, specify those requirements by way of an Order under subsection (5).

1660 This would be consistent with the approach adopted elsewhere in the United Kingdom and also in Jersey, where this additional detail is provided in guidance notes. However, some Hon. Members remain concerned about this point and have requested that this is also specified in our primary legislation.



1665 To resolve those points, the Treasury is supporting the amendment proposed by the Hon. Member for Douglas Central, Mrs Corlett. Effectively all stakeholders wish to achieve the same outcome, it is merely a question of the way in which this is achieved.

The Treasury may ask for more information about any dormant asset notified to it, and a licenceholder must respond to any such request within one month. In these circumstances the timescales for complying with the remaining sections of the annual transfer sequence may be varied.

The Treasury may decline the transfer of any dormant asset included in a notice.

I beg to move that clause 15 stand part of the Bill.

1675 **The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

1680 **The Speaker:** I call on Mrs Corlett, the Hon. Member for Douglas Central, to move amendments 6 and 7.

**Mrs Corlett:** Thank you, Mr Speaker.

1685 I am of the opinion that under clause 15, giving notice of a balance is not sufficient to trigger any action on the part of the asset holder and that there must be a duty to notify intent. This amendment obligates licenceholders to notify the asset holder of their intent to close an account and move assets to the Dormant Asset Fund.

With that I beg to move the amendments standing in my name:

*Amendments to clause 15*

*6. On page 21, after line 4 insert: '(3) A notice under subsection (2) must state clearly that unless the person to whom it is given makes contact with the licenceholder, the balance of the dormant asset will be transferred to the Fund on or after a date stated in the notice.'*

*7. On page 21, in line 10 after 'may' insert ', subject to subsection (3),'.*

1690 **The Speaker:** I call on the Member for Garff, Mr Perkins.

**Mr Perkins:** Thank you, Mr Speaker.

I beg to second Mrs Corlett's amendment.

1695 **The Speaker:** Turning then first to amendments 6 and 7 in the name of Mrs Corlett, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 15, as amended, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 16, I call on the Hon. Member, Mr Shimmins to move.

1700 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 16 provides arrangements for the second part of the annual transfer cycle. Changes to the status of any assets listed on the notice under clause 15(1) that arise before 30th November must be applied by a licenceholder for the purpose of the transfer to the Fund.

1705 Within the month of December, a licenceholder must submit a further notification to the Treasury under subsection (1), which must confirm the dormant assets they hold that will transfer to the Fund. It follows that by the end of December the transfer of the funds must take place.

To confirm, in light of the Hon. Member for Ramsey, Mr Hooper's clarifying amendment to this clause, which is supported by the Treasury, a licenceholder is required to transfer the total

1710 value of their dormant assets to the Fund unless one of the mitigating circumstances listed under subsection (5) has occurred.

I beg to move that clause 16 stand part of the Bill.

**The Speaker:** Mr Peake.

1715

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

**The Speaker:** I go to amendment 8 in the name of Mr Hooper.

1720

**Mr Hooper:** Thank you, Mr Speaker.

As Mr Shimmins has just outlined, this is the same amendment as amendment number 1, simply to ensure that when licenceholders make transfers into the Fund they are required to transfer the entire balance of any assets.

Mr Speaker, I beg to move:

*Amendment to clause 16*

*8. On page 22, in line 11, omit 'all or part of'.*

1725

**The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

I beg to second.

1730

**The Speaker:** Turning first to the amendment in the name of Mr Hooper. Those in favour of the amendment, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 16, as amended. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 17, Mr Shimmins.

1735

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 17 provides the arrangement for the treatment of dormant assets that are held in a currency other than that of the Fund currency of the Manx pound or sterling.

1740

Under subsection (2), the balance of such assets will be converted to the Fund currency by a licenceholder within two working days of a transfer taking place. The rate of conversion applied will be determined by the prevailing exchange rate that applies to the asset on the day of conversion in accordance with the terms and conditions under which it is held by a licenceholder.

Again, Treasury supports the clarifying amendment proposed to this clause.

1745

I beg to move that clause 17 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

1750

**The Speaker:** I turn to amendment 9 in the name of Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker.

1755

Again, exactly the same as the last amendment, just to make sure that balances are transferred in their entirety, removing any reference to 'parts' of a balance.

