

STANDING COMMITTEE OF TYNWALD ON SCRUTINY

EPTS081210

Douglas, Wednesday, 8th December 2010

Afternoon Session: 3.03 p.m. – 4.14 p.m.

*The Committee sat in public at 3.03 p.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MRS CANNELL in the Chair]

Procedural

The Chairman: (Mrs Cannell): Right, we can start, and apologies for the two-and-a-half minute delay. Welcome to everybody who has come to attend. This is the Committee of Tynwald on Scrutiny.

If I can, first of all, introduce members of the Committee: to my far right is Mr Malarkey, Member of the House of Keys; to my right, Mr Braidwood, Member of the Legislative Council; to my far left is our Clerk for today, Mrs Lambden; and to my immediate right is Mr Karran, MHK. I am Mrs Brenda Cannell, who chairs the Scrutiny Committee.

Can I just ask those who are present if they could switch the mobile phones off before we commence, as it can interfere with our Hansard clerk, who today is Mrs Pilkington.

A warm welcome to you.

If I can just say, to start off with, what our remit is as a Committee. We are established to: consider items of approved or rejected secondary legislation which have been referred by Members and other items of secondary legislation, as the Committee sees fit, and report to Tynwald as and when the Committee sees fit; examine the Annual Tynwald Policy Decisions Report and consider whether the action taken has adequately responded to Tynwald resolutions; consider whether any of the Tynwald resolutions which have not been fully implemented are appropriate for removal from the list; and lay an annual report before Tynwald, with recommendations for action where appropriate.

In our remit, 'secondary legislation' includes orders made by Her Majesty's Privy Council, extending to the Isle of Man the provisions of an Act of Parliament or any other orders, rules or regulations made thereunder. We are currently considering under our remit to consider items of approved or secondary legislation which have been referred by Members, we are considering the Transfer of Functions Orders, approved by Tynwald in February and March of this year, and the matter has been referred to us by Mr Juan Watterson, Member of the House of Keys.

We have received a considerable amount of written evidence from chief executives across Government and also the Chief Secretary, who we welcome this morning and thank you for agreeing to come in and give

25 us some evidence. In fact, Mrs Williams, we have had quite a number of letters from you. We had one in
April, May, two in August, one in October and, of course, the last one, which was 10th November. I have to
say, for the record, that you did in fact, question whether or not it was within our remit to examine the policy
that was behind the transfer of functions of Government Departments and, of course, I think perhaps it is now
30 accepted that we have to – if secondary legislation is referred to us for consideration – consider the policy that
led to the secondary legislation. Otherwise we would not be able to fulfil our remit, if we were not able to do
that. So we are pleased that you have accepted that that is the case. We are provided, within our remit, to
consider that.

35 That then brings me to the last letter, which you kindly sent to us and I do not know whether you have
come this morning with copies of your letters?

Mrs Williams: Yes, I have those letters.

The Chairman: You have. Right. Can I invite you to come forward?

40

EVIDENCE OF MRS M WILLIAMS

45 **Q1. The Chairman:** We are specifically looking at the letter dated 10th November this year, where we re-
put questions to you which we had asked in earlier communication with you. We had to re-state them, of
course, once we got over the hurdle of the interpretation of our remit being extended to consider the policy,
and specifically we are dealing with the period of 2007, I guess, from 1st November 2007.

50 What you did say in this letter was that the Scope and Structure of Government went through a series of
exercises, and of course it was a very public process because members of the public were consulted. Evidence
was sought by that Committee at the time, in 2006 and, of course, the Report came forward and was published
on 27th September 2006.

55 It seems, from the information you have given us, of 10th November, that it seemed to sit around for quite
a long time. Various Questions were raised in Tynwald in respect of where is the Report, what is the Council
of Ministers doing in respect of the recommendations that it contained, and so it went on. It would appear,
from your communication, that it did go to the Governance Committee. As we understand it, the Governance
Committee... There are three individuals sit on the Governance Committee. Am I correct?

You say, in your letter, it is the Chief Minister, yourself and the Director of Performance Management and
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60 **Mrs Williams:** No, sorry, the Governance Committee is a subcommittee of the Council of Ministers and
the subcommittee governance committee – I am just trying to see –

Mr Braidwood: Mr Bell.

65 **Mrs Williams:** Mr Bell and Mr Shimmin.

Q2. The Chairman: It is made up of public members?

70 **Mrs Williams:** It is made up of politicians.

Q3. The Chairman: Right. Would you be so kind as to give us the membership of that committee,
please?

75 **Mrs Williams:** I do not actually have that file with me, I am sorry, Chairman, but I can certainly let you
know that information.

It is public information. It is just that I did not bring that file with me. I brought the review file with me,
not the actual –

80 **Mr Braidwood:** Chair, it was my understanding it was the Chief Minister, Mr Bell and Mr Teare, but I
might be wrong.

Mr Shimmin –

Mrs Williams: Certainly Mr Shimmin is on it.

85 **Mr Malarkey:** There were only four Members, I was led to believe.

Mrs Williams: I can get that information to the Committee.

90 **Q4. The Chairman:** Okay, if you would be so kind as to do that, and if you could also advise us on whether all members that serve on that Committee – or did serve on that Committee – were in attendance at all meetings. It would be most useful, please, because you have referred to various meetings in this letter of 10th November.

