



**TYNWALD COURT  
OFFICIAL REPORT**

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**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, Tuesday 6th March 2012**

**PP58/12  
LAMI, No. 2**

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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**

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*The Committee sat in private at 3.31 p.m.*

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

*The Committee sat in public at 2.30 p.m.  
in the Legislative Council Chamber,  
Legislative Buildings, Douglas*

[MR RONAN *in the Chair*]

### Procedural

**The Chairman:** Good afternoon and welcome to this sitting of the Select Committee of Tynwald on Local Authorities: Members' Interests (Petition for Redress of Grievance). I am Richard Ronan MHK, Chairman of the Committee. The other members of the Committee are Mr

5       Graham Cregeen, MHK and Mr Juan Turner MLC.  
For the benefit of *Hansard*, please switch off mobile phones – do not just put them on silent, they need to be switched off, because otherwise they may interfere with recording equipment. Also for the benefit of *Hansard*, I will be trying to make sure that we do not have two people speaking at the same time.

10       The Committee was established by Tynwald on 15th November 2011. The motion establishing the Committee was:

15       ‘That a select committee of three Members be appointed with the 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 a 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.

25       Today we are hearing from the Department of Infrastructure. Could you state your names and job titles for the record, please.

**Ms Craig:** Amanda Craig. I am the Head of Corporate Services for the Department of Infrastructure.

30       **Mr Corlett:** My name is Roy Corlett. I am the Manager of the Legislation and Policy Unit at the Department.

### EVIDENCE OF MS A CRAIG AND MR R CORLETT

**Q46. The Chairman:** Okay. Well, thank you again, and thank you for your written submission of 10th January 2012.

35       Would you please describe the role of local authorities in the Isle of Man and the role of the Local Government Unit in the Department of Infrastructure.

**Ms Craig:** I would be happy to, Chairman.

40 As I am sure you and the members of the Committee will appreciate, there are 24 local authorities on the Isle of Man and the role of the local authorities varies quite considerably across those 24, depending on their size. Their role and function, really, is covered by the Local Government Act 1985 and the reason that we are before you today is the fact that the Department of Infrastructure, following the Transfer of Functions Order 2010, in April, took over responsibility for that facilitation and supervisory role of the local authorities through the Local Government Unit.

45 Potentially, local authorities can fulfil an important role, really, for their community. They can act as a second tier of government and they can carry out certain functions on behalf of their community. As a statutory body, a local authority has power to do only those things that are included in the statute, which is the Local Government Act 1985, the amended Local Government Act 2006 and also the aspects regarding financial probity and accounts that are covered by the Audit Act 2006.

50 The functions that the local authorities can do – again, dependent on their size – are things like refuse collection; housing – that is the public sector side of housing; provision of parks and playgrounds; dog control and other byelaws; offstreet car parking, in some instances; street lights, which is maintenance of and provision of street lighting. Some local authorities on the Island still retain their building control function; others have it centralised within Government itself in the Planning and Development Control and Building Control Division. Douglas and Onchan retain their own building control functions. We also have environmental health. Some local authorities do provide an environmental health service. Also, litter – the provision and collection of litter bins and the emptying, and the street-cleansing function sometimes sits with the local authority.

55 The role of the Local Government Unit within the Department... Just for your information, it is quite a small and compact unit and it basically has a supervisory and an advisory function for local authorities. We are not so much a regulator or an enforcer, as we have very little power really to regulate or enforce under the Local Government Acts or under the Audit Act, which is an Act of Treasury. Basically, what we do is we act as a facilitation mechanism for local authorities to talk to and communicate and interact with central Government. So we are the conduit through which lots of their processes take place. For example, a local authority, when it is looking at schemes to enhance its community or its housing provision, might do so through petitioning of central Government to borrow funding to enhance a housing scheme or to improve housing or to develop rate-borne schemes. So we, as the Department, would approve that borrowing through the local authority petitioning process.

60 From August of last year, petitioning for housing schemes was transferred to the Department of Social Care, so we no longer, as a Department, approved the housing schemes.

65 We also provide guidance training and support to local authorities. We do have a function within the Local Government Act to approve the appointment of clerks and RFOs – responsible financial officers – for local authorities. We do not advertise for them. We do not recruit them, but we do have to improve their appointment once that process has been carried out by the local authority itself.

70 So basically, we have quite limited functions within the Local Government Unit that actually involve statute or doing a legal, enforcement or regulatory role for local authorities. What we do is advise them on their petitioning, process that for them. Give them advice about how to function, how to operate, how to set up and establish a model Standing Orders process for them. We give training to members, both to elected members and also to staff of local authorities around things like financial management and how to operate as an effective Commissioner, and we also basically provide the mechanism through which local authority accounts are laid before Tynwald each year, according to the Audit Act.