Mr Speaker, I beg to move:

*Amendment to clause 17*

*9. On page 23, in line 4, omit 'in whole or in part' and in line 7 omit 'any part of'.*

**The Speaker:** Mr Cregeen.

**Mr Cregeen:** Thank you, Mr Speaker.

1760 I beg to second.

**The Speaker:** Putting first amendment number 9 in the name of Mr Hooper. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1765 Clause 17, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 18, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1770 Clause 18 sets out the rights of a holder of a dormant asset that has been transferred to the Fund.

With respect to the transferred asset, the asset holder no longer has a right to payment of the transferred asset against the licenceholder. This right to payment does, however, still exist but will be held against the Treasury as manager of the Fund.

1775 Subsection (3) provides that interest will not accrue on transferred assets whilst they are held in the Fund, except to the extent that may be prescribed separately by the Treasury. This point was subject to some discussion during the Second Reading of this Bill and I would like to reiterate why we have reached this position: firstly, it is very important that our legislation is consistent with the other Crown Dependencies – Jersey law prescribes that interest will not accrue on transferred assets, and the approach taken in this Bill provides consistency for banks and customers across the two jurisdictions. Secondly, the level of interest that ordinarily accrues on an account that has lain dormant for a very long period of time is very likely to be minimal. As a third and final point, recalculating interest over a period of time between transfer and possible reclaim would prove to be difficult and perhaps costly, and indeed the cost involved could be disproportionate in many cases – different banks will have different interest rates connected with different accounts, and accounts that existed at the time an asset was transferred may not exist at the time of a reclaim.

1780 As a consequence, this will bring significant complication to the distribution policies of the Fund, as these would have to take into consideration this unknown potential liability and ultimately this would affect the amount of money that could potentially be made available for distribution. However, Hon. Members will note the amendment to this clause that the Treasury Minister has tabled. This will provide a mechanism to address these matters in appropriate circumstances.

On balance, Mr Speaker, I believe that the position reached provides the most practical and cost-effective solution for all parties.

1795 I beg to move that clause 18 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

1800

**The Speaker:** We turn first to amendment 10 in the name of Mr Cannan. I call Mr Cannan to move.

**Mr Cannan:** Thank you, Mr Speaker.

1805 This amendment provides a mechanism for the Treasury to pay an asset holder an amount greater than the value of the asset which was originally transferred to the Fund.

The need for this provision was identified during ongoing discussions with the Attorney General's Chambers as a means for ensuring that an asset holder has a means of recourse where significant financial impairment has been suffered as a consequence of the treatment of their asset under the legislation. It is intended that this ability to overpay will only be considered in exceptional circumstances.

1815 It is intended that the Treasury will oversee all overpayment decisions, which will provide consistency and fairness. It is important to note that in making such decisions the Treasury must bear in mind the balance of the Fund at the given time, and have regard for the effect of any overpayment on the ability of the Fund to pay out any other repayment claims that may arise.

Mr Speaker, whilst this Bill already contains significant safeguards, this amendment adds further protection for asset holders and provides an important means of resolving any significant issues that may arise at repayment.

I beg to move the amendment standing in my name:

*Amendment to clause 18*

*10. On Page 23, after line 21 insert —*

*'(2) The Treasury may pay the asset holder out of the Fund a sum greater than that to which the asset holder would be entitled under subsection (1)(b) if the Treasury considers it appropriate to do so, having regard to the amount of money held in the Fund and any other matter that the Treasury considers relevant pertaining to the circumstances of the claim.*

*(3) Where a person is authorised by the Treasury in accordance with section 3 of the Government Departments Act 1987 to perform its functions under this Act, any additional payment under subsection (2) may not be made by that person without the approval of the Treasury.'*

*Renumber the subsequent subsections of clause 18 and adjust cross-references accordingly.*

1820 **The Speaker:** I call on the Hon. Member for Douglas Central, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

I beg to second, reserving my remarks.

1825 **The Speaker:** Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

1830 **The Speaker:** Sorry, if I can just get the amendments on the table first then I will come to you straight after that, if that is okay, Mr Baker?

