



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

HANSARD

**SELECT COMMITTEE OF TYNWALD ON
LOCAL AUTHORITIES:
MEMBERS' INTERESTS (PETITION FOR
REDRESS OF GRIEVANCE)**

**BING ER-LHEH TINVAAL MYCHIONE LUGHTYN-
REILL YNNYDAGH: DELLALYN OLTEYNYN
(AGHIN SON KIARTAGHEY ACCAN)**

Douglas, Monday 6th February 2012

**PP57/12
LAMI, No. 1**

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Members Present:

Chairman: Mr R A Ronan, MHK
Mr G D Cregeen, MHK
Mr J R Turner, MLC

Clerk:
Mr J King

Business Transacted

	<i>Page</i>
Procedural	3
Evidence of Mr R Hamilton	4
Evidence of Mr B Stowell	11

The Committee sat in private at 3.14 p.m.

Select Committee of Tynwald on Local Authorities: Members' Interests (Petition for Redress of Grievance)

*The Committee sat in public at 2.04 p.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MR RONAN *in the Chair*]

Procedural

The Chairman (Mr Ronan): Hello, good afternoon. Welcome to this sitting of the Select Committee of Tynwald on Local Authorities: Members' Interests (Petition for redress of grievance).

5 I am Richard Ronan MHK, Chairman of the Committee. The other members of the Committee are Mr Graham Cregeen MHK and Mr Juan Turner MLC. Our Clerk is Jonathan King and our *Hansard* reporter is Clive Alford.

For the benefit of *Hansard*, please switch off mobile phones. Please do not put them on silent. They need to be switched off because they can interfere with the recording equipment.

10 The Committee was established by Tynwald on 15th November. The motion establishing the Committee was:

15 'That a select committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider the Petition for Redress of Grievance of Mr Joseph Rae Hamilton presented at St John's on 5th July 2011 in relation to declarations of interest by members of local authorities.'

20 The prayer of Mr Hamilton's petition calls for robust, legally binding guidelines, rules or regulations being introduced to clarify the responsibilities of members of local authorities where declarations of interest are concerned as to when to decline, to participate or vote where conflict or potential conflict of interest may arise, including, but not limited to, the compulsory establishment of a register of interests for all members of local authorities to be available for public inspection.

Today we are hearing from the petitioner, Mr Hamilton, and from Mr Stowell.

25 Mr Hamilton and Mr Stowell, we will be asking you some questions about the dispute which led to the petition. This is to make sure we fully understand what this case tells us about the system. I must emphasise that our job is not to make judgements on the case. We are not here to find fault with anyone and we are not here to clear anyone's name. We are only interested in the case as an example of the current system. We will then go on to decide whether any change is needed. In other words, we will be concentrating on the prayer of the petition.

30 Hello, Mr Hamilton.

Mr Hamilton: Hi.

The Chairman: Hello. How are you doing?

35 Thank you. Mr Hamilton, I welcome you. I understand that you have altered your travel arrangements to be with us today, and we thank you for that.

Mr Hamilton: No problem.

EVIDENCE OF MR R HAMILTON

Q1. The Chairman: Would you like to make an opening statement?

40 **Mr Hamilton:** In connection with why I have brought the petition?

The Chairman: Yes.

45 **Mr Hamilton:** I think, first of all, there have been one or two things said in the build up to this and, just for the record, I think it is best to say that the petition has been brought as a result of events, and not because of the person who was involved in the events. I have got no issues with the Chairman personally, in that regard.

50 But in any construction a petition would have been brought, if the same things had happened, regardless of who had been involved, whether it had been Derek Crellin, Keith Watterson or anybody else for that matter. It just seems apparent now to me and a lot of people that the damage which has been done, could have been avoided if robust guidelines and the legislation had been in place, as sought by the petition, which are actually in place in the UK and which the Attorney General directs us towards and he provides with a copy.

55 **Q2. The Chairman:** Please explain why you think the system of declarations of interest is not working.

60 **Mr Hamilton:** Bearing in mind I had no direct involvement with the squash club until at least 18 months earlier... but what went on here was very wrong. It affected a lot of people with the loss of the squash facilities and the breakup of the social community. I think, why should the Commissioners not be subject to the same rules as yourselves, as the MHKs, and set out in your little booklet here?

65 The Attorney General seemed to engage this question, as to whether additional legislation was needed, or codes of conduct for local authorities and he provided a copy of the UK local authorities' code of conduct, which unlike ours, is an act of parliament and it deals with declarations of personal interest and conflicts. It legislates when not to be involved. This was after a complaint that I had made to him, when he said that, under our current legislation it is a matter of law, in italics, in his response, no prosecution was possible, the implication being that there was a gap between our current legislation and the code of conduct. It seems to me, having read the UK

70 model, that a straight lift of that model could perhaps bridge the gap here.

He also went on to say that I had set out a *prima facie* case for showing the Chairman exhibited hostility towards the providers of the squash facilities and behaved in an inappropriate manner and, in other instances, failed to comply with what I described as the code of conduct for corporate governance.

75 He also said that the transcript of an Energy Radio interview, which I provided, underlined emphatically that the Chairman's entire motivation was hostility towards the squash people. The *prima facie* case, as far as I can see, establishes that the Chairman had major personal issues against the squash people, which would lead – as it refers to again in your little book – any reasonable-minded person to think that his impartiality was compromised and he should not have

80 been involved.

Q3. The Chairman: Again, please say what exactly is wrong with the system.

85 **Mr Hamilton:** The problem with the existing system is that it is dealt with in two forms: one by the Local Government Act; and then the existing code of conduct, which is issued by yourselves and which is a recommendation.