95 As we understand it, your Office wrote to Departments and Boards and Offices in October 2007 to seek their views on the recommendations that were contained within the *original* Report on the Scope and Structure of Government. Is that correct?

Mrs Williams: They wrote with specific queries. The Governance Committee... Can I describe the progress...?

100 **The Chairman:** I am going by what you have given us in your letter.

Mrs Williams: Yes, if I can give you the process and then perhaps that would help clarify.

105 As the Governance Committee, which comprised the politicians, went through each of the recommendations of the original Report, my Office was tasked with writing to various Departments, asking questions about the original Report and their considerations of it. So I would not go so far as saying there were general letters sent out, there were specific questions asked of specific Government Departments, arising out of the Committee's deliberations.

110 **Q4. The Chairman:** Sure, but that was to do with the specific request to comment on recommendations that were contained in the original Report?

Mrs Williams: That is right.

115 **The Chairman:** Yes, that is what I wanted to clarify. So we are still on the original Report –

Mrs Williams: That is right.

The Chairman: – on the Scope and Structure of Government.

120 *Mrs Williams:* Yes.

Q5. The Chairman: And then, following that, there was a meeting on 1st November 2007, where the Governance Committee agreed that the Report should be submitted to the January 2008 sitting of Tynwald. I have a query on which Report are we talking about there.

125 *Mrs Williams:* There is the Report of the Governance Committee on the Report.

Q6. The Chairman: So we are talking about this Report that was asked about in Tynwald Court in February 2010 by Mr Speaker.

130 He asked about the issue of whether or not it had actually gone out to public consultation, and the Chief Minister said no, it had not. What I want to ascertain, then, is, as of 1st November 2007, a report on the recommendations of the original Scope of Structure of Government Report was ready –

135 *Mrs Williams:* Sorry.

The Chairman: – to go to Tynwald in March 2008. You see, you refer to a report here and it is unclear as

to which one you are talking about.

140 *Mrs Williams:* Sorry, Chairman, I have been confused, I misheard you. I thought you said November 2010. The November 2007 Report was the original Report.

Q7. The Chairman: The original Report, but why was it agreed, then, that the original Report should go to the September... to the January 2008 sitting of Tynwald?

145 *Mrs Williams:* Sorry. Can you just refer me to where I am looking?

The Chairman: Yes, we are on to page 3, and we are on to the third paragraph from the top.

150 **Mr Braidwood:** Not 2008.

The Chairman: This is your letter of 10th November.

155 *Mrs Williams:* This is my... yes, sorry. I just have a summary of everything that happened, which I am referring to.

The Chairman: So we are on page 3 and it is the third paragraph from the top, where it starts:

160 'At its meeting on 1st November 2007, the Governance Committee agreed that the report should be submitted to January 2008 sitting of Tynwald.'

Mrs Williams: It was agreed... At that point in time, the Governance Committee had gone through all of the original recommendations and it was agreed that a report should be drafted on that and be referred to the January 2008 sitting of Tynwald.

165 **Q8. The Chairman:** But that did not happen, did it?

Mrs Williams: That did not happen.

170 **The Chairman:** No, that did not happen.

Mrs Williams: That did not happen.

175 **Q9. The Chairman:** So then we come to 7th January 2008, the very month that originally it was decided the report of their findings, or their consideration, would go to Tynwald. The Committee noted advice from the Chief Minister that it was unlikely that the report would be presented to Tynwald before March 2008.

Mrs Williams: That is right.

180 **Q10. The Chairman:** So, I just wonder, if the report was ready and the Governance Committee had agreed, in November 2007, that it should come forward, and then the Chief Minister said, 'No, it won't be ready until at least March 2008,' why was that?

185 *Mrs Williams:* I think it is simply that I have said 'the report' when it should have said 'a report'. It was not written in November. It was the intention that the report be written and approved, ready to go, January 2008. It did not get done because of pressure of work, and that was the reason for the Chief Minister's –

Q11. The Chairman: Right, okay, so it was not written by that time?

190 *Mrs Williams:* Yes.

Q12. The Chairman: And then it goes on that a review of Government meeting took place between the Chief Minister, Chief Secretary, yourself and Acting Director of Performance Management and Delivery on

28th May 2008. Of what relevance was that, in terms of the issue in hand?

195 *Mrs Williams:* It was to look at where we were with the drafting of that report and to consider whether or not the report was to go forward.

The Chairman: Right, okay.

200 **Q13. Mr Malarkey:** There was still no report at that time?

Mrs Williams: No.

205 **Q14. The Chairman:** So then we come to... following May 2008 we arrive at 2nd July 2009, where it was decided that there was no report ready to come forward and then, following that, we come to 14th January this year. So there is quite a quite a gap there. And then it states... your letter states, 'The Governance Committee considered a report regarding its responses to the 48 recommendations proposed.' The 48 recommendations flowed from the Scope and Structure of Government –

210 *Mrs Williams:* That was the original report.

Q15. The Chairman: – Report, and they considered a report. So we take it that, on 14th January 2010, a report had been written, okay. Can I ask who wrote the report?

215 *Mrs Williams:* You can. It was the Director of Performance and Delivery, based on the minutes and the recommendations of the Governance Committee.