75 **Q47. The Chairman:** Thank you for your extensive answer, very good, thank you very much.

Moving on to existing law and procedures on local authorities and members' interests, have there been any prosecutions under section 11?

80 **Ms Craig:** Not that I am aware of, Mr Chairman and I will say that because, as a Department, we would not take a prosecution under that Act, but the Attorney General's would and having checked with the Attorney General's, we have got an answer of no. So, not that we are aware of.

85 **Q48. The Chairman:** Not that you are aware of. Okay and thank you.

90 Mr Hamilton took his complaint to the DoI in the first instance. Is it your recommended approach, where an offence under section 11 is suspected, and how often does this happen?

100 **Ms Craig:** Mr Hamilton did approach the Department when he first had an issue with decisions that had been made surrounding that particular issue. We would not investigate it as a criminal matter. What we tend to do is we would get advice from the Attorney General's office and anything that was brought to us in that type of issue. So we would then advise... The Attorney General's, if they felt an offence had been committed, would then look at that; it is a criminal offence, particularly in that instance.

105 **Q49. The Chairman:** Thank you.

Moving on, Mr Stowell mentioned that he made a complaint to DoLGE about the goings on at Onchan Commissioners and he had no reply. Can you tell us what happened, please?

110 **Ms Craig:** No, Mr Chairman, I am afraid I cannot on that one, for a simple reason really. We have made extensive enquiries. As I have explained to you before, the Local Government Unit and the local authority functions came to the newly formed Department of Infrastructure in April 2010, and if Mr Stowell made his complaint to the former DoLGE, that would be before my time certainly as Head of Corporate Services.

115 What I would say to you is we have asked our colleagues from former DoLGE, who used to be in charge of those processes in that time, and nobody can recall Mr Stowell's approach to the Department on those issues.

120 **Q50. Mr Cregeen:** Also during his evidence, Mr Stowell said that he wrote to Minister Gawne. Are you aware of any correspondence there?

**Ms Craig:** I am afraid I am not, Mr Cregeen. No. If it had gone directly to the Minister, he might not have passed it on, but I would suspect he would have done – he is pretty good at that really. Okay. I have not seen anything, certainly.

125 **The Chairman:** Okay.  
Juan?

**Mr Turner:** No, it is okay.

130 **Q51. The Chairman:** Tynwald last debated local authorities following the Braddan Select Committee in 2009. What has the Department done to implement the recommendations which were approved at that time; and, has it worked?

135 **Ms Craig:** Would it help the Committee if we ran through the recommendations? We have got four recommendations, so they are not terribly long. So I can just go through our most recent update on what the Department has done to implement those recommendations.

140 You will be aware that there is a Tynwald Policy Decisions Report that was circulated to Departments to update on outstanding actions and recommendations from Select Committee Reports. The Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners: the Tynwald sitting that approved the progress of the recommendations was June 2009 and there were four recommendations from that Report particularly relating to this issue.

145 Recommendation 1 was that the Corporate Governance Principles and Code of Conduct applying to all designated bodies and Departments of Government be extended to include local authorities. The Corporate Governance Principles and a Code of Conduct have been delivered to the local authorities from our Local Government Unit and that roll-out was completed in 2009. Those are the standard guidance that we issue to local authorities.

150 Recommendation 2 was that each local authority maintains a register of interests in respect of each elected member and each member of staff, to include property ownership and business interests in the parish of the elected member, staff member and their families. This should be completed at the time of appointment, reviewed and updated annually at the time of the annual general meeting, modified from time to time as individual circumstances change and finally made available for public inspection. This recommendation is included in the above Code of Conduct and supporting guidance.

155 If you bear in mind that what I have said earlier, Mr Chairman, the fact that as a Department we do not have any enforcement powers within our Local Government Act 1985 to enforce this particular Code of Practice, it is a voluntary Code of Practice that has been issued, not one that can be easily regulated at this moment in time.

160 Recommendation 3 was that the Department of Local Government and the Environment  
establish a code of practice, either by encouragement or by statutory charge as may be required,  
which defines the conditions of the register of interests, the penalty for failure to comply with  
those conditions, the requirements to declare an interest in a matter to be considered by the local  
authority and the action to be taken where such an interest is declared. In this instance, the  
165 recommendation is covered again by the voluntary Code of Conduct that was issued and the  
supporting guidance. However, any penalty would have to be subject to new legislation. It is a  
voluntary code, so there is not a penalty attached for not complying with it, if you see what I  
mean.