Amendment 11, in the name of Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker.

1835 Again, this is an amendment simply to remove references to parts of any asset in respect of transfers.

While I am on my feet, I do have a question for the Hon. Member for Middle in respect of the rights of asset holders. He has confirmed that the asset holder will not be entitled to any interest on the asset that has been transferred in respect to the period during which it is held in the Fund. The last subsection of section 18 states that:

... the terms on which, prior to transfer, the transferred asset was held by a licenceholder [*continue to*] apply ...

1840 So my question really is: whilst the interest itself is essentially frozen while the asset is in the Fund, can he also confirm that any fees that may have normally been due to the licenceholder are also frozen and not chargeable during the period the asset is held by the Fund?

Mr Speaker, I beg to move amendment number 11:

*Amendment to clause 18*

*11. On page 23, in line 32, omit 'in whole or in part' and in line 33 omit 'any part of'.*

**The Speaker:** Mr Cregeen.

1845

**Mr Cregeen:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** Mr Baker.

1850

**Mr Baker:** Thank you very much, Mr Speaker.

In clause 14, which specified the contents of the Annual Report, this amendment from the Treasury Minister brings in something that was not envisaged when the Annual Report definition was first set. So in the event that Treasury does exercise its judgement, is there an intention that the fact they have done that is going to be reported within the Annual Report for transparency purposes?

1855

**The Speaker:** I will go through and give everyone the opportunity, of course, to sum up on their amendments. Firstly, Mr Hooper.

1860

Mr Cannan.

**Mr Cannan:** I am going to leave that to Mr Shimmins to answer as part of his overall response, Mr Speaker.

1865

**The Speaker:** And the grand finale on this clause lies in the hands of Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

I am grateful for the questions put forward. Turning first to the Hon. Member for Ramsey Mr Hooper's question, I can confirm that fees and charges will not be applied once they have been transferred to the Fund – just to provide clarity on that.

1870

Thank you to Mr Baker, the Hon. Member for Ayre and Michael, querying the content of the annual report. That is still to be developed in terms of the exact detail. We will be following best practice that we have seen elsewhere in the UK and also in Ireland, who have also been running a very successful dormant assets scheme for some time. We will certainly consider whether any exceptional arrangements which would be made under clause 18 would be included in that report. I think we would also need to consider in terms of data protection and the rights of confidentiality in those circumstances, but thank you for that for that point and it is something that we will consider.

1875

On that basis, I beg to move that clause 18 stand part of the Bill.

1880

**The Speaker:** Taking first amendment 11, in the name of Mr Hooper, those in favour of that amendment, please say aye; those against, no. The ayes have it. The ayes have it.

Taking amendment 10, in the name of Mr Cannan, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1885

Taking clause 18 as amended, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 19, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1890 Clause 19 sets out the duties of licenceholders in relation to the dormant assets they have transferred to the Fund.

In respect of these assets, licenceholders will be responsible for holding relevant asset holder records and for receiving, assessing and paying out any repayment claims. They must also assist any inquiry being undertaken by a law enforcement agency for a permitted purpose.

1895 Hon. Members, because licenceholders will take on these duties and obligations, a customer's experience in reclaiming their money will be no different to the experience they would have had, had their asset remained with their original bank.

I beg to move that clause 19 stand part of the Bill.

**The Speaker:** Mr Peake.

1900

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

**The Speaker:** The question is that clause 19 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1905 Clause 20, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

1910 Clause 20 deals with the responsibilities of a licenceholder to report to Treasury annually on their repayment claim experience. The details provided in these annual returns may be subject to publication through the annual report of the Fund.

I beg to move that clause 20 stand part of the Bill.

**The Speaker:** Mr Peake.

1915 **Mr Peake:** Thank you, Mr Speaker, and I beg to second.

**The Speaker:** I put the question that clause 20 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

1920 Clause 21, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 21 deals with the reimbursement process for licenceholders in relation to amounts they have paid out in repayment claims.

1925 A licenceholder is entitled to seek recovery of amounts paid out in repayment claims by making a quarterly application to the Treasury via a reclaim certificate.

A reclaim certificate cannot be made for amounts paid out on repayment claims more than three years before the date of the reclaim certificate, or for amounts paid out in error.