Q16. The Chairman: Okay. Do we have a name for that individual?

220 *Mrs Williams:* It would have been started by the Acting Director, Mrs Jeanette Williams, and finished by the Director, Mrs Alice Martin.

The Chairman: Mrs?

225 *Mrs Williams:* Alice Martin.

The Chairman: Alice Martin?

230 **Mr Braidwood:** Alice Martin, yes.

Q17. The Chairman: Okay, and that basically was a summary report, I gather, based on what you have just said, which were minutes where these matters were considered.

235 *Mrs Williams:* That is right. Each of the recommendations were gone through in turn by the Governance Committee – each of the 48 recommendations were gone through – and that comprised the first part of this Report, which went to Tynwald in January 2010.

240 **Q18. The Chairman:** Between July 2009 and January 2010, are you saying that it was Mrs Jeanette Williams and Mrs Alice Martin who worked on that?

Mrs Williams: Who worked on the initial part of the Report...

The Chief Minister was looking at the structure of Government. During that period, the Chief Minister and myself and either Mrs Williams or Mrs Martin looked at what the Chief Minister was proposing, in terms of the structure of Government, to take to the Governance Committee as a proposed structure of Government.

245 What we discussed was whether or not everything had been covered. So, for example, if we were having a Department of Economic Development, was everything relating to economic development within that Department; had any areas of Government which were not statutory been missed in what was being proposed, i.e. was what was being proposed sensible, in terms of we had not missed out something which was a basic

250 part of Government, but not statutory, and whether or not there were any obvious conflicts of interest – for example, putting a regulator and a regulated entity into the same Department.

Q19. The Chairman: So, from what you are saying then, you provided the cross-scrutiny, in terms of ensuring that what was going to come forward complied with all the requirements in statute?

255 *Mrs Williams:* Yes.

Q20. The Chairman: In terms of the policy development of why the change, and how it would manifest, and the policy behind the development of those changes, did you assist the Chief Minister in that?

260 *Mrs Williams:* The Chief Minister, I think, pursued that more or less on his own, his ideas, but he was having, I know, discussions with others.

I could not specify which others but there were a lot of people talking to him about a Department of Economic Development and the need for a Department of Economic Development, which was in the actual original Report but was also coming forward from others within both the private sector and other politicians.

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Q21. The Chairman: So why was it, then, that one did not just move forward and go for the creation of an Economic Development Department? Why the change right across Government?

270 *Mrs Williams:* Because if you take a Department of Economic Development and take what elements you would put into that, you would leave Departments which were essentially non-viable. At the same time, if you look at the Government's Strategic Plan, it was quite clear that there were elements of social care where there was nowhere that created the policy for social care, because they were spread over Government.

So it was seen as an attempt to drive forward the two key elements of having a proper policy on social care and a Department responsible for that, and a Department of Economic Development. The rest was rationalising into manageable and sensible Departments, what was the rest of Government.

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Q22. The Chairman: So, in essence, then, what you are saying is that by the creation of a Department of Economic Development, it would have a knock-on effect –

280 *Mrs Williams:* Absolutely.

The Chairman: – on the functioning of other Departments across Government, and that was why they had to change also.

285 *Mrs Williams:* Absolutely.

The Chairman: I rest just there and I will invite my Committee Members. Yes.

290 **Mr Braidwood:** Thank you, Chair.
Good afternoon, Mrs Williams.

Mrs Williams: Hello, Mr Braidwood.

295 **Q23. Mr Braidwood:** If we look at the recommendations, there were 48 recommendations that came out of the review of the original Scope and Structure Report, which was published in 2006. In your letter of 10th November, under 1(a), you go on to say, when the original Report was published, up to the drafting and agreement by the Council of Ministers of its report in January 2010, the reviewing of that was as time and resources permitted. We do go on to comments by the Chief Minister on 7th December, in an extract from his manifesto when he was put forward, or was proposing himself, as Chief Minister:

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'The recent independent report on the structure and scope of Government, which recommends a major restructuring, met careful consideration. However, I do not support the corporatisation or privatisation of the bodies as proposed. I intend to undertake early informed consideration of the report and to report back to Tynwald.'

305 What I cannot understand is that... and the Chairman has already mentioned that, on 1st November 2007,

the Governance Committee agreed that the Report should be submitted to the January 2008 sitting of Tynwald. You have already stated that the Report would not have been finalised by that time. It then goes on that the Chief Minister was hoping... You have said that it was unlikely that the Report would be presented to Tynwald before March 2008.

310 So, two and a half years later, or more, it starts to come through to Tynwald. What I want to know is what was the catalyst? Was the catalyst in September 2009 because of the problems that we were going to face with the review of the Customs and Excise Agreement, that it had to be dusted down and brought forward very quickly?

315 **Mrs Williams:** That certainly increased the pressure for a Department of Economic Development, and as I said, everything else was consequential on that Department of Economic Development, but the events of September 2009 crystallised the thinking about a Department of Economic Development.

320 **Q24. Mr Braidwood:** Would it be your view that, if that had not happened, the Governance Committee would not have reported on the Review of the Scope and Structure of Government?

Mrs Williams: No, that would not be my view. I think the work was ongoing in between times.

325 **Mr Braidwood:** Very slowly.

Mrs Williams: Absolutely. As time and resources allowed.