170 On number 4, it suggested and recommended that the Department of Local Government and  
the Environment review its induction course to encourage the attendance of all newly elected local  
authority members and those new members of staff involved in preparation of matters for the  
authority meetings, and also takes account of comments contained within the Report in respect of  
preparation of local authority minutes and agendas, engagement of consultants and other relevant  
175 matters and amendments to the Local Government Handbook accordingly. The Department has  
reviewed its induction course. Very much, it stressed about declarations of interest – members’  
interests – and the process that needs to be in place for that to happen, and we have also, as I have  
said, moderated and changed the induction course and stressed that element, but we have also  
updated the Local Government Handbook again to try and make things much clearer to people  
who have to put it into operational practice.

So, those have been completed and rolled out by the Department.

180 **Q52. The Chairman:** Do you feel that these recommendations have worked through the local  
authority system?

185 *Ms Craig:* I think it is a case of the curate’s egg, really. I think it is good and bad in practice, in  
places, really, Mr Chairman. These things are never clear cut, I think, and that is the difficulty.

As time has moved on, and even moved on from 1985 from the original Local Government  
Act, we have found that people’s interests have varied widely and changed considerably. The  
Local Government Act, if you look at the section particularly with relevance to members’  
interests, talks about pecuniary interests. Our advice in Standing Orders talks about interest within  
190 potentially a parish boundary, but, as you know, people’s financial and other interests go much  
wider than just the area in which they live and can transgress parish boundaries. So potentially it  
has become a much more complicated issue, I think, for both members of the Commissioners  
themselves, and for clerks to try and advise when potentially somebody has a conflict of interest. It  
is not very straightforward.

195 **The Chairman:** Mr Turner.

**Q53. Mr Turner:** Thank you, Chairman.

200 So, we have a Code of Practice and a handbook in place, but am I right in assuming then that  
there appears to be no penalty for failure to comply and no process of recourse?

205 *Ms Craig:* No, only if it is a criminal offence, Mr Turner, which is referring back to section 11,  
isn’t it, of the Act, whereby the Attorney General’s would need to determine whether or not a  
criminal offence had taken place? Certainly, from our perspective, we would investigate any  
concern as a complaint against a local authority, but it would merely be by writing to the local  
authority to challenge what has gone on and to ask for copies of minutes to see if we can find an  
audit trail about how a process has been applied, and really the minutes would be the only  
document we could see that would give us any indication of what was declared or not declared,  
because we do not attend the meetings.

210 **Q54. Mr Turner:** Yes, but to follow on from that, whereas a civil servant who breaches the  
Government Code would go into the disciplinary system, a Member of Tynwald who acts  
inappropriately would be subject to the Standards Committee, it would appear that there is no  
process of recourse outside the criminal... I accept what you said about criminal activity, but for  
215 failure to comply with the Code of Conduct, there is absolutely no system in place.

*Ms Craig:* No, I would say to you again, Mr Turner, it is a voluntary code.

**Q55. Mr Turner:** And is there a process to actually remove a Commissioner?

220 **Ms Craig:** Only if there is a criminal offence, in which case the Commissioner can be asked to stand down, but they are an elected member of the Commission by the public and really that would be up to the Commissioners to determine that themselves.

**Mr Turner:** Thank you.

225 **The Chairman:** Mr Cregeen.

**Q56. Mr Cregeen:** As this was brought in as a voluntary code, do you now think it is time that it is brought in as a compulsory code that they have to comply with and there is actually a procedure that they would have to go through, if they breach that code?

230

**Ms Craig:** I think it is quite timely, Mr Cregeen, for the Committee to be looking at whether or not what is in place currently is effective. I do not think there is any harm in doing that review and looking at that.

235 My own view would be... I have experience from a previous work experience of working with local authorities in the UK, whereby they operate a standards committee type approach for all elected members within local government and national government, and it is an even playing field, though it is quite a long and bureaucratic process, and whether that process is the right one for the Isle of Man, I would hesitate to make that judgement.

240 However, I do feel at the moment that there is potentially an opportunity to strengthen the effectiveness of the Code of Conduct by making it statutory. The issue, I think, would be for the Committee to consider how they would then enforce the Code, because to create a breach in the Code you would need evidence to show that the Code had been breached and it would still be back to trying to find robust evidence, whether it is minuted in the minutes of local authority meetings or reported by witnesses as to what breaches occurred, because again you do not have people there to observe, apart from clerks and the chairmen who manage and run their own local authority meetings. So it is how you gather the evidence, I think, to enforce a statutory code.

245

**Q57. Mr Cregeen:** One of the other points you mentioned about the training for local authority members and their clerks, do you have a register of all the local authority members who have attended these training sessions, and the clerks and do you find that you have actually had all the local authority members come in and attend the training sessions?