In the Local Government Act – and I have directed you to that in the petition itself and in the letter which I submitted to you a few weeks ago... I pointed you to section 11. The conflict of interest is certainly implied in the Local Government Act, but only for pecuniary, financial interests. It establishes the principle that, if a conflict exists, members should not be involved, but the code of conduct itself specifically refers to the situation that members should not act in any circumstances where there is a conflict between their personal interests and the public duty. So it does not restrict itself to purely financial.

90

95 There are obviously other considerations which are more than financial. In fact, I think again your little book, in the first paragraph, indicates that.

Q4. The Clerk: Mr Chairman, could I just intervene and ask Mr Hamilton to... He has referred three times to 'your little book'. Just for the record, could you say what that book is?

100 **Mr Hamilton:** It is headed 'Register of Members' Interests Rules, consolidated edition, September 2011'.

The Clerk: Thank you.

105 **Mr Hamilton:** The very first paragraph says:

'The purpose of these Rules is to place a duty on Members of Tynwald to identify interests which should be registered in order to inform Tynwald Court and the public of any circumstances arising from them which could reasonably be regarded as bearing upon the way in which any Member may carry out his/her duties.'

110 The problem, it seems to me, with the local authorities, is that they are not required to have a register which is available for public inspection in the same way you are yourselves. In the instance which is the reason why my petition was brought, that created problems. Had there been more robust guidelines, the rules and regulations in place then, anyone in the local authority would, of course, have had their attention drawn to those rules, guidelines or regulations, and they would have breached them at their peril, effectively. They are not in place there, which has caused this problem.

115 If I just go on to say that the guidelines which you issue yourselves are not mandatory, but the clear implication which can be drawn from the Attorney General's comments – about 'were not in legislation here as it is the UK' – is if it had been breached there would have been legal implications.

Q5. The Chairman: That said, how do you feel the system can be improved, then?

125 **Mr Hamilton:** Actually very simply, if you just take a straight lift of the UK model code of conduct, because contained within there is effectively... I have not studied it at length, but I have read it. Contained within there is everything that is required, because it specifies exactly when someone should not be involved in a discussion or a debate.

130 The whole thing about declarations of interest surely is one of common sense: that yourselves and all the other Members of Tynwald make declarations for a very good reason, and it is a very simple reason, that if, after you have made those interests, anything crops up that you are involved in, if there is a conflict with your interests you should do something about it and you should abstain. It is no good just making the interest, declaring the interest, and then continuing to be involved. That defeats the object. Why make the declaration if you are just not going to do anything about it?

135 With yourselves, reading this little book, it seems to indicate that it is a bit more positive in there than what it is for local authorities. The same rules do not apply to them as they do to you. They do not have to have a register of interests which is open to the public. They say they have a register of interests, but non-one can see it except themselves. I actually, because of a situation which cropped up in one of the requisition meetings before the Election... The Chairman had stated he was a director, or he had resigned as being a director of some 160 companies, and you will see in a letter in my bundle there that I asked the Clerk of Onchan if he could confirm that the Chairman had actually registered his interest in that, and he would not answer the question.

145 **Q6. Mr Cregeen:** When you are looking at the direct lifting of the UK guidelines, do you not consider that, on the Isle of Man there is probably a greater degree of scrutiny of individuals than they have in the UK?

150 One of the issues that local authorities may say is, well, people may know what I have, anyway, and you have got a situation that you could have an interest in something, but not benefit from it all, so by declaring and sitting out, you are actually not conflicted at all.

Mr Hamilton: No, not at all. I think what's wrong is wrong.

155 If you have got a situation where you have been involved in something, as is the case here, where it is abundantly clear that there is a personal vendetta, there is a grudge, a personal vendetta at work and then you go on to become involved, remain involved, when you are also a director of a similar company operating squash courts, as was the case then: absolutely not, you should not be

involved at all. The whole idea is to demonstrate the potential of your impartiality being compromised.

160 In the instance, it says again in your own little booklet here that a relevant interest for the purpose of the rules is any past interest or present interest which may affect, or reasonably be perceived as affecting, a member's judgement on the way in which he/she may carry out his/her duties and includes, in particular, a directorship, whether paid or not, a pecuniary situation and any business.

165 You have got two issues, really, here. The Chairman was a director of Mount Murray and Mount Murray have got squash courts and in his duties on the local authority, he is sitting in judgement on whether to close the squash courts in Onchan.

170 He is compromised in that decision, but your Act, when it refers to pecuniary interest... your code of conduct refers to 'any interest', as does your little book here. So, if you combine with that the fact that there were major issues with the Chairman with matters which had occurred previously with regard to a licence issued when my wife and I were operating the squash club, when we were required by the licensing laws here on the Isle of Man to convert from a club licence to a public house licence and the Commissioners objected – an objection which was subsequently withdrawn and the licence was granted... Had it not been, the restaurant there today would not be operational because they operate with that very licence.

175 Then, moving on to two years down the road, we have the renewal of the actual lease itself.

Q7. The Chairman: I think what we are saying is how can it be improved. We do not really want to get drawn into the personalities here, do we? We are here to concentrate on the prayer of your petition as well.

180

Mr Hamilton: Yes, I appreciate that.

The Chairman: So I do not really want to go off on one, really, if you can help it, Mr Hamilton.

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Mr Hamilton: I appreciate that entirely, which was why I was a little surprised when Jonathan rang me to tell me that, unlike the first letter he had sent, you were going to concentrate on purely the matters involved in the prayer and then, when you rang me, you were going to expand this into issues surrounding the actual [*Inaudible*].

190

The Chairman: A little bit more flexibility, I think, but what I am saying to you now is we are going off on another path here, and again the question was really how can it be improved, and I think you have more –

195

Mr Hamilton: I think it is really quite simple. Anybody who is either a member of Tynwald or the local authorities, first of all, the rules should be no different for the local authority than they are for yourselves, and it is clear that they are different, abundantly clear that they are different. That should be beefed up.