I beg to move that clause 21 stand part of the Bill.

1930 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker, and I beg to second.

1935 **The Speaker:** I put the question that clause 21 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 22 and the Schedule, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 22 provides that a licenceholder acts as the Treasury's agent in specified matters.

1940 It formalises the responsibilities and duties of licenceholders in respect of the dormant assets they have transferred to the Fund. The terms on which a licenceholder acts as agent are found in the Schedule.

In accordance with subsection (4), the terms provided in the Schedule are binding on any liquidator or any person acting in the place of a licenceholder in accordance with Part 6 of the Bill.

I beg to move that clause 22, including the Schedule, stand part of the Bill.

**The Speaker:** Mr Peake.

1950 **Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 22 and the Schedule stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 23, Mr Shimmins.

1955 **Mr Shimmins:** Thank you, Mr Speaker.  
Clause 23 deals with the costs of licenceholders.

The clause provides that a licenceholder may deduct costs or expenses from an asset prior to it being transferred to the Fund, but only insofar as the terms and conditions that are binding on an asset holder allow.

1960 In the event a transferred asset is subject to a repayment claim or is otherwise to be recovered from the Fund, a licenceholder may not deduct any further amounts from the transferred asset to be paid out in respect of costs incurred in connection with the fulfilment of its responsibilities under the legislation.

1965 Hon. Members may recall some concerns raised about charges being applied to dormant accounts prior to transfer to the Fund. Dialogue has taken place with local banks and they have confirmed that the majority of banks have in practice not applied charges in these circumstances where similar legislation is in force in other jurisdictions. I am grateful to the Bankers' Association for their assistance in this matter. However, to remove any lingering concerns on this point, the amendment to this clause that is being brought forward by the Treasury Minister today will provide that asset holders who have incurred fees or charges on their account in connection with this legislation will be repaid these charges by the relevant bank upon a repayment claim arising.

I beg to move that clause 23 stand part of the Bill.

1975 **The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

1980 **The Speaker:** We turn to amendments 12 and 13 in the name of the Hon. Member for Ayre and Michael, Mr Cannan.

**Mr Cannan:** Thank you, Mr Speaker.

1985 The amendment proposed provides that a licenceholder must repay any amount deducted from a dormant asset for fees and expenses incurred in performing its functions under the Bill, should a rightful repayment claim in respect of that asset be made.

This seeks to address concerns raised by a number of Hon. Members during the Second Reading of the Bill when it was felt that it would be unfair to financially penalise an account holder for the treatment of their asset under the legislation if it later transpired that the account was not in fact ownerless.

1990 Mr Speaker, I beg to move the amendments standing in my name:

*Amendments to clause 23*

*12. On page 27, after line 22 insert —*

*‘(2) Where a licenceholder deducts fees and expenses under subsection (1), the licenceholder must refund those fees and expenses to the asset holder on a payment out to the asset holder of the amount to which the asset holder is entitled in respect of a repayment claim.’.*

*Renumber the subsequent subsection.*

*13. On page 27, after line 27, insert —*

*‘(4) To avoid doubt, a refund of fees and expenses under subsection (2) must not be deducted by a licenceholder from any amount transferred to, recovered from or to be paid from, the Fund.’.*

**The Speaker:** I call on the Hon. Member, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

1995 I beg to second.

**The Speaker:** Putting amendments 12 and 13 in the name of Mr Cannan, those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

2000 Clause 23 as amended: those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 24, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2005 Clause 24 deals with distribution policies, the setting of which will be the Treasury’s responsibility.

A distribution policy will determine the value of assets held in the Fund at any time that must be retained to meet any repayment claims and cover any costs and any surplus amounts that may be made available for distribution.

2010 Distribution policies will be transparent and will be reported in the annual report of the Fund in accordance with clause 14.

In accordance with clause 12, the Treasury will be responsible for ensuring, first and foremost, that enough money is retained in the reserves account of the Fund to meet any repayment claims.

2015 Concluding the potential liabilities of the Fund at any time will be complex, and until the Treasury has some repayment experience it will be difficult to establish the profile of assets that are more or less likely to be reclaimed.