250

255 **Ms Craig:** We do have registers of everybody who attends the training courses. I think what I have found, quite surprisingly really, since I have become involved with the Local Government Unit and local authorities themselves, is that we do run local authority training courses over a two-day period for both members and for clerks and we have specific dedicated training for RFOs which are delivered by our auditors, PKF normally, so quite detailed and quite helpful training courses that are normally well subscribed by local authorities. However, attendance can be patchy. I could not sit here and tell you that everybody who is involved in local authorities has attended the training course, because I do not think that is the case.

260

**Q58. Mr Cregeen:** Would you think it would be helpful for all the members if it was actually compulsory that they attended an initiation into the local authorities, so they would know what their responsibilities are?

265

270 **Ms Craig:** I think we do provide information that can be accessed on the website and read in a leaflet form, for them to know what is entailed by being part of a local authority. We provide, as I said, the Local Authority Handbook for clerks and for responsible financial officers to understand their functions and their roles. Maybe one-to-one, face-to-face training is not everybody's preferred method of learning. I would say to you, maybe we do need to still give people the choice to attend a formal training session or not, but certainly I would like to see local authorities, if they are committing to the training courses that we provide, attending the courses, once they have given that commitment, that would be very helpful.

275

**Q59. The Chairman:** So you feel the training, touching on what Mr Cregeen said, should be flexible whether you attend or not, because other people have different...?

275

**Ms Craig:** I do not think you can make the training compulsory. I do not think formal learning suits everybody's approach. I know myself I have learnt lots of things through home learning and

280 teaching myself by reading materials, and I am sure other people prefer to do it that way too. We  
make available the materials for people to familiarise themselves.

**Q60. The Chairman:** It is there if they want it.

285 *Ms Craig:* It is there for them, yes, if they need it.

**The Chairman:** Mr Turner.

**Q61. Mr Turner:** Thank you, Chairman.

290 We appear to have two levels here. We have the Handbook applicable to Commissioners and  
from what you have said, the fact that apart from any criminal activity, there appears to be no  
recourse at all, which means that effectively Commissioners are a law unto themselves. If this  
Handbook has no standing, they are free to ignore it as there is simply no recourse.

295 But with regard the clerks, he mentioned that the appointment of clerks was subject to the  
approval of the Department, and there is a Handbook. What processes are in place, should the  
clerks breach some of the codes laid down in the in the Handbook applicable to them?

300 *Ms Craig:* I think you have to understand, Mr Turner, we do not appoint the clerks. We  
approve the appointment of the clerks, so the clerks are employed by the Commissioners in the  
local authority themselves. So if there is a breach or any issue around conduct or how people do  
their jobs, that would be for the local authority to resolve, because they are the employing  
authority, not the Department.

**The Chairman:** Do you want to go on, Juan?

305

**Mr Turner:** Well, I know... With regard to clerks, are you happy for me to expand?

**The Chairman:** Yes, expand.

310 **Q62. Mr Turner:** Do you have any concerns about the ability of the clerks?

I will give you an example. I have noted that some clerks are clerks for more than one  
authority. Is that a situation the Department has a view on, whether they agree with that or should  
clerks remain completely responsible for the one area?

315 *Ms Craig:* I think, in lots of ways, Mr Turner, I direct you towards the shared services agenda  
for both central Government and local authorities. In some instances, there are efficiencies and  
practicalities to sharing resources which could include a clerk to an authority. It is not unusual on  
the Isle of Man to find that one clerk might service more than one authority and be responsible for  
the operation, potentially the day-to-day operation of more than one authority, depending on the  
320 size of the authority.

I do not propose to have a view, because I have never worked on a daily basis with individuals,  
but I think from the point of view that we do ask local authorities and also there is a provision  
within the Local Government Act for authorities to work together and subcontract their services. It  
would be difficult to say that sharing a clerk potentially is a negative thing.

325

**Q63. The Chairman:** Do you think local authority clerks are up to the job, and what are you  
doing to support them?

330 *Ms Craig:* I do not think I am in a position to make a judgement as to whether local authority  
clerks are up to their job. I think they have a very difficult and varied role to play within local  
authorities. It is certainly indicative of how varied that role is when I say to you that we have had  
very few clerks move on or change over the years certainly that I have been involved with the  
Local Government Unit and my involvement with local authorities. It is not a role that comes up  
for recruitment very often. The skills set that is required for a clerk to operate within a local  
335 authority is usually diverse and I would say to you it is probably very rare to find all of the  
necessary skills in one person to be a clerk, which is why we split out the responsible financial  
officer function in some instances, because that might need to be a qualified accountant who might  
not have the same skills set as the person who is going to be the day-to-day operational clerk. They  
are not always the same person.