200

Q8. The Chairman: A code of conduct?

Mr Hamilton: Yes, it should be more robust than it is presently.

205 In the process of doing that, of course, you are going to have to give some consideration to it, which is what you guys do, but I am suggesting there is a good guide here in the role model which is already enacted in Parliament in the UK, because having read it – without studying it in depth, but having read it personally – if that was adopted here, unlike your code of conduct, it is enacted, where yours is only a recommendation.

210 Recommendations can be swept aside, as has been indicated by the Clerk for Onchan when he actually said they are not mandatory. So that is how it could be improved: to beef it up, to make them at least the same as your own – at the very least. Why should they be different? You guys have got an obligation on yourselves to do things. Why should they be any different?

The Chairman: Thank you.
Juan, have you got anything to add?

215

Q9. Mr Turner: Yes, thank you, Chairman.

Just a question to come back to the decision-making process: have you any evidence that the decision to award the premises to a non-squash operator would have been any different, had the chairman have sat out?

220 Would that decision have been any different because, surely, the board themselves would have had to ratify that decision, based on the parties applying for those premises?

Mr Hamilton: The simple answer to your question is yes, I have, and I have got some here.

225 I actually brought, for the benefit of yourselves, some copies of this, which I think you will find very illuminating. There is a copy each there, Jonathan. (**The Clerk:** Thank you.) The specific reason given by the Chairman for not granting the lease to the squash fraternity was because of the issues that he personally had with ourselves, when we operated the squash club, over the earlier situation I just mentioned there when converting from the club licence and, subsequently, the situation when we had to renew our lease. So, yes, there is clear evidence there.

230 You have the bundles, each of you now, there, and it seems to me – and I think it would seem to any reasonably minded person – that, in keeping with the code of conduct and the best principles and, really speaking, the Act as well, if you have got a conflict you should not be involved. Clearly, there are issues here where, when asked the question by the Chairman of the SRA:

235 ‘I have contacted some of you individually to ask where we have gone wrong with our attempt to keep the squash facility at Onchan,’

the Chairman replies:

240 ‘To help answer your question I received in e-mail this morning, I will attach a copy of the letter that I sent to you on 29th March 2006...’

- over four years earlier –

245 ‘... and a flier circulated by the club at that time.’

The flier was actually sent in 2008, but his reason why he was not granting the lease to the squash fraternity was for issues which had nothing to do... on the merits which were –

250 **Q10. The Chairman:** Meaning Onchan Commissioners here?

Mr Hamilton: Yes, Onchan Commissioners.

255 **The Chairman:** Well, it is not ‘he’ then, it is Onchan Commissioners.

Mr Hamilton: I have got no issue with Brian Stowell, it is –

260 **Q11. The Chairman:** Just for the record, it is important that Onchan is seen as the board making the decision collectively and not Mr Stowell on his own.

Mr Turner: That was, Chairman, the point I was making, was that it would have been the board’s decision, not one individual’s and the perceived conflict had been raised by the individual himself. Would you agree with that?

265 **Mr Hamilton:** Say again, sorry?

Mr Turner: We understand that Mr Stowell had actually raised the potential conflict and it is that argument between what is a perceived conflict or an actual conflict.

270 **Mr Hamilton:** Where would he be to raise that?

Mr Turner: We understand that he had actually raised the potential conflict with the Commissioners.

275 **Mr Hamilton:** Well, that is the first I have heard of it.

In that bundle I have just given you there now, there is another situation there, which is in the interview he gave with Energy, he says that he has made the decision. That was a comment he

280 made on 12th April, which was a week before the decision and the vote was taken and he says on
the bundle I have just given you, the bottom right hand corner of the page it says T4C and it is the
third paragraph down, the lead-in is in bold letters ES.

The Chairman: I think to say that –

285 **Mr Hamilton:** I will just read it for you.

The Chairman: Yes.

290 **Mr Hamilton:** The interviewer had said:

‘Well, you had the deciding vote, didn’t you, in the Commissioners, as to which group would get the use of the squash courts, [*Inaudible*] ...or the squash fraternity?’

295 Bear in mind this was a week before the vote was actually taken. He replied:

‘Well, you shouldn’t know that.’

So where is the openness and honest about that?

300 ‘It was a private vote, but I should tell you this: it was a very, very close-run thing. The last person to put their vote
was the Chairman, and I am the Chairman, and if you like, because the vote had been even until mine, I have, in that
respect, made the decision.’

305 **The Chairman:** Well, I –

Mr Hamilton: He should not have been involved. My assertion is that, because of the situation,
because of his directorship with Mount Murray, because of the conflicts that he already had with
past issues, which I have given you there, he should not have been involved in that discussion,
conversation.

310 I am sure you will know this: he is a very, very forceful person –

Q12. The Chairman: Again, again, I know what you are talking about, but what I will say is
as an ex-Commissioner myself, whether it is down to the Chairman’s vote or not, is that is in the
rules to say that the Chairman can do that. He can have a casting vote. But at the end of the day, if
315 he said that, it is wrong: the fact of the matter is, it is an Onchan Commissioners’ decision,
whether it is the Chairman’s casting vote anyway, isn’t it?

Mr Hamilton: Yes, but the point I am making is really very simple: when you have someone
that should never have been involved influencing the decision, that *must* be wrong.

320 **The Clerk:** May I ask something?

The Chairman: Yes, certainly.

325 **Q13. The Clerk:** Mr Hamilton, to bring it back to matters of principle, would you accept that
there is a spectrum where declarations of interest are concerned from a very direct, near interest to
a remote interest?

330 **Mr Hamilton:** Well, if you make a declaration of interest and you are so intrinsically involved
in the way that we have here, then there is only one possible thing to do, you must not be involved.

Q14. The Clerk: Let’s leave aside declarations for the moment and just concentrate on
interests.