In that vein, we cannot confirm at this stage how much money will be available and when that money will be available.

2020 I beg to move that clause 24 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

2025 **The Speaker:** The question is that clause 24 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 25, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2030 Clause 25 deals with the distribution of Fund money.



Subsection (1) provides that amounts held in the distribution account of the Fund may be used to pay the costs of a distribution organisation and may be used for distribution to charitable purposes specified in subsection (7).

2035 Subsections (3) to (5) deal with the appointment of the distribution organisation, which must be independent from the management of the Fund and whose terms of appointment must be approved by Tynwald. A body appointed as a distribution organisation will not be eligible to receive a distribution from the Fund for its own purposes.

The parameters for the distribution of money to good causes in the Island are set out in subsection (7).

2040 Paragraph (a) of that subsection provides that any organisation, body or individual carrying out charitable purposes which achieve objectives relating to the advancement of the arts, culture, heritage, science, education, health or environmental protection or improvement in the Island is eligible for funding.

2045 Hon. Members will recall that there was quite some discussion on the charitable objectives listed under paragraph (a) during the Second Reading of this Bill. Those discussions focused on the effect the Charities Registration and Regulation Bill 2018 may have on the scope of what constitutes a 'charitable purpose' in Manx legislation, if indeed that Bill is introduced. The discussions also drew attention to the absence of any reference to sport in paragraph (a), which of course is not under existing legislation, classified as a charitable purpose in the Island.

2050 I will therefore reiterate the commitment I made during the Second Reading of this Bill insofar that if the new charities legislation is introduced, the Treasury will bring forward an amendment to this subsection that will see the advancement of amateur sport in the Island brought into the list of eligible charitable purposes listed under paragraph (a).

2055 Moving on to paragraph (b): this provides that any registered charity carrying out any charitable purpose in the Island will also be eligible for funding.

2060 As a final point on this clause, I would add that there is absolutely no intention that distribution money will be used to offset Government spending. One of the key principles of this legislation is that any proceeds available should be put to good use in the local community. The method of distribution will ultimately be subject to the further approval of Tynwald and the distribution organisation must report annually on its activity.

I beg to move that clause 25 stand part of the Bill.

**The Speaker:** Mr Peake.

2065 **Mr Peake:** Thank you, Mr Speaker.  
I beg to second.

**The Speaker:** Hon. Member for Ayre and Michael, Mr Baker.

2070 **Mr Baker:** Thank you very much, Mr Speaker.

I just rise to my feet to thank the Hon. Member for Middle for his enlightened approach on behalf of Treasury to the inclusion of sport within the types of organisation that can receive these funds.

2075 I welcome very much the commitment that once the Charities Bill comes in Treasury will move. I would just like a further commitment that it will move as soon as it can, just in the event that perhaps those Members and Ministers in Treasury in future may not be quite as enlightened as the current incumbents, so I would just welcome that commitment, please.

**The Speaker:** Mr Hooper, Hon. Member for Ramsey.

2080 **Mr Hooper:** Thank you very much, Mr Speaker.

Just to pick up on that point, actually. At the Second Reading the commitment that I asked for from the Treasury was that when the Charities Registration and Regulation Bill came through that Treasury amend this section so that it was in line with the list of charitable purposes that was in that Bill. At Second Reading Mr Shimmins unfortunately did not make any such commitment, so I am very glad that he has made a commitment today, that is quite reassuring, but it is not the commitment that I think he needs to be making. The list of charitable purposes in that proposed Bill is much wider than this very restrictive list here, even if it was to include sport. An example of something that is included that is not, the advancement of citizenship is included in that list. Again, it is not here.

So I think the commitment that we need from Treasury is that when this Bill goes through the Branches and Tynwald has approved a new list of charitable purposes on the Isle of Man, this legislation will reflect that new Tynwald-approved list of charitable purposes.

**The Speaker:** Hon. Member for Douglas Central, Mr Thomas.

**Mr Thomas:** Thank you very much, Mr Speaker.

Does the Member moving this Bill agree that obviously Treasury and Cabinet Office have co-ordinated in respect of the Dormant Assets and the Charities Bill? I am sure this Hon. House will be delighted to know that the Charities Bill will begin its passage in the House of Keys shortly and then obviously there will be the chance when we come back to Tynwald, for the final stage of those Bills, to make sure they coalesce exactly.