340

**Q64. Mr Turner:** But the clerk has the ultimate responsibility to the authority that they clerking.

345 The concern I had is we received evidence from three authorities who all have the same clerk. The letter was exactly the same letter responding, and from my own view it was rather interesting that each of three authorities had sent us exactly the same letter and had reached exactly the same conclusions to the letter. That, to me, said... well, the common denominator here was the clerk, and it gave me a feeling of the tail wagging the dog, that here we have one clerk for three authorities and we end up with exactly the same evidence. I find it, in a democracy setting, interesting that they have all reached identical conclusions, literally identical conclusions, to the stage where we got the same letter.

350 **Ms Craig:** I would not really like to comment, Mr Turner, not knowing the authorities or knowing what you have received, or knowing what has been written to the authorities. It could be that the letter was addressed to the clerk, then the clerk is the same person, and if they are asking for the clerk's view and not the authority's view, it is likely that you would get three identical views from the one person. So I would not –

360 **Q65. Mr Turner:** If I can clarify: it was the authorities' view we were seeking, as in the members of those boards.

**Ms Craig:** I would not really like to comment as, obviously, I do not know specifically who you are referring to.

365 **The Chairman:** Mr Cregeen.

**Q66. Mr Cregeen:** You say that you get asked to approve the clerks of the authorities. Have you ever had an instance where you have not approved; and, if you do not, what is the process for the local authorities to go through?

370 **Ms Craig:** In my time as an officer with responsibility for the Local Government Unit and the responsibility for liaison with local authorities, I would say to you I have not had that instance where we have not approved the appointment of a clerk. However, we have approved the appointment of clerks with conditions relating to financial training. If we do not feel the candidate has suitable or sufficient financial experience to also meet the needs of the organisation with regard to the RFO role, we put a condition into the appointment that they must either ensure that that person has access to training and is skilled up to provide that function or ensure that they meet their statutory requirements by buying that function in from somewhere else with regard to the RFO function. So it is not a rubber-stamping process by any stretch of the imagination. We do look very carefully at the proposed recruits that they look at for clerks.

380 **Q67. Mr Cregeen:** It could be a concern that an authority would like to appoint somebody because they have been interviewed and they know the people, but you would still have concerns regarding their ability. Do you check up whether they have complied with the...?

385 **Ms Craig:** We do. It is part of the criteria of our approving the appointment.

**Q68. The Chairman:** Thank you.

390 Moving on to recommendations, Mr Hamilton's petition refers to a compulsory register to be available for public inspection. Would you comment on this idea, please?

395 **Ms Craig:** At the moment, the Local Government Act recommends that the register of interests – and the Standing Orders also recommend the same – is open to be viewed by members of the parish with regard to that local authority. I think there would be potentially value in saying that you could broaden that to open it to be viewed by any member of the public. I do not see what issue that would bring, really.

**The Chairman:** Mr Cregeen.

400 **Q69. Mr Cregeen:** Earlier on you stated about it was in the Code about interests within the parish. Now that local authorities are getting consulted on legislation which may affect areas

outside their parish, do you now consider it would be worthwhile putting in all interests, whether it is inside the parish or outside?

405 **Ms Craig:** I think I would recommend to the Committee... and we do strongly, all the way  
through the guidance that we give, as a Department, state that, if in doubt declare, regardless of  
what the issue may be. Conflicts of interest sometimes are all about perception, people's  
perception, and really any conflict of interest is basically based on if anyone perceives there is one,  
410 regardless of whether they are in your parish potentially or not, because in lots of instances, local  
authority meetings are open to members of the public. There is nothing to stop a person living in  
one community travelling to attend a meeting in another and, as you say, Mr Cregeen, I think  
potentially conflicts of interest could arise over any particular matter. I think if a Commissioner is  
in doubt, my advice would be and the advice given in the guidances: if in doubt, declare.

415 **Q70. Mr Turner:** By declaring, though, to be cautious, when in fact there may not be a  
conflict, but they are following that good advice, sensible advice, by declaring, does the legislation  
– and this may be one for Mr Corlett... would the fact that they have made that declaration then  
mean that, regardless of that, they have to then withdraw? Or is there still scope that, once they  
420 have made that declaration, albeit in a belt-and-braces, to be cautious manner, they then have to  
take no part in the proceedings or can they continue once that declaration has been made?

**Mr Corlett:** Yes, Mr Turner, if I can help out there. The specific details are referred to in  
section 11 of the 1985 Act and the actual legislation is section 11(1) that:

425 '... if a member of a local authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or  
other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of  
consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not  
take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.'

430 We do supplement this advice by the information that has been issued in the Department's  
Handbook and also in the Code of Practice document. The advice we have there is that there may  
be certain circumstances where the member discloses the interests and the local authority members  
who are present at that meeting might feel that disclosure of the matter is so insignificant that they  
can actually... the member is welcome to carry on with the discussions.