Mr Braidwood: Thank you.

330 **The Chairman:** Mr Malarkey.

Q25. Mr Malarkey: Well, Mr Braidwood has actually picked up on the same points as I was picking up on: the very slow timescale, up to 18th September 2009, which was approximately 10 days after we had been told of the VAT changes.

335 I would be extremely interested to see when the Governance Committee met, from the 2007 initial... 16th October right up to 18th September, and who turned up for those meetings and whether they were fully manned. We seem to have moved in a bit of a knee-jerk reaction from 18th September to 14th January, which really worries me slightly, with the lack of work done up to that period, suddenly the jump and the amount of work done, and how many times the Governance Committee then sat between 18th September up to 14th
340 January, when the Report was actually issued, how often they met. Could we have evidence of that?

Mrs Williams: I would have to –

345 **Mr Malarkey:** Obviously not now, but can you submit that to the Committee? I believe that is quite important in determining how we got to where we are, to be honest.

The Chairman: Mr Karran.

350 **Q26. Mr Karran:** Mrs Williams, I think that is vital, because what I would like to know is how the agenda suddenly seems to have changed and how you can reconcile the *inactivity* of the Governance Committee and then, all of a sudden, we have this sort of mini revolution as far as this proposal is concerned, that there was some audit trail in order that it was not just a matter of something that was just picked out of the air by the Chief Minister.

355 **Mrs Williams:** I can tell you that work was ongoing in the meantime, certainly between the Chief Minister and officers, but I will certainly get the information you have asked for to you.

360 **Q27. Mr Karran:** That will be very interesting to know, allowing for the fact that there were a number of Ministers who were rather distressed when they did find out about the restructure of Government, who were making complaints to me about the whole handling of the situation. Admittedly, they would not want to be identified under the present system of government.

365 So, if we could have some sort of thing, that this is not just some sort of political gimmick, not just for the issue of the Customs arrangement, but at the time, the Government was under considerable pressure as far as the Reciprocal Health Agreement, and what I would be interested to know is how... Was the agenda made for the need for restructuring of Government on the basis of the need, or, on the basis of it, was politically interesting to try and take the heat away from other ways, so that we make sure that we do not do such things in the future.

370 *Mrs Williams:* I would reiterate that there was considerable pressure, not only from within Government, but from the private sector, for a Department of Economic Development.

The Chairman: Okay.

375 **Q28. Mr Karran:** Can I also ask, Chairman, the other issue I would like clarification on is we keep getting these... We have had the reply to the Chief Minister about the costs involved, as far as the restructuring of Government is concerned and, unfortunately, it might be tenable for people within the House of Keys, but for people outside the House of Keys, there seems to be a big difference in the opinion about the costs. Is there any way of having some idea of what costs were actually involved, as far as the restructuring was concerned?

380 *Mrs Williams:* I believe, Chairman... Was it the Scrutiny Committee that wrote or...? Someone has written to all Departments of Government, so that information has been provided, and I can say that very firm instructions were sent when the restructuring was undertaken, that costs were to be kept to a minimum, that there was to be as little re-branding as was consistent with not confusing the public, and that this was not to be seen as anything other than business as usual. So they were very firm guidelines, to try and minimise and that only absolutely necessary costs would be incurred.

385 **Q29. The Chairman:** I think it would be fair to say that we enquired as to the costs to date and also the impact to date, of course bearing in mind that restructuring has not been in place sufficiently long to fully assess that, but we will be revisiting that after Christmas. There are some costings.

390 What I would like to say to you, whilst we are on that subject: have there been any savings to Government?

395 *Mrs Williams:* I do not think there were any direct savings as a result of restructuring. It was seen as one of the building blocks towards the transforming Government agenda, where we expect to be savings coming out of it, and it was always – well, certainly in the latter part of the development of the restructuring Government agenda – envisaged that the transforming Government agenda would follow on from that to try and reduce such costs.

400 **Q30. The Chairman:** Can I just seek some clarification from you. You said earlier on that it was the Chief Minister who developed the policy.

405 *Mrs Williams:* Who developed the structure... I think the policy for change was accepted, but who developed the structure.

Q31. The Chairman: Accepted by whom?

Mrs Williams: By the Governance Committee.

410 **Q32. The Chairman:** So it was a Governance Committee decision that policy needed to be worked up in terms of change?

Mrs Williams: I think so, yes

415 **Q33. The Chairman:** How and in what way that would manifest itself is what interests the Committee. How was that left? On the one hand, you said that there was the Governance Committee, which was made up by political membership; on the other hand, you have said that the Chief Minister and officers did a lot of

work on it.

420 *Mrs Williams:* Yes.

Q34. The Chairman: We are really wanting to know who was the main driver behind it?

425 *Mrs Williams:* The driver behind the structure was the Chief Minister.

The Chairman: So it was the Chief Minister?

Mrs Williams: Yes.

430 **Q35. The Chairman:** Okay.

Can I just ask you... In your letter, we asked you whether or not, bearing in mind that the Scope and Structure of Government issue and Report was a very public thing... The public were invited to submit comments, the public were invited also to be interviewed by the Committee that was established, and also the Report had wide public circulation. When we asked you the question on page 3 – this is the bottom of page 3:

435 ‘Who made decisions as to who was to be consulted and at what stage?’

you responded, and it is the section where you say:

440 ‘The Chief Minister, being the Chair of the Governance Committee, gave considerable thought to balancing the benefits of further consultation against the need to act swiftly to ensure the departmental structure reflected the current Government’s priorities.’