335 Put yourself in the position of someone who is on a public body. Something comes up on the
agenda. Do you accept that it might be something you are very directly involved in in your private
life, or it might be something that you are indirectly involved with; and if it is an indirect
involvement it could be quite significant or it could be less significant. There is a spectrum of
possibilities.

340 **Mr Hamilton:** No, because your own code of conduct actually says Members must not act in any circumstances – in *any* circumstances – in which there is a conflict between their personal interest and public duties.

345 **Q15. The Clerk:** So you do not accept that there is a spectrum of different types of interest?

Mr Hamilton: I suppose possible, when they are so extreme and so distant that it could not possibly affect the position, but that is not the situation we are talking about here. I accept the principle of what you are saying, Jonathan, but this was really [*Inaudible*]

350 **Q16. The Clerk:** Do you accept that there are matters of judgement to be made in political life?

355 **Mr Hamilton:** Yes, and if they are and your impartiality is compromised, then you should not be in a position to be involved in that. Your own little grey book here and your own code of conduct says that and your Local Government Act says that, although it does refer only to matters of pecuniary interest.

360 **Q17. The Clerk:** You have put before the Committee two models, which you think are better than the existing model in Isle of Man local government. You have put before the Committee, English local government and you have also raised Tynwald, which are two different systems: one is in the Isle of Man, but not local government; one is local government, but not in the Isle of Man.

Having studied those two parallel systems, where there is a matter of judgement to be made, who do you think should be making the judgements?

365 **Mr Hamilton:** People who are not directly involved.

The Clerk: Well, let me ask –

370 **Mr Hamilton:** If there is a conflict, all I am saying, I am not trying to be smart here, or devious or clever in any way, I am saying, as a matter of common sense, if there is a conflict, an obvious conflict, to the extent in the example that we have here, if there is a conflict, then a person's impartiality is undermined and if that situation exists, which is abundantly clear here, then that person cannot be involved in a judgement.

375 **Q18. The Clerk:** Let me try and ask my question in a slightly different way. You accepted the principle there may be a judgement to be made, whether there is an interest or not. Who is supposed to make that judgement?

380 **Mr Hamilton:** The other members.

Q19. The Clerk: In the existing system do the other members have the information they need to make that judgement?

385 **Mr Hamilton:** The other members should be bound by the rules and regulations which I am suggesting, presently, are not there and are not robust enough.

390 The other members would seem to have adopted the fundamental commonsense principle that, if you have got a conflict, then you are not involved, but if you do have a conflict, then you should not be involved. So, if you have a committee, as the case in Onchan, there are seven people on that, or were then. The decision-making process is going to be made by each one of them. Each one of them is going to come to some form of judgement in their own mind. If they do that, then that is fine, but any one of them whose impartiality is undermined by a compromise of their interests or by personal issues with regard to the matter in discussion, cannot be involved.

395 **Q20. Mr Cregeen:** How would you deem it, on the other hand... If an organisation gets involved with a number of local authority members as to make it an issue, how would you deem that to be an interest if there is a conflict in personalities, that the person then has to make a decision? Because you could be in a situation where an organisation is... what it wants to do and is not happy with what the local authority may be doing, and may get in a disagreement with a number of members.

400 Would you expect all those members of the authority to say, 'I'm sorry, I cannot make a judgement on this because I...'?

Mr Hamilton: That is a completely different thing.

405 You have got seven members of your local authority, who have got to make decisions and, in fact, in your own, in the Act that you currently have, there is – I cannot remember the section off hand, but it is dealt with in the Act, where, if you have a situation you have just described, then the rules can, to some extent, be – I do not know what word they use – but you can be exempted on the basis that, if everyone had an interest, no decision could be made.

410 That is actually dealt with, but this is a different issue. We are talking about any single individual – not a group of people as you say. I will accept what you say, it is common sense, but we are talking in here where a single individual has got such a... whose interests are compromised to such a degree, combined with personal issues, which are abundantly clear from what we have got here, that person... it must be wrong for that person to be involved.

415 The UK model deals with that issue. Your model here does not. You are referring to the UK legislation and the Manx legislation only refers to pecuniary interest. The UK legislation refers to the global interest. That is the big difference.

Q21. The Clerk: Reference the two models, that you referred to, which do you prefer: Tynwald or English local government?

420

Mr Hamilton: Whatever is correct. It seems to me – which is the very reason why I brought this petition – that if the Act that we have here on the Island was sufficiently robust, then what went on, the people responsible, could have been held to account. Here, it has not happened.

425 I am not particularly interested in pursuing a person to court, what I am saying is, in the petition, if the rules are made more robust and it is not likely to happen, if somebody knows... If you know that you are driving down the road and you are doing 50 miles an hour in a 30 mile an hour limit, you know you are breaking the law and you know if you get caught, you are going to be prosecuted. What I am saying is, if the rules are such that it makes it abundantly clear that if you are –

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Q22. The Chairman: I think you have made that clear, in fairness, where you think it should be, should be more robust.

435 You say, 'whatever is correct' under the rules and there are probably 160 Commissioners out there, a lot of them in the north of the Island, the south of the Island, they believe that the system is 'correct' for them, so to say it is correct, that the rules are, in your opinion, probably, the regulations are a little bit grey? Is that what you are saying?

Mr Hamilton: It is not... just to take the point that you made there, that 160 Commissioners think the rules are okay, it is not for them, it is for the public. The rules are there for the public. There are 70,000 people.

440

Q23. The Chairman: In fairness, that is why we are here today and that is why we are trying to find the answers to them.

445 I will be honest with you, I am conscious of time. We are running over time as well. Is there anything you would like to finish off on, Mr Hamilton?

Mr Hamilton: No, just to reiterate what I have already said, it is abundantly clear to me that the Act that we have got, coupled with the guidelines we have got currently in the Isle of Man are far from robust enough.