**The Speaker:** Mr Shimmins to reply.

**Mr Shimmins:** Thank you, Mr Speaker.

I welcome the points made by all three Hon. Members. Turning first to Mr Baker's concern, I can confirm Treasury will not dilly-dally on the way and we will crack on as soon as practicable.

Turning to Mr Hooper's point about exactly what the change will look like and how it will correspond with the Charities Bill, I am happy to concur with my hon. friend, Mr Thomas, that coalescence would seem a very appropriate term and it would be good to avoid any inconsistencies between the two Bills and we should aim to achieve that coalescence.

On that basis, I beg to move.

**The Speaker:** The question is that clause 25 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 26, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 26 preserves the rights of asset holders to reclaim their transferred assets from the Fund despite, amongst other things, the licenceholder that originally held their asset no longer holding a relevant licence in the Island.

I beg to move that clause 26 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 26 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.  
Clause 27, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2135 Clause 27 provides that the operation of Part 4 of the Bill in respect of repayment claims will continue despite the default of a licenceholder.

I beg to move that clause 27 stand part of the Bill.

**The Speaker:** Mr Peake.

2140 **Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 27 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 28, Mr Shimmins.

2145

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 28 provides that the Treasury may perform certain duties of a licenceholder in clause 19, if they are not otherwise being undertaken by or on behalf of a licenceholder.

2150 This clause ensures asset holders will always have a mechanism to reclaim their transferred asset, even if a licenceholder defaults, or if the arrangements in clause 29 to provide for repayment claims in the event of licenceholder in default, have ceased to operate.

I beg to move that clause 28 stand part of the Bill.

**The Speaker:** Mr Peake.

2155

**Mr Peake:** Thank you, Mr Speaker.

I beg to second.

2160 **The Speaker:** The question is that clause 28 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 29, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 29 provides the arrangements for circumstances when a licenceholder is in default.

2165 It specifically provides that in these circumstances, the licenceholder must put in place a successor to act on their behalf in respect of transferred asset holders and repayment claims for a period of at least six years.

2170 Subsections (3) and (4) provide that in the case of any liquidation, any costs incurred by a liquidator in fulfilling their duties under this legislation will be drawn from the liquidation 'pot' subject to the same priority as their ordinary costs.

I beg to move that clause 29 stand part of the Bill.

**The Speaker:** Mr Peake.

2175 **Mr Peake:** Thank you, Mr Speaker.

I beg to second.

**The Speaker:** I put the question that clause 29 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

2180 Clause 30, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 30 provides powers for the Treasury to introduce regulations to provide for arrangements in cases of default by a licenceholder.

2185 The clause gives the Treasury the flexibility, should it be necessary, in the circumstances of the licenceholder in default, to determine how any third party carrying out the responsibilities on behalf of the licenceholder under the legislation must do so.

I beg to move that clause 30 stand part of the Bill.

2190 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2195 **The Speaker:** I put the question that clause 30 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 31, Mr Shimmins.

**The Speaker:** Clause 31, Mr Shimmins.

2200 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 31 provides for the transitional arrangements that will be available to any licenceholder that has no system, or no effective system, of identifying the dormant assets they hold in accordance with the definitions provided in the legislation.

2205 The arrangements are equally available to any new licenceholders that may be granted a licence in the Island after the legislation is introduced.

Transitional arrangements provide an eligible licenceholder a period of up to five years to establish a mechanism for identifying their dormant assets.

2210 During a transitional arrangement, a licenceholder will not have to comply with Part 3 of the legislation which deals with the annual transfer process, nor will they be required to instigate the process that deals with the transfer of their historic stockpile of dormant assets to the Fund, in accordance with clauses 34 and 35.

I beg to move that clause 31 stand part of the Bill.

**The Speaker:** Mr Peake.

2215

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 31 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2220 Clause 32, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 32 provides a definition of the term ‘assets dormant at commencement’ and ‘applicable dormant at commencement date’.