445 You then went on to say, when we asked you about public consultation, that basically it was the Departments and Boards and Offices that were consulted, but as the Code on Public Consultation came in October-November 2007... Sorry, that the public consultations were carried out 1st July 2008 and the Boards, Departments and Offices, their thoughts were sought in October and November 2007, which was prior to the Code coming out, which was in 2008. Therefore, you are saying that the Code was not there, so we did not have to comply with the Code on Public Consultation.

450 Do you think it was prudent that it did not go out, that the workings of the consideration of the original recommendations of the analysis of the public submissions to that, did not actually go out for further comment? Would it not have been prudent for that to have gone out, bearing in mind it was a very public issue and it had been very public on consultation?

455 *Mrs Williams:* I am sorry, I am lost. The question you asked was an analysis of responses to the original consultation, and that was... The property and ownership of that belonged with the original Committee, not with the Governance Committee.

460 **Q36. The Chairman:** No, no, I think you have probably misunderstood me. We are trying to cover two questions we have put to you, and two separate answers. We asked:

‘Who made decisions as to who was to be consulted and at what stage?’

You said:

465 ‘Throughout the policy development period, the Governance Committee requested officers to liaise with various Departments and Offices affected by the recommendations as described at paragraphs 1 and 2 above.’

This is the Report of the Governance Committee.

470 ‘The Chief Minister, being Chair of the Governance Committee, gave considerable thought to balancing the benefits of further consultation against the need to act swiftly to ensure the departmental structure reflected the current Government’s priorities.’

475 Now, what we read from that is that it was the Chief Minister who considered whether or not the Governance Committee Report should be published.

Mrs Williams: Should go out for further consultation.

480 **The Chairman:** Well, should be published, basically.

Mrs Williams: Well, it was essentially published when it went to Tynwald.

485 **Q37. The Chairman:** Basically what you are saying, although it is unclear, is that he decided that, on balance, it should not.

Mrs Williams: That, on balance, it was better to progress, yes.

490 **Q38. The Chairman:** And not report back to the public, who had been very active in submitting views previously?

Mrs Williams: In the original Report, yes.

495 **Q39. The Chairman:** Yes, but the Governance Committee Report was based on consideration of the original Report, which was a public document.

Mrs Williams: Yes. The Governance Committee Report, once approved by the Council of Ministers, was the response of the Government to that Report. That then concluded that process. We then went on to the next part of the process, which was the proposed new structure, and that did not go out to consultation.

500 **The Chairman:** No.

Q40. Mr Braidwood: Chair, can I just come in again, please.

505 You have answered one question: 18th September, the catalyst. Is the reason that the Report from the Governance Committee on the recommendations did not go out for public consultation the very short timeframe that then had been left because you had wanted to implement this from 1st April, and that is the only reason?

It still comes back, to my view, that it was rushed from 18th September, when we had had all the previous three years to have gone through... I know you said time and resources permitting, but three years is a long time, and it is just this knee-jerk reaction, to bring it forward as quickly as possible so that it was in.

510 Another point I would like to raise, Chairman – Mrs Williams raised this herself initially, on the review and structure of Government – is now the foundation for the transforming of Government. That is going to be over five years: I think that is the timeframe, and your successor will probably be coming in front of this Committee to say... because questions will be posed, on how much it is going to cost or how much we are going to save, because it is already happening. It is going to be over a five-year period. I believe HR, at the moment, are going to be all coming together on the transforming of Government. So there is nothing at the present time that we could say what we are going to say, or whatever. It is going to be another year or so down the line.

520 *Mrs Williams:* There were certainly estimates of what might be saved in the outcome, but I think they were built into the briefing to Members, but they are conservative estimates.

525 In response to your 'long time' comment, can I just say that yes, it was a long time but there was a whole series of letters going out here and meetings – November 2007, August 2007, January 2008, May 2008, August 2008, seven 2009 – so it was not a knee-jerk reaction. I admit it was a slow process – as I said, when time and resources allowed – and we had one individual who had poor health during that period, who was a key individual, so that was one of the problems. It was not a knee jerk. There was a whole series of different strands of work going on.

The Chairman: Mr Malarkey.

530 **Q41. Mr Malarkey:** I think you know where we are coming from, with talking about knee-jerk reactions. If I can refer you back to your letter, page 3, it says that, at a meeting on 22nd January 2010, the Council of

535 Ministers considered the Report of the Governance Committee and also concurred with it. Now, in the light of what we have been discussing here – that the Chief Minister seems to have done all the work on this – would that not really be more appropriate to read that the Council of Ministers considered the Report of the Chief Minister and, in fact, not the Governance Committee – that it was actually the Chief Minister’s Report.

We are hearing that the Governance Committee really had not got a report, by the time it got up to January, and the Chief Minister himself was the one that was doing all the lead on it. So did he do it with the Governance Committee or did he do it on his own?

540 *Mrs Williams:* The Chief Minister was the lead on it, but he reported to the Governance Committee and the Governance Committee could either agree or disagree that Report.