435 There are also references in the Local Government Act to the making of Standing Orders, in  
section 27 of the Local Government Act, and the model Standing Orders that the Department has  
issued to local authorities in the past have made additional references to when members declare  
interests at meetings, that there is the option, also in Standing Orders, to actually physically  
440 exclude the member from the debate and he should leave the room when the matter is under  
discussion as well. So there are further guidelines available to local authorities to use at their  
discretion as well, in the Standing Orders.

**Q71. Mr Turner:** Could I follow on from that, Chairman?

445 Thanking Mr Corlett for that reply... We discussed at a previous evidence session about the  
spectrum of conflicts of interest. Is there any guidance in the legislation on who would decide? If a  
member made a declaration that said, 'I am bringing this to the attention of the board because I  
want it known that I have got some link but it is not really relevant to the matter we are  
discussing,' who would actually decide? Would it be for the member to then say, 'but I feel I can  
continue these discussions,' or would it be the chairman, or would it be the board as a whole  
450 would say well, 'Well, we don't think you should partake any further in these discussions'?

**Mr Corlett:** The first point of contact if there is any area of dispute as to whether the conflict is  
significant, or needs to be declared according to legislation, would be the clerk. So the member  
would always look to the clerk for advice and if there were still any kind of issues which were in  
need of clarification, the local authorities should then seek their own legal advice.

455 The guidelines that the Department has in its Handbook and on our website replicate that as  
well. So if a member was uncertain about what to do before a meeting, he could look at the  
information the Department had available and realise that he could advise the clerk, or failing that,  
they could seek legal advice... the local authority could seek legal advice from their legal advisers.

460 **Q72. The Chairman:** Talking about recommendations then, you obviously drew up legislation  
yourself. Do you feel as though this legislation, going forward, should be 'beefed up' and made a  
little bit more clearer going forward?

465 **Mr Corlett:** I think there are two areas to consider and there are different viewpoints,  
depending on which angle you want to approach it from; but I think the Department has to be a  
little bit careful of not being too prescriptive in any new legislation so that we end up finding a  
situation where local authorities are unable to discuss lots of issues. We have to keep in  
perspective maybe the roles of local authorities on the Island and what it is suitable for Members  
of Tynwald and the procedures they have to follow where they are involved in debates where  
470 millions of pounds of taxpayers' money could be open for discussion, local authorities are on  
many occasions only discussing local issues of a relatively minor nature compared to what some  
deal with in national government circles.

**Q73. The Chairman:** Thank you.

475 Mr Hamilton recommended following the Tynwald system, where Members have to make a  
declaration of anything which might be perceived as affecting them. Would this work in local  
authorities?

480 **Ms Craig:** I think Mr Corlett has just tried to address that for you. It might not be suitable,  
Chairman, to apply the same sort of criteria to local authorities as is applied to Tynwald Members.  
I think, in principle, we would like to see robust governance around any decision-making process,  
but again we have to bear in mind that local authority members are elected by the public, they are  
not paid, they are volunteers. For Tynwald Members, it is their full-time occupation and they are  
salaried and elected nationally to debate national issues, so I think Mr Corlett, really, has  
485 addressed that. I would be cautious about applying the same level of regulation to local authority  
members as we do to Tynwald Members.

**Q74. The Chairman:** Mr Hamilton has alluded to the possibility of giving the Department a  
legal power to issue guidance. Do you think this would make a difference?

490 **Ms Craig:** I think it is worth considering, certainly, how we can strengthen the impact and  
effectiveness of the Code of Practice. It is a voluntary code as it stands at the moment, though the  
contents of it are notable, and I will not say good practice or best practice but they are good  
principles to follow. I think it would be worth potentially for the Committee to consider whether or  
not there is added value in making it a statutory code.  
495

**Q75. Mr Turner:** A spin-off from that: would the creation of a tribunal-type committee be of  
assistance in dealing with matters where local authority members... where there is a complaint  
against them? It appears at the moment, as I said earlier, that they literally are a law unto  
themselves and there is no recourse. Would a tribunal system assist, whereby complaints could be  
500 referred to them?

**Ms Craig:** I think I would ask you, Mr Turner, to consider, when you say they are a law unto  
themselves, what we are asking local authorities to do is to police themselves, not the fact that they  
are without a framework under which to operate on a day-to-day basis. I think it would be wrong  
505 to imply that local authorities are without any governance. That is not correct.

But you are right when you say, at the moment, the only recourse is a criminal charge or  
suspicion of a criminal activity, and that of course is founded in statute; but the whole idea of the  
Code of Conduct, the voluntary code, was borne out of the Select Committee review on Braddan  
and basically it was felt at the time when that recommendation was made that a voluntary code  
510 would be effective. It came on top of having nothing, and really we are in a position now, with  
your help, with your Select Committee, to move it forward to the next stage, aren't we?