2225 ‘Assets dormant at commencement’ generally refers to any dormant assets a licenceholder holds that will not otherwise transfer to the Fund as part of the normal annual transfer cycle owing to them having fallen dormant in the past.

‘Applicable dormant at commencement date’ is a term used to describe the date a licenceholder’s transfer obligations begin.

2230 I beg to move that clause 32 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

2235

**The Speaker:** I put the question that clause 32 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 33, Mr Shimmins.

2240 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 33 deals with asset holder notifications that must be sent in respect of assets dormant at commencement.

2245 A notification under this clause must be sent after the legislation begins, or in the case of a new licenceholder in the Island after their licence begins, but before the assets are notified to the Treasury under clause 34.

As is the case with the asset holder notification under clause 15, the Treasury was intending on shortly after the introduction of the Bill, specifying the requirements of a notification under this clause by way of an order under subsection (2).

2250 For the avoidance of doubt, the Treasury is also supportive of the tabled amendment by Mrs Corlett.

I beg to move that clause 33 stand part of the Bill.

**The Speaker:** Mr Peake.

2255 **Mr Peake:** Thank you, Mr Speaker.

I beg to second.

**The Speaker:** We turn to amendments 14 and 15 in the name of Mrs Corlett. I call her to move.

2260 **Mrs Corlett:** Thank you, Mr Speaker.

It is really to provide consistency, to ensure that the same legislation applies to an already dormant asset and to an asset becoming dormant.

So with that, I beg to move:

2265 *Amendments to clause 33*

*14. On page 33, after line 24 insert—*

*‘(2) A notice under subsection (1) must state clearly that unless the person to whom it is given makes contact with the licenceholder, the balance of the dormant asset will be transferred to the Fund on or after a date stated in the notice.’*

*Renumber the subsequent subsections of the Clause and adjust cross-references accordingly.*

*15. Page 33, line 25 after ‘may’ insert ‘subject to subsection (2),’.*

**The Speaker:** Mr Perkins.

**Mr Perkins:** Thank you, Mr Speaker.

I beg to second Mrs Corlett’s amendment.

2270 **The Speaker:** I put the question first that amendments 14 and 15 stand part of the clause. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 33 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2275 Clause 34, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 34 sets out the first stage of the process that deals with transfers of assets dormant at commencement to the Fund; known as the ‘notice’ stage.

2280 In summary, a licenceholder must notify the Treasury of the assets dormant at commencement that they hold within 12 months of their applicable dormant at commencement date. A licenceholder may declare these dormant assets by way of a single or multiple notices to the Treasury over the period. The information that must be included in a notice under this clause will be specified by the Treasury by way of an order made under subsection (3).

2285 I beg to move that clause 34 stand part of the Bill.

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

2290 I beg to second.

**The Speaker:** I put the question that clause 34 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 35, Mr Shimmins.

2295

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 35 deals with the second stage of this transfer process; known as the 'transfer' stage.

Changes to the status of any assets listed on a notice under clause 34(1) that arise within three months of that notice being submitted to the Treasury must be applied by a licenceholder for the purposes of the transfer to the Fund.

2300

In the month that follows, a licenceholder must submit a further notification to the Treasury, which must confirm the dormant assets they hold that will transfer to the Fund, and the transfer of the assets listed must take place before the end of that month.

I beg to move that clause 35 stand part of the Bill.

2305

**The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

I beg to second.

2310

**The Speaker:** I put the question that clause 35 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 36, Mr Shimmins.

2315

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 36 deals with the disclosure of information.

Subsection (1) provides for customer records to be passed from a licenceholder or its successor to the Treasury, which will be necessary if the Treasury takes on responsibility for processing repayment claims directly.

2320

Subsection (3) provides a gateway for the Treasury to share information about dormant assets and their holders with law enforcement agencies for permitted purposes.

I beg to move that clause 36 stand part of the Bill.

**The Speaker:** Mr Peake.

2325

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 36 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2330

Clause 37, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 37 sets out the offences connected with providing false or misleading information, and failure to provide information, to the Treasury under the legislation.

2335 The amendment to this clause which is to be moved by the Treasury Minister will ensure that the level of penalty connected with an offence under subsection (2) is proportionate and consistent with the penalty for similar offences found under other legislation in the Island.

I beg to move that clause 37 stand part of the Bill.

2340 **The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** We turn to amendment 16 and 17 in the name of Mr Cannan.

2345

**Mr Cannan:** Mr Speaker, upon final review of the Bill, it was noted that a small drafting error had occurred. This meant that penalties to be applied in respect of non-compliance in some areas were incorrectly stated.

2350 This amendment to clause 37 will ensure that the penalty arising as a result of an offence under subsection (2) is proportionate to the offence committed and consistent with equivalent penalties found in other Manx legislation.

The penalties set out in this amendment are also consistent with the penalties for equivalent offences found under the Jersey Law.

Mr Speaker, I beg to move the amendment standing in my name:

2355

*Amendments to clause 37*

*16. On page 36, relocate lines 29 to 33 to immediately after the end of line 23 and in both paragraph (a) and (b) of the relocated text omit 'for subsection (1) or (2)'.*

*17. On page 36, immediately after line 28, insert —*

*'Maximum penalty (summary) — a fine of level 4 on the standard scale.'*

**The Speaker:** Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

2360 I beg to second.

**The Speaker:** Putting first the amendments in the name of Mr Cannan: those in favour of amendments 16 and 17 please say aye; against, no. The ayes have it. The ayes have it.

2365 Clause 37 as amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 38, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2370 Clause 38 provides that the Treasury and the distribution organisation will not be classed as deposit takers in respect of the fulfilment of their responsibilities under the legislation.

I beg to move that clause 38 stand part of the Bill.

**The Speaker:** Mr Peake.

2375 **Mr Peake:** Thank you, Mr Speaker. I beg to second.

**The Speaker:** I put the question that clause 38 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 39, Mr Shimmins.

2380

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 39 clarifies the extent of the liability of the Treasury under the Act.

I beg to move that clause 39 stand part of the Bill.

2385

**The Speaker:** Mr Peake.

**Mr Peake:** Mr Speaker, I beg to second.

2390

**The Speaker:** I put the question that clause 39 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 40, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2395

Clause 40 provides that nothing in the Act authorises a disclosure in contravention of existing data protection legislation in the Island.

I beg to move that clause 40 stand part of the Bill.

**The Speaker:** Mr Peake.

2400

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 40 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 41, Mr Shimmins.

2405

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 41 ensures any other obligations, whether imposed by another enactment or otherwise by law, are not affected by the operation of this legislation.

2410

In respect of privileged information, nothing in the Bill compels the production or divulgence by an advocate or other legal adviser of an item subject to legal privilege, but an advocate or legal adviser may be required to give the name and address of any client.

I beg to move that clause 41 stand part of the Bill.

**The Speaker:** Mr Peake.

2415

**Mr Peake:** Mr Speaker, I beg to second.

**The Speaker:** I put the question that clause 41 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2420

Clause 42, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

Clause 42 provides generally for the making of statutory documents under the Act.

2425

Tynwald approval is required for the making of statutory documents unless otherwise expressly stated.

I beg to move that clause 42 stand part of the Bill.

**The Speaker:** Mr Peake.

2430

**Mr Peake:** Thank you, Mr Speaker. I beg to second.



**The Speaker:** I put the question that clause 42 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 43, Mr Shimmins.

2435 **Mr Shimmins:** Thank you, Mr Speaker.

Clause 43 provides that nothing in the Act affects the operation of *bona vacantia* in the Island.

I beg to move that clause 43 stand part of the Bill.

2440 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker.

I beg to second.

2445 **The Speaker:** I put the question that clause 43 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 44, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

2450 Clause 44 provides for the Treasury, or any other person authorised to perform the Treasury's functions under the Act, to recover reasonable costs from the Fund for the performance of their functions under the Act.

I beg to move that clause 44 stand part of the Bill.

2455 **The Speaker:** Mr Peake.

**Mr Peake:** Thank you, Mr Speaker. I beg to second.

2460 **The Speaker:** I put the question that clause 44 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Members, that concludes consideration of the Dormant Assets Bill 2018 and indeed business before the House today. The House stands adjourned until 12th February at 10 o'clock in our own Chamber.

*The House adjourned at 12.11 p.m.*