545 **Q42. Mr Malarkey:** So whose Report was it? Was it the Governance Committee’s Report, or the Chief Minister’s Report?

Mrs Williams: It was both.

550 **Q43. Mr Malarkey:** But you said yourself, in an earlier statement, that it was the Chief Minister who did all the work on it with one of the secretaries.

Mrs Williams: Absolutely.

Q44. Mr Malarkey: So it is his Report.

555 *Mrs Williams:* But I am sure you will accept, Mr Malarkey, that in any area of Government people get sent away to do work. They report back to the committee. It is then up to the committee to accept or reject that work, or amend it if they see fit.

560 **Q45. Mr Malarkey:** I do not dispute that, but we are talking about the Chief Minister here, not sending some committee member away to do some work for a committee. It seems to have been led by the Chief Minister, who seems, in your own words, to have done most of the work with regard to it, so I consider it to be really his Report and not the Governance Committee, because the Governance Committee had not achieved anything up to September 2009.

565 *Mrs Williams:* The Governance Committee had certainly gone, recommendation by recommendation, through the original Report.

Mr Malarkey: Thank you.

570 **Q46. The Chairman:** But it is one thing, Mrs Williams, to go through recommendations of someone else’s report and say whether you agree with it or not. It is quite another to come up with a solution to the area that has been raised.

575 **Mr Malarkey:** Correct.

Mrs Williams: Absolutely.

580 **Q47. The Chairman:** It would appear, from all of the evidence that, in fact, it was the Chief Minister who was coming up with all the solutions and asking the Governance Committee whether or not they would go along with it with him.

Mrs Williams: The Chief Minister came up with the solutions, but as I say, there were certainly recommendations coming from other places, in particular about economic development.

585 **Q48. The Chairman:** If I just finish this one off, can I ask... You said, at the onset, that he was talking to a lot of other people. What is the relationship between any Chief Minister and a Chief Secretary, in terms of your working together, advice, the flow of ideas?

590 There is an understanding that the Chief Secretary to a Chief Minister – if you like, the Chief Secretary to a prime minister – is the main confidant, in terms of things that are going on, things that he or she is thinking about, to be able to bounce those off their Chief Secretary. Do we have that kind of relationship between the posts in the Isle of Man or not, or is the Chief Secretary here merely an administrator?

595 *Mrs Williams:* It depends on the individuals and the relationship they form, I would suspect. Certainly you would have to ask the Chief Minister. I would hope that he has confidence and trusts me to bounce ideas off. You would have to ask the Chief Minister.

Q49. The Chairman: Did he do so in respect of this?

600 *Mrs Williams:* As I said, when he had ideas, we discussed whether or not (a) everything was covered, (b) whether any non-statutory element had been missed out, (c) whether, in fact, it was achieving what he wanted to achieve, in terms of having a focus on economic development and having a focus on social care, whether there were any obvious conflicts of interest more than the current conflicts of interest –

605 **Q50. The Chairman:** It sounds as if it is more of an administrative role you are describing, that he gave you the ideas and the solutions that he wanted and you merely looked at them to see whether or not they would comply with statute.

610 *Mrs Williams:* No, not with statute; with what he was trying to achieve, which was a department which would focus on economic development.

Q51. The Chairman: Did you not have discussion about what he was trying to achieve?

Mrs Williams: Yes, economic development and social care.

615 **Q52. The Chairman:** Okay. Can we go back to your letter, and this lack of public consultation on the analysis of those who submitted views. We asked you a question, in terms of... I have lost it, I am trying to find it, if you just bear with me.

We asked you, the second and third questions concerning the consultation process. You say:

620 ‘The Governance Committee consulted Departments, Boards and Offices.’

We are asking:

625 ‘Has an analysis of responses been prepared in line with the Government Code of Practice on Consultation. If so, please supply us with a copy.’

630 Your response to that was: ‘we didn’t have to comply with the Code because the Code came in after we were analysing the responses.’ So, basically, it looks as though the Chief Minister took the decision not to report back to the public, in terms of his solutions to the problems that were raised in the original Report but, furthermore, the analysis of the consultations from the original Report are denied also. We are not allowed to look at the rationale on the analysis that was picked up following the public consultation. We are not allowed to see that, either. Is that what you are saying?

635 *Mrs Williams:* I am not saying you are not allowed to see anything. What I am saying is that the second and third... You asked the question:

‘You say the Governance Committee consulted Departments, Boards and Office. Has analysis of responses been prepared in line with the Government Code?’

640 I took that to mean you were talking about the consultation with the Departments, Boards and Offices, not the consultation with the public.

Q53. The Chairman: We are talking about any analysis of submissions that you have had in terms of the Scope and Structure of Government.

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Mrs Williams: The analysis of the public consultation was, I assume, done by the original authors of the Report.

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The Chairman: No, you are misreading me again.

Mrs Williams: It is not deliberate! I am trying to get to the bottom of this...

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Q54. The Chairman: The original Report was the trigger to the whole change that has taken place. That was the trigger, was it not?