**Q76. Mr Turner:** I understand it is an evolution process. My own opinion, for the record, is  
self-regulation is no regulation, and I would certainly... I think the Code of Conduct is a good step  
515 forward, but it looks like we are moving towards more formal... Would you not accept though  
that, despite them being unpaid positions, they do hold positions of considerable power,  
particularly when it could be dealing with planning? It could be a major multi-million-pound  
development or it could be a garden shed, but regardless of that they are in positions of power, and  
regardless of the fact that they are not paid, would you not agree that there should be a robust  
520 system in place to give the public reassurance that they are behaving in an appropriate manner?

**Ms Craig:** I would say to you that we have to be cautious that we do not provide a double  
whammy to local authorities with the introduction of a compulsory code of conduct, on the

525 grounds that already they have Standing Orders, which are required through the Local  
Government Act, so they are a statutory requirement. Within the Standing Orders mechanism there  
is already very clear detail about how local authorities should conduct their business on a day-to-  
day business basis and that looks at their decision-making process around planning, around the  
530 spending of public money and funding. They are audited very rigorously by external auditors once  
a year, so there are mechanisms in place that do offer that level of assurance. I think you are more  
looking at behaviours of members.

**Mr Turner:** Chairman, I am conscious, obviously, that we are not looking into the  
535 performance of the authority *per se*, this is the individuals, and that is why I was confining it to the  
method of investigating the conduct of an individual member of those authorities, whereby if it  
went to a tribunal administered by, for example, the Department, it could then report as to whether  
that member had acted appropriately or to the other extreme, would have them censured or  
whatever.

540 **The Chairman:** Mr Cregeen.

**Q77. Mr Cregeen:** I have just got two points. One is a point of clarification. We have had the  
point that these members are not paid. Some local authorities members are paid for their  
attendance, whereas some of those do not claim any attendance. Is that correct?

545 **Ms Craig:** I think you will find if they are sitting on specific committees or subcommittees  
they can claim a payment, if they are entitled to, within their Standing Orders. Yes.

**Q78. Mr Cregeen:** With your experience and Mr Corlett's experience with local authorities,  
550 do you find that some of the members come up with, 'Well, if everybody knew what I had an  
interest in, I wouldn't stand', and clean up the idea of, 'Oh, well, we won't get many members  
standing if we have to declare what we have got', as we have got local authority elections coming  
up shortly?

555 **Ms Craig:** I do not think necessarily... I can only really give you my personal view on this. I  
do not speak as an elected member, so I am not in a position whereby anybody has ever asked me  
to declare what my personal interests are, for example.

560 What I would say to you is that we have been doing some sort of review of the elections over  
the last four years for local authorities, and at the previous election, basically, out of the 24 local  
authorities that could have held elections, eight held them. So whether or not one of the issues of  
declaring or not declaring your interest is a barrier to people standing for local authority elections,  
I would not really be in a position to comment. I think it is a very personal position to take, isn't  
it?

565 If you are standing as a national politician for the Island, obviously you do have to have a  
public register of your interests, and I know that I sit before you now and that has not put you off  
coming forward to be a representative for your community and for the Island. So –

**Q79. Mr Cregeen:** I was just going to say that if during these elections it became compulsory  
570 that everybody declared what their interest was and you did not get enough members standing,  
would it cause problems for the Local Government Unit in the future because they may not be  
quorate?

575 **Ms Craig:** You will be aware, I am sure, that several local authorities have quite a high number  
of members and seats that will be available come the election period. Some local authorities have  
up to nine elected members, or require nine elected members to form their board. Some authorities  
cannot recruit the number of Commissioners that they require and therefore run with vacant seats a  
lot of the time. So I would say to you again, I am not sure... It could potentially be a barrier to  
some individuals not wishing to stand and not wishing to declare interests, but I think it is a very  
personal matter, yes.

580 **Q80. Mr Turner:** But it is already there in the voluntary code anyway that they have to do it.

**Ms Craig:** It is, yes.

**Q81. The Chairman:** I think so as well. Thank you.

585 Obviously, given your experience in the UK, would you... Mr Hamilton suggested adapting a code of conduct from the UK. Would you recommend this, and what additional considerations would you bring into play if it were adopted?

590 *Ms Craig:* I think we have to be aware it has been tried and tested in the UK, Mr Chairman, and they are now moving away from it because they have found it is bureaucratic, it is –

**Q82. The Chairman:** Which way are they moving?

595 *Ms Craig:* Away, so as –

**Q83. The Chairman:** Back to what?

*Ms Craig:* Back to self-regulation – unfortunately, Mr Turner, from that perspective! – to policing themselves.

600 The difficulty I think you have is that one size does not fit all and very much local authorities in the UK are the size of district councils, which are potentially for a population of 80,000 who would represent the Isle of Man geographically and demographically – that would be a local authority. So potentially, the standards committee was the right approach for a country that has very many different levels of government, two tiers: county councils and local district authorities.  
605 I do not think it provided the assurances or reassurances that were required by local authorities for quick resolutions to issues and therefore there were instances, I am sure, where members were subject to suspension prior to their case being dealt with by the standards committee, which could seriously impact on the ability of a local authority to function. So I think that they have tried it. They found it not quite meeting their needs and they are now looking for other options and they  
610 are back to looking at local authorities. To police themselves is the way they are going.

So I would not say I would rule it out altogether. I think we have to be proportionate to what the types of issues are, particularly for the Island and for local authorities.

**Q84. The Chairman:** I suppose it is clear having a separation from central to local, isn't it? (Ms Craig: Yes.) As you said before, where you were saying one size does not fit all. (Ms Craig: Indeed.) Interesting.

Have you any other proposals which the Committee ought to consider, just in winding up?

620 *Ms Craig:* From the point of view of the Department, I think is important to state that, from my perspective, anyway, as newly involved with the Island's local authorities, I have visited several – many of them – over the last two years and had a lot of interaction with both clerks and elected members, all of whom work very hard for their communities. There are issues – I am sure we would not all be sitting here if things were running smoothly in lots of instances – but I think, in many examples of work that I have seen, the work is done to a good standard and Commissioners conduct themselves well and with the best interests of all of their community at heart.  
625

**Q85. The Chairman:** I think that is important to put on record, actually, that they do work hard.

630 *Ms Craig:* It is. They do work very hard. We have got some good examples of where local authorities have come together to deliver joint initiatives and they have worked very well and there is a real partnership approach in some areas of service delivery.

I have already said it, and I will say it again: clerks have a very difficult role to play, because ultimately the power of how well the meetings are conducted sits with them. They are the adviser  
635 and the expert who is sitting there to advise as committee meetings are held. We provide as much support as we possibly can with limited resources to the 24 local authorities on the Island, and not forgetting we also have burial authorities and other authorities too to support as well. They do have a very difficult role to play, and things have changed significantly –

640 **Q86. The Chairman:** A difficult and important role to play.

*Ms Craig:* A very important role to play, yes, and things have changed significantly for them as a local authority. I think, as users of local services, we have much higher expectations of the services and quality of the services and the quality of the decision-making that is being made at  
645 that local level, and we are putting a lot of pressure on our local representatives to make sure that

we are getting value for money for our rates, and that our community is being valued and being supported. It is a very difficult role to do.

650 **The Chairman:** Well, I am pleased you have brought that up. At the end of the day we are here because a petition was brought against one person, one issue. At the end of the day, there are 165, I believe, Commissioners and councillors in the Isle of Man, and I am pleased you have put on record their hard work. Being an ex-Commissioner myself, they do work hard, they do mean well, and thank you for that.

655 Mr Turner, have you got anything to add?

**Mr Turner:** No further questions, thank you, Chairman.

**Mr Cregeen:** No, thank you.

660 **Q87. The Chairman:** Mr King? None at all.  
Well, I would like to... Have you got anything else to add before we finish?

**Ms Craig:** No, I am fine, thank you, Mr Chairman.

Sorry, excuse me a second.

665 Right, I have just been reminded... Do excuse me, Mr Chairman. I have just been reminded by Mr Corlett that we have recently actually, on request of our previous Minister, Minister Gawne, done a review of the quality of Standing Orders that are being followed and operated within the local authorities.

670 The Local Government Unit has issued in the past, and fairly recently as well, as a reminder to local authorities, a set of model Standing Orders. What we have found on retrieving copies of Standing Orders from some of the local authorities is that they are not compliant with the model that we have proposed and they are not either or may not be fully compliant with the law. So it may be that the Committee might wish to think about making potentially some recommendations about how to strengthen the format and content of Standing Orders for local authorities.

675 As I said, I think we can provide you with a set of the model of Standing Orders, if that is helpful to you (**The Chairman:** Please do.) and you can have a look at those, and potentially if you might wish to see some examples of the ones we have been given, that might be helpful to you also.

680 **Q88. The Chairman:** So really what we are saying is strengthen the bond between Standing Orders between all authorities.

685 **Ms Craig:** Yes, I do not think you would find that they are consistent in their detail and their content across the 24 authorities at the moment, despite there being a model which is preferred.

**Q89. The Chairman:** Okay, well, if you let us have the details.

**Ms Craig:** We will do. Yes.

690 **The Chairman:** Thank you very much for attending. I am very grateful to you for your time and your answers. We are now going into private sitting to discuss the details of today, and again, thank you very much.

695 **Ms Craig and Mr Corlett:** Thank you.

**The Chairman:** Thank you.

*The Committee sat in private at 3.31 p.m.*