450

The complaint I made to the Attorney General, he has come back to me, he is actually agreeing with me that I have made a *prima facie* case for showing the possibility, *blah, blah*. He is also referring us to the UK model. If the UK model had been in place, it just begs this question, doesn't it –

455

The Chairman: Okay.

Mr Hamilton: He would have had the power to do something. With the model that is in place here, he does not have the power to do anything.

460

The Chairman: Mr Hamilton, thank you.

Mr Turner, is there anything else you would like to add?
Mr Cregeen, no?
Mr Hamilton, thank you very much.

465 **Mr Hamilton:** You are very welcome.

EVIDENCE OF MR B STOWELL

The Chairman: I would like to call Mr Stowell, please.

Q24. The Chairman: Mr Stowell, as we said at the start, we are not here to adjudicate in any particular dispute.

470 However, Mr Hamilton has said in his petition that you have behaved in an inappropriate manner and failed to comply with the best practice and principles of corporate governance. Would you like to comment?

475 **Mr Stowell:** Oh, yes. Listening to Mr Hamilton, you get the totally wrong impression about a lot of things.

Mr Hamilton has quoted from the Attorney General; however, in the correspondence that I have received from the Attorney General he does not agree with the comments by Mr Hamilton, and I would urge you to confer with him on that subject. The *prima facie* case that he mentions was just... If you make any kind of a statement, you make a *prima facie* case. Whether it is right or wrong, that is to be judged at a later date. So, Mr Hamilton's suggestion that that bears some reason here is ridiculous.

480
485 Mr Hamilton would have us believe that what he is here to do is to create more robust legislation to protect the people. That is clearly not true. Mr Hamilton has had, since 2006, a vendetta against me. He has published anonymous things in the press, he has circulated all sorts of documents –

The Chairman: Again, as I said to Mr Hamilton, Mr Stowell, please let's focus on the –

490 **Mr Stowell:** These are the facts. One has to understand that the facts are being manipulated.

The Chairman: We are not here to discuss what you feel is a vendetta, though.

Mr Stowell: Well, we are here –

495 **The Chairman:** But we are not here to discuss that.

Mr Stowell: – to look at the legislation and see where it is going wrong –

The Chairman: Yes, exactly.

500 **Mr Stowell:** – and I am going to assist you with that.

Q25. The Chairman: Please can we do that and keep personalities out of it.

505 **Mr Stowell:** I am going to try and keep personalities out of it, but where there is indiscretion there will always be a personality at the core of it.

The Chairman: I think we are all aware of –

510 **Mr Stowell:** Mr Hamilton made reference to a radio broadcast. It is interesting because that radio broadcast is still the subject of potential litigation. I will be providing you with correspondence later on.

515 Mr Hamilton said, in his evidence, that I stated that I had made the decision. Well, what actually happened was I was asked quite specific questions, trying to get me to disclose what the vote had been. The fact was the vote had been three-all at the time when I cast my vote, so only in the sense that I cast the final vote was the decision mine. I had decided long before how I was

going to cast my vote, so I did not have the casting vote; it was just coincidental, but unfortunate, that the interviewer at the radio station was fully aware of the way the votes had been cast at that private and confidential meeting.

520 It was interesting because, at the time when I made that broadcast, I was of the belief that we had finally made a decision after many, many, many months of deliberation and many, many red herrings. We had finally brought the matter to a conclusion and the Clerk was of that opinion. We had furnished a draft lease to another tenderer because the decision process had been concluded and we were in negotiations, we had told somebody else, they were to –

525 **The Chairman:** Sorry. (*The Chairman and the Clerk confer.*)

Mr Stowell: No, in your own time.

530 **The Chairman:** Sorry, Mr Stowell.

Mr Stowell: No problem.

535 So the person had been offered an agreement. The Clerk was of the opinion that the board had made a decision. Certainly, most of the members were of the opinion that we had made a decision, but then we received correspondence from the Minister, who asked, could we grant him a meeting before we made our decision, which came as a surprise.

Q26. Mr Cregeen: Which Minister?

540 **Mr Stowell:** Minister Cretney. There is correspondence that I will furnish you with later, asking him why he should do that after we have announced that we had made a decision and he has not adequately answered that question yet.

545 **Q27. Mr Turner:** Could I just ask Mr Stowell, which Department was he... was it the Department of Tourism and Leisure?

Mr Stowell: It was Tourism and Leisure at the time, the Minister for Tourism and Leisure.

550 At the following Commissioners' meeting a week later, our first item on the agenda was to agree the minutes of the previous meeting. That would be the meeting that we had made the decision. The minutes were duly agreed and, straightaway, matters arising from the minutes, Mr Watterson raised a technicality. His technicality was that the decision had not been recorded as a *resolution*, it had been recorded as a *decision* and matters should be recorded as resolutions in such cases.

555 The decision was taken just to put the paperwork straight. We would retake the decision. However, because then, we had *technically* not taken the decision, Mr Watterson interjected and said, well, before we take the decision for the second time, we should meet the Minister and see what he has got to say. It sounds to me as though we are being gerrymandered and we are being gerrymandered quite specifically by Mr Keith Watterson who, throughout all this, had been furnishing Mr Hamilton, I have no doubt whatsoever, with inside information. Mr Watterson has a history of it. Mr Watterson has been quoted by the local newspaper for treachery.

560 **The Chairman:** I think, in fairness, again, we are going off down the other road we do not want to be going down, Mr Stowell –

565 **Mr Stowell:** We do not want to be cleaning up our act here in –

Q28. The Chairman: We are not. Come on now, we are not here to discuss this again, so please let's keep it –

570 **Mr Stowell:** We are talking about indiscretion. We are talking about how you –

The Chairman: You are bringing other people into the equation –

575 **Mr Stowell:** Oh, indeed, yes.

The Chairman: – which we are not here to do that.

Mr Stowell: Okay.

580 **Q29. The Chairman:** We are here now to focus on the prayer of Mr Hamilton's petition,
about the –

Mr Stowell: So we come back to the prayer?

585 **The Chairman:** Yes, please.

Mr Stowell: Mr Hamilton has made a very black-and-white case of how he believes that the
legislation should operate, as far as members' interests, but I would suggest to you it is actually a
sliding scale.

590 Mr King has made the point more often than I could remember, *who makes that decision*. What
is the difference between you being the spouse of somebody in a tender process and somebody
that happens to be sharing the same air?

The fact of the matter is, in a local authority you are always going to have a myriad of potential
conflicts of interest and it is necessary for you to have somebody who you can turn to for advice
595 when you believe a conflict exists. In my case, I furnished to the Clerk of the authority some time
before, a revised... where are we now? Yes, on 12th March I furnished to the Clerk –

Mr Cregeen: Which year is that, Mr Stowell?

600 *Mr Stowell:* – 2010 a revised members' interests list, a copy of which, because I was President
of the Municipal Association, I also provided to them. You will see that it is quite a
comprehensive list and I will furnish you with this. I would like you to keep it reasonably
confidential. I am not happy with members' interests being bandied around in the public domain.
605 In my own case, I happen to be on a significant charity and I do not want the resultant begging
letters coming to me personally, not for any other sinister reason, but specifically for that reason.

I had furnished my interests to the Commissioners, to the Clerk and to the Municipal
Association and, as I have done on many occasions, I sought advice from the Clerk, right? I said to
the Clerk, do you believe that my directorship of Mount Murray constitutes a conflict of interest *in*
this case. The advice that I received from the Clerk was, no. There is no conflict; you will always
610 have some conflicts in a small community; there is no direct pecuniary interest.

He said that, on balance, you could say, any changes in Onchan would have both positive and
negative effect and, as it has happened, the establishment of the Views, it could be construed as
taking business away from Mount Murray. But as far as Mount Murray is concerned, the squash
element of the business is so infinitesimally small, it is really insignificant. We have actually
615 removed the squash courts in recent years, because we do not see them being a long-term future at
Mount Murray.

Q30. Mr Cregeen: Could I just ask a question?

620 When you discussed this with the Clerk, about your... was that during the meeting or in a
private meeting with the Clerk?

Mr Stowell: A private meeting prior to the meeting.

625 **Mr Cregeen:** Thank you.

Mr Stowell: At that time the Clerk said to me, you may feel it prudent – because of the
vexatious nature of Mr Hamilton and all that has gone on prior – to mention to all present that you
are a member of Mount Murray, in case they would like to lodge any kind of an objection, or make
any comment prior to the commencement of the meeting.

630 This I did at the private meeting and again the 'colander' that is our boardroom has furnished
Mr Hamilton with the fact that I did this.

Q31. Mr Turner: Mr Stowell, did any of those present raise any objections to you?

635 *Mr Stowell:* There were no objections raised. If anybody at any time had raised any concerns
whatsoever, I would have withdrawn, and if you ask the Clerk – and I hope you ask the Clerk and
I hope you bring the Clerk here and ask him deep and searching questions – because, whilst he is

an upstanding and honest man, there is no doubt in my mind that he is cognisant of the fact that he will have to go back to the boardroom; there are individuals there that he will not want to offend.
640 So your questions will have to be deep rooted and robust to get a truthful response.

Q32. Mr Cregeen: Your mention about your interest, was that minuted?

Mr Stowell: My...

645 **Mr Cregeen:** When you said in the meeting that you had declared an interest in that, was that minuted?

650 *Mr Stowell:* I would imagine that it would have been. I could not swear to it. I have not got a copy of the minutes to hand, but I feel certain that it would have been.

Q33. Mr Turner: But would you say the Commissioners as a whole, and the Clerk, throughout the process of this lease being discussed, were they fully aware of your role at Mount Murray?
655

Mr Stowell: Oh, yes, there are companies that I am a director of that even I cannot remember. There are some bizarre ones here that really are only nominee companies, but certainly Mount Murray is one of the prominent ones. If you actually ask the Clerk – and again, I hope you will – I think you will find the response from him is that, in actual fact, as far as written lists of members' interests are concerned, I was certainly the first and probably the only Commissioner in the history of Onchan who has ever actually furnished a full and detailed account and kept it updated.
660

You will also probably find that I have declared interest and withdrawn on more occasions than any other Commissioner in the history of Onchan, but there are a number of issues here and I do not envy the problems that you are going to face trying to address them all. Wrongdoing manifests itself in a number of ways and since, during the time that I was on the board at Onchan, there is no doubt that we had a number of individuals – Ray Kniveton, Terry Black, Derek Crellin – who are obviously above reproach... They have been scrupulous in everything that they have done and the way they have handled themselves, but there have been other members who have treated that boardroom as their own personal plaything. People who have obvious pecuniary interests, who have furnished details outside the room, people who have personal interests, who have negotiated with members of staff and furnished them with details.
665
670

The Chairman: Sorry, Mr –

675 *Mr Stowell:* That is something –

The Chairman: I know. Sorry again, but –

Mr Stowell: – you will have to make sure does not happen –

680 **The Chairman:** Can I –

Mr Stowell: – in the future if you want fair and just legislation.

685 **The Chairman:** That is why we are here.
Mr Turner.

Q34. Mr Turner: Can I pick up, Chairman?

690 Mr Stowell, this is with interest to those points, but at the same time you say that you furnished your interests to the Commissioners, but there are others who have not and, you have suggested, maybe have been using that position to their own advantage. But then, earlier, you told us you were not in favour of having these interests published. So how would you address that balance of having the interests provided versus publish them, if there is a set difference?

695 *Mr Stowell:* We have insidiously moved now, Mr Chairman, from my opening statement into the blight of questioning. I do not think it is as easy as Mr Hamilton would have you believe to try to sort this problem out.

700 I think that in a local authority such as Onchan, particularly when you have had a large number
of individuals, you would always have somebody who could be construed as having an interest of
some kind. We all have relatives and friends and associates who we may know, or may not know,
705 have interests that we are dealing with on a daily basis. So there has to be some commonsense
approach to this. It is not black and white. However, there has to be robust legislation in place so
that when an individual is blatantly flaunting the code of conduct, he should be brought to book
about it.

710 I have had so many calls over what has gone on in Onchan. It has been a very messy,
distasteful business and it leaves the game of squash in disrepute. As far as the Chairman and
President of the Squash Association are concerned, how they can remain in position –

The Chairman: Please, Mr Stowell.

Mr Stowell: They have to hold responsibility...

715 **Q35. The Chairman:** I think, again what we want of this today, is to again ask the same
questions I asked Mr Hamilton, what exactly is wrong with the system? Do you believe there is
anything wrong with the system the way it is? Do you think it could be changed, because you
mentioned words like ‘bringing people to book’; we need a robust system, exactly what is in the
720 prayer. So how would you define that? How would you want to see any changes in the future
implemented?

720 **Mr Stowell:** But, you see, I don’t. I have stepped away from politics. As far as I am concerned,
the lack of recourse for a politician when bogus, vexatious and vicious allegations, websites,
725 circulars, even *fliers* are put out there, you are in a very difficult and insidious position. I want no
part of it. That is your problem.

In the future you are going to have to find a way of protecting the people and protecting
730 yourselves, because I have now learned that, when you stand for election, you can say just about
anything you want about a politician; you can make the most outlandish claims, as long as you
qualify it by saying, it is my opinion – you are entitled to your opinion. That is a frightening thing,
because that enables any individual to manipulate the political process to their own ends.

730 **Q36. The Chairman:** You are saying you want robust systems in place in elections?

735 **Mr Stowell:** No, *you will need* robust systems in place at elections. There are all sorts of
implications to this. Mr Hamilton is suggesting that wrongdoing took place, that this was my
decision. He manipulates and twists everything. The fact of the matter is the vote was taken 5 to 2.
That was on the second occasion, the actual occasion. So the real vote was 5-2. Mr Hamilton said
– he quoted – from correspondence that I sent out and I did say, *but not in that context*.

740 What I said in 2006 was, if you divorce the licence from the club, Mr Hamilton will sell the
club for a profit and you may lose the squash, because there will be no need to retain it under the
licence. Once you have a public house, you have a saleable item and it can become a restaurant.
We are very fortunate in Onchan that it became a restaurant and a very good one. It could have
745 become a nightclub – that was my fear. I always fought to put restrictions in place to retain the
squash, but after Mr Hamilton had washed his hands and taken his money and disappeared into the
sunset, a tender process was entered into. That was a proper, legitimate, open, honest and fair
tender process and that is legislated for already, and we went down all of the processes to get the
right person for the district.

750 As it happens, and much to my surprise, when we advertised for expressions of interest in
squash courts, we did not only get people who wanted to offer them as squash courts and, as it
happens, one of them was a dance school. They put together a very detailed and businesslike
package: they tendered the largest sum of money; they dotted all the i’s and cross the t’s; they
provided us with references, with responsible people, a projected operation, Health and Safety
policies. They provided us with everything that a local authority seeks before they allow their
premises to be used by anybody.

755 We realised that the squash fraternity were not going to win, and to assist them we told them,
‘Look, you’re not going to get this, because whilst you have tendered, you have not fulfilled all the
necessary criteria: you need to tell us who is going to be responsible for locking the building at
night; you need to tell us who is going to be responsible for the fire,’ –

The Chairman: Okay.

760 *Mr Stowell:* Right?

The Chairman: Yes, you are giving us the picture.

Mr Stowell: We had a meeting... I had a meeting –

765 **The Chairman:** Yes, please try and draw this to a close.

Mr Stowell: – with the Clerk.

770 The Clerk and I met with Mr Haler and Mr Les Callow, and we outlined to them in detail all of the things that they would have to do to enable us to even consider them. Having taken our time up for four hours in an evening, they went away and withdrew their application. What the squash put in was never even worthy of consideration. It was never even a serious tender document, let alone the highest tender document. So the squash in Onchan has lost its footing, not because of me, not because of the Views restaurant, but because of their own arrogance when it comes to actually completing the necessary paperwork and fulfilling –

775

The Chairman: Thank you.

I will just let Mr Turner ask you a question.

780 **Q37. Mr Turner:** Just to tidy up, really, the process because, obviously, the allegations have been made and I would just like to ask Mr Stowell this question: certainly, in my dealings in Government Departments, tenders are not dealt with by the politicians, so am I right in understanding there would have been an officer involved in that process of tendering? Who would have been the officer driving that particular tendering process?

785 *Mr Stowell:* Well, we deal primarily with the Clerks, so it would be either the Clerk or the Deputy Clerk who received all of the tenders. All of the tenders would be kept in sealed envelopes until the appointed time.

790 I presume the Clerk, the Deputy Clerk and the Chairman at a specified time would open all of the sealed envelopes and sign to the effect that they had opened them all in each other's presence. At that point, the Chairman, and it could have been me because I opened many, many, but it is not worth trying to analyse. Obviously, analysing tenders is a complicated business at best and they could have all come in with other tenders from everything for a gardening contract to the purchase of a lawn mower.

795 So you specify a day, or half a day, to go through all of these procedures. The tenders would be opened, signed by each of the individuals and taken away by the Clerk and the officers for analysis and then they would come back with a précis, an analysis of all of the tenderers, and it usually contains a recommendation. That recommendation is based almost inevitably on what is best for the ratepayer.

800 **Q38. The Chairman:** This is what happened with the squash?

Mr Stowell: This is absolutely what happened.

805 **The Chairman:** Exactly what happened?

Mr Stowell: Exactly what happened.

Q39. The Chairman: And the recommendation was?

810 *Mr Stowell:* The recommendation was to go with the particular dance school.

The Chairman: Okay.

Can I just ask Mr Cregeen?

815 **Q40. Mr Cregeen:** It was just a point that you made earlier: when you said, 'We contacted these people,' I take it it was through the Clerk and it was not through yourself?

820 **Mr Stowell:** No. The Chairman – and I, as Chairman – would never directly contact anybody as representing the Commissioners, as such – only in constituency matters and things like that. As far as the business operation of the authority is concerned, that is down to the Clerk.

825 **Q41. Mr Cregeen:** it is just that in your comment it sounded like you. Just clearing that up. If I could just go on to the... you said you furnished them with a list of what your interests were. Why would you consider other members would not wish to have a list of what their interests are?

Mr Stowell: I do not think the members were ever averse to it. I think it was probably lackadaisical in many cases.

830 In my own instance, obviously, I am the beneficial owner of some eight or ten properties within the district of Onchan. Just from a point of view of adjudicating at planning meetings, where we make recommendations to the planning committee, I have to be very careful, because sometimes you think where is that? Is that close to anything that I own? I am very fortunate, I happen to own a number of properties. Other Commissioners may not have such extensive interests in the district and probably do not feel the need to produce such detailed documents.

835 **Q42. Mr Cregeen:** You were saying that within the district sometimes when you get consultations through Government Departments, if it is outside your district, and some properties may not be within the district or the interest may not be within your specific local authority, would you not consider that would be appropriate to declare outside the area as well?

840 **Mr Stowell:** Well, I would say yes, but you see there are other elements that creep in on the side that you are going to have to consider here.

845 At this moment in time – and I am not going to disclose it here – I am in the process of... in negotiations regarding a facility on the Isle of Man that will affect every living creature in the next decade on the Island and I certainly would not want to disclose it to you here and get out into the public domain what that is –

The Chairman: Mr Stowell, that is irrelevant, I think... *(Laughter)*

850 **Mr Stowell:** – and rather than allow that to happen –

The Chairman: That has got nothing to do with it. Please –

855 **Mr Stowell:** No, but this has a problem. This has a problem for –

The Chairman: It hasn't when we are here to talk about what we are to talk about. Please, Mr Stowell.

860 **Mr Stowell:** No, please. If you listen to the second part... If you are in that position, rather than allow that to get into the public domain, you would have to preclude yourself from being in office. So you could end up with a situation whereby anybody that is in –

865 **The Chairman:** Okay, well, you have said you did that anyway, in fairness. Mr Turner, do you want to...?

870 **Q43. Mr Turner:** I think I understand what Mr Stowell is saying: that if it was a case where that had to be made, then people going about outside business could end up conflicted and exclude themselves from office. But would they not just declare a particular item as a conflict and withdraw? They would not have to go into the details of what they are involved in, would they?

875 **Mr Stowell:** Yes, they would, because at the moment you stand up and say, 'I perceive a conflict of interest here and I am withdrawing from the meeting.' Then somebody is going to say, 'Well, hang on, you haven't declared that – you are now in breach of the regulations because you have not declared that you are in the process of buying Government Offices.' It is a double-edged sword. I do not know how you are going to address that.

880 **Q44. The Chairman:** Just, again, focusing on why we are here. Do you feel as though the system can be improved, should be improved, just finally? Why we are here. The prayer of the petition.

Mr Stowell: Undoubtedly, the system should be improved.

885 **The Chairman:** And have you got any recommendations to improve that?

Mr Stowell: Yes, here is one for you.

890 Valuations provided by a local company. It was used in the legal process. It was used in a court case. The company, Black Grace Cowley, valued the premises at £1.60 per foot – a ludicrous price. You cannot allow people to manipulate like that. So when it comes to pricing premises for any purpose, you cannot allow friends and associates to put in bogus prices.

895 Also, in all of this, throughout all of this, I had a meeting with, and I have written to, the then head of DoLGE, Mr Kinrade, asking him to carry out an investigation. I went to that meeting with the Clerk and with Derek Crellin from the Commissioners, pointing out there was a problem and it should be fully investigated. Nothing was done about it. In the package of documents here I have a letter to the Minister, Mr Gawne, and in that letter, I asked Mr Gawne to carry out an investigation. He chose not to.

Mr Turner: This is into the awarding of this lease?

900 **Mr Stowell:** Into the operation of the local authority.

905 We can depersonalise that; it does not have to be around squash. If the chairman of any authority writes to the Minister and says, ‘I believe there is wrongdoing: will you investigate it?’ then I would make a recommendation to you that he should do something, because if the chairman of an authority is unhappy with the way things are operating, surely if he brings that to the attention of central Government, somebody should do something. The Clerk and a former chairman...

Q45. The Chairman: You are saying that the letters were being basically ignored?

910 **Mr Stowell:** Nothing has been done. We would not be here today if they had.

The Chairman: Obviously, again, very conscious of time, Mr Stowell.

Mr Turner, have you got anything to add?

915 Mr Cregeen?

Mr King?

The Chairman: Mr Stowell, thank you very much for your time. It is greatly appreciated.

920 **Mr Stowell:** Unfortunately, I did not get the opportunity to read my preamble, but nevertheless I gave you most of my feelings.

The Chairman: Okay, this draws a close of the oral evidence. I would like to thank everybody for attending...

925 The Committee will now sit in private. Thank you very much. Thank you.

The Committee sat in private at 3.14 p.m.