It was a promise to consider the recommendations by the Governance Committee, to make a report which was expected, and Members of Tynwald expected it; what Members of Tynwald did not expect was a whole radical change and shake-up of Government, as a consequence of the Governance Committee considering the original recommendations. When I say we have been denied that, I am talking about 'we', as the public, have been denied any other consideration of the analysis of all of those things that were earmarked in the original Report, which triggered the whole series of events off. That is what your letter is telling us because, in answer to that question about 'Has analysis of responses been prepared in line with the Government Code of Practice?' you say that Departments, Boards and Offices were consulted as detailed responses to question (b). You then go on to say:

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'The Government Code of Practice on Consultations applies to all public consultations carried out from 1st July 2008 and is designed mainly for use with primary legislation. The views of Government Departments, Boards and Offices were sought in October and November 2007, prior to the Code's existence, and therefore the Code was not applicable.'

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So we get the message that we are getting from that and the fact that history will show that there was no publication of the analysis and the process of thought and the policy development, which seems to have been led primarily by the Chief Minister for the change which has taken place, which is supposed to be in answer to some of the areas that were raised in the original Report and, furthermore, that there has been no policy debate in respect of the change of Government and the Government structure, other than the actual debate that took place, where the statutes were presented – the secondary legislation was presented – as part and parcel of a debate in Tynwald.

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Mrs Williams: The debate in Tynwald was on the Report, initially. There was a debate in Tynwald on the Report before the secondary legislation was considered. Yes?

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The Chairman: Yes. I am not disagreeing with you there, but the –

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Mrs Williams: So, if we look at this, there was a public consultation by an independent working group and they produced their report. From memory, I did not produce an analysis within that report of their consultation, but that was their report, not the Government's Report. The Government then consulted only with its Departments, Boards and Offices, and not with the public.

When they are consulting with Departments, Boards and Offices on specific subjects, that would not normally be analysed and put forward as part of a report. Even whether it was after that, it would not normally be, because it is on public consultations, which includes Departments, Boards and Offices.

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Q55. The Chairman: Do you appreciate the line that you are explaining, that it does not satisfy the situation and the concerns that we have? That yes, you are correct, it was an independent panel of people set up to conduct conversations and input from the public and from Members and from the business sector, in terms of the scope and structure of Government as it was. They produced the Report. There were some very good things covered in that Report, because I remember very well reading it. There was a statement made by the Chief Minister that he disagreed with a lot of that Report, in terms of privatisation or corporatisation, but then he did say, 'We will look at it and we will consider it.' It then has gone into an abyss between that point in time and the point when Tynwald were expected to ratify the change that we now find ourselves in.

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That is the area that has been expressed to us that we had to evaluate and the process that we are going through is where was the public face in all of this. I appreciate that what you are saying is how a solution will impact upon the workings of a government as then structured, and the feedback from the officers involved in that area is a matter of you and the Governance Committee to consider. But what we did not have, or what the

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705 public did not have, was an idea of what the solutions were that were being proposed as an alternative to those that had been recommended in the Scope and Structure of Government. All we have is what we have, which is very little. This has given rise for concern and hence the matter has been referred to us, but if we can agree to possibly disagree there, that is our view. It is the Committee's view...

Mr Malarkey.

710 **Q56. Mr Malarkey:** If I may just pick up, once again, on a similar line, there were Tynwald Questions, 'what was happening?', on 20th March 2007. The Chief Minister said he would be reporting to Tynwald in 2007, hopefully.

715 There were more Questions in October 2007. The Chief Minister kept saying, 'We hope to report in late 2007.' The problem was, when the Report did eventually get to Tynwald, it had a little caveat saying, 'By the way, it takes effect as from 1st April.' It was not a report for a debate; it was not a report for, as the Chair says, public discussion; it was, 'Here's your Report, and by the way, we're implementing it', which seems to be quite contrary to what he was telling us in March 2007 and October 2007, when being asked.

720 It is a bit of a contradiction from the Chief Minister – 'We are going to bring a report forward, let you see it, yes, we will have a report for you', and suddenly, when the Report does actually land on the doorstep, it has had no consultation. It is, 'and by the way, this is what we are going to do: implement it from the state.' I think that is what has caused a lot of the frustration, I think, certainly with Members of Tynwald, and why we have ended up having this referred to us...

No comment!

725 **Q57. The Chairman:** I just want to move on a little bit. In terms of the consideration by the Council of Ministers, you stated in your letter that instruction was given for papers to be posted to Ministers on 19th January 2010 so that they would be received by 20th January – that is the day after – for a meeting two days later, 22nd January. In hindsight, do you think that was sufficient time in which the Council of Ministers, the other Ministers, should receive such a far-reaching Report for such sweeping changes? Was that sufficient time?

730 *Mrs Williams:* It was a weekend, and if the Council of Ministers wanted further time to discuss the Report, which I believe they did, then they were told they could come back and have further time, they could discuss it there. They could come back and discuss it another time. The Council of Ministers did not have to take decisions on that day. They could have deferred it, if they felt they had insufficient time.

735 **Q58. The Chairman:** But there was a push, wasn't there? There was a rush to try and get it effective as of 1st April.

740 *Mrs Williams:* There was a desire to have it effective with effect from 1st April. The Council of Ministers could have met every day if they so felt the need to. They could have discussed it in detail.

Q59. The Chairman: There was not that opportunity of time, was there? They received everything on the 20th for a meeting that was scheduled on the 22nd.

745 *Mrs Williams:* Yes –

Mr Karran: Surely that should be a question asked of the Chief Minister.

750 **Q60. The Chairman:** Well, the Chief Secretary, Mr Karran, with all due respect, is present at the Council of Ministers. I am just asking her, in hindsight, do you think they ought to have been given more time?

Mrs Williams: The Council of Ministers, if they had wanted more time, would have asked for more time and demanded more time, as is their right.

755 **Q61. The Chairman:** What you are suggesting by your answer then is that they did not ask for more time.

Mrs Williams: I know there were further meetings after the first meeting, and I do not have in front of me the actual timescale for that.

760 **Q62. Mr Malarkey:** Could you supply that to us?

Mrs Williams: I am sure we could, yes.

Mr Malarkey: Thank you.

765 **The Chairman:** Mr Braidwood.

Q63. Mr Braidwood: Just one further question, Chair, for Mrs Williams: going on about the two days. I appreciate that the Council of Ministers, if they want, can say, 'Right, we want additional time', or whatever, and additional meetings, but you had to get this through for the February Tynwald, particularly on the Transfer of Functions Order. That put enormous pressure on the legislative draftsmen.

770 I believe they locked themselves away, initially, to get this all through, and then, of course, there was this outcry when the Report initially came out, with Agriculture – it was not listed. It had been put into the Department of Community, Culture and Leisure. Then it was transferred to Environment, Food and Agriculture and the Transfer of Functions Order, of course, although it was passed, had to be then revised. Do you think that was because it was so rushed, it had not been thought out and it had not been put out for additional consultation; that if it had been, this would not have arisen and then the problems on the Transfer of Functions Order would not have arisen, and the pressure particularly on the legislative draftsmen?

780 *Mrs Williams:* The Transfer of Functions Order would still, I believe, have required revision. There was more than the issue of Agriculture and it was always acknowledged that the Transfer of Functions Order would need to be gone through by the practitioners in the Departments to see if it required any further alteration from March. There was always an acceptance of that.

785 The matter of the Department of Agriculture was discussed at the Council of Ministers and, in effect... What can you say? If the Council of Ministers had not listened and had stuck to their guns, they would have been condemned. Because they did listen, and changed their mind, they were condemned.

Q64. Mr Braidwood: I appreciate that, but what I was trying to get over is that if there would have been a consultation, if there would have been more time... I am trying to concentrate on the time schedule, basically. If it would have been before this catalyst of, to me, September 2009, there would have been that consultation... I think the consultation... and if it would have gone out to the public, who had their submissions to the original Review of the Scope and Structure of Government by the Committee, this would not have arisen. It was all rushed and this is why the problems did arise.

795 *Mrs Williams:* I think all I can do is quote what I believe – and so it is not a verbatim quote – that the Chief Minister said.

800 Thirty-three Members of Tynwald: there would have been 33 variations on what the structure of Government should look like. There could be 80,000 variations in the Isle of Man. The point is, what services do Government deliver, and the services which are delivered by Government, I believe, were not affected by this restructuring.

Q65. The Chairman: Just finally, then, Mrs Williams, now we are a few months into this new structure, are you satisfied that all the relevant areas of responsibility are sitting with, and in, the right areas?

805 *Mrs Williams:* I think, for the most part, they are. There will always be, and there have historically always been, adjustments to the structure of Government, as Government moves on.

810 I think, very clearly, when we are looking at the transforming Government agenda we are looking at further changes and, hopefully – well, I am certain – those changes will promote more efficiencies within Government. There are other areas – Information Systems Division, I believe, is one – where there is a question mark as to whether or not that one is in the right Department. But, other than that, I am broadly, I think, satisfied that Government is in the shape it was intended and that it is operating as it was intended it should.

Q66. The Chairman: As intended by the Chief Minister?

815 *Mrs Williams:* As intended by Tynwald, I would say, because they approved the Report, Mrs Cannell.

Q67. The Chairman: They were bullied into approving the Report –

820 *Mrs Williams:* No comment.

The Chairman: – and I can say that without hesitation, as a person recovering from major surgery at the time and listening to it as a member of the public on the radio.

Thank you very much.

825 **Mr Karran:** Excuse me, I would like –

The Chairman: You have got another question, right, fine.

830 **Q68. Mr Karran:** A number of questions.

Firstly, the Governance Committee – who picks the Governance Committee? Is it not picked by the Chief Minister?

Mrs Williams: Could I come back to you on that, Mr Karran?

835 **Q69. Mr Karran:** Yes, certainly, Mrs Williams.

The second point is that you talk about such a major piece of policy change... For the Council of Ministers to get it on 20th January, to be debating it on 22nd January... How often does that sort of timescale actually happen on other things that are such a major structural change? I ask this question because these are questions that you, as the person who services the Council of Ministers, could tell us about. The policy issue...

840 Obviously, you are *not* there for the main policy, but how often does that happen, that something of that magnitude would come two days before the Council of Ministers are supposed to debate something and give us a rational, sensible policy?

845 *Mrs Williams:* The Council of Ministers gets papers every weekend, which deal with policy issues to be debated on the following Thursday.

Q70. Mr Karran: So, normally, they get more than two days' notice.

850 *Mrs Williams:* Yes, they get four.

Mr Karran: They would get four days' notice.

855 *Mrs Williams:* They would get it on the Saturday for debