

Explanatory Memorandum to Tynwald Members

Issued by the Cabinet Office

To the Hon Clare Christian, OBE MLC, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of Measure

Review of the Functioning of Tynwald [GD 2016/0047].

2. Reason for the Measure

At the June 2015 sitting of Tynwald, the following resolution was made:

"That Tynwald is of the opinion that Isle of Man Government should establish an independent review using its powers under the Inquiries (Evidence) Act 2003 to examine the functions of the branches of Tynwald and to consider options for reform".

Lord Lisvane KCB DL was formally engaged to undertake the Review under the following Terms of reference:

- examine the functions of the Branches of Tynwald
- assess their efficacy
- consider the scrutiny structure required by the parliament
- recommend options for reform

The Report contains 11 recommendations detailed below:

Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

- a. That the House of Keys remain the electoral college but that all candidates for election be nominated by an independent Nominations Commission;
- b. That the Nominations Commission be charged with increasing the diversity of the Legislative Council;
- c. That no sitting MHK be eligible for nomination;
- d. That no proposer or seconder be required;
- e. That the vote be open; and
- f. That the candidates fill the available places in the order of the votes they secure in a single round of voting; a tie for last place would require a run-off.

Recommendation 2 – Role of the Legislative Council:

- a. That MLCs should not vote on measures which are *exclusively* on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;
- b. That MLCs should not be members of Departments and only exceptionally should they be Ministers; and
- c. That MLCs should not vote on the appointment of the Chief Minister, nor on a vote of no confidence in the Chief Minister or the Council of Ministers.

Recommendation 3 – The Bishop:

- a. That the Bishop should remain an MLC and retain his vote; and

- b. That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.

Recommendation 4 – A Programme for Government:

- a. That the first task of an Administration be to prepare and publish a *Programme for Government*, on which the views of the public should be explicitly sought; and
- b. That thereafter Tynwald approval be required for such *Programme* on formulation, by means of a major debate, at which amendments to the *Programme* could be moved, and thereafter annually.

Recommendation 5 – Departmental Members:

- a. That there be no more than one Departmental Member per Department; and
- b. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.

Recommendation 6 – Scrutiny:

- a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald (“the four principal committees”), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Environment and Infrastructure Policy Review Committee and the Social Affairs Policy Review Committee, as renamed;
- b. That the Chairmen of the four principal committees be elected immediately after the Chief Minister;
- c. That the Chairmen of the four principal committees be paid at the same level as Ministers;
- d. That the members of the four principal committees be paid at the same level as Departmental Members;
- e. That the *Programme for Government* be the focus of the reformed Policy Review Committees;
- f. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;
- g. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;
- h. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise;
- i. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.

Recommendation 7 – Legislation:

- a. That a new draft Bill procedure be adopted under which draft legislation is automatically referred to the relevant principal committee instead of being subject to the existing formal consultation procedure; but that the relevant principal committee seek the views of the public;
- b. That the committee be required to report its conclusions on the draft Bill and any suggested amendments within a fixed time period, which could be reduced by resolution of Tynwald in cases where urgency was demonstrated;

- c. That, in considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;
- d. That amendments to the Long Title of a Bill be authorised by an instruction moved immediately after second reading (which instruction would be open to amendment);
- e. That amendments to the Long Title of a Bill be taken at the end of the clauses stage; and
- f. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.

Recommendation 8 – Code of Conduct:

- a. That Tynwald introduce a single formal Code of Conduct for its members;
- b. That such a Code be a free standing document rather than various Standing Order provisions;
- c. That each Member sign a declaration to abide by the Code of Conduct immediately after the introduction of the Code and thereafter at the time of taking the Oath after election or appointment;
- d. That there be a minority of lay Members of the Members’ Standards and Interests Committee;
- e. That anyone within the Isle of Man should be able to make a conduct complaint; and
- f. That the procedure for breaches of the Code be revisited, and that there be provision for a specified period of suspension notwithstanding an apology.

Recommendation 9 – Diversity:

- a. That Tynwald address with energy the need to make its membership more diverse.

Recommendation 10 – Members’ Pay and Allowances:

- a. That an independent review of pay and allowances be undertaken urgently.

Recommendation 11 – Training:

- a. That there should be continuous professional development training for Members of Tynwald.

4. Tynwald procedure

That Tynwald receives the Review of the Functioning of Tynwald [GD 2016/0047]; notes the recommendations contained therein; and resolves that the recommendations be submitted to Tynwald for debate and decision after the next General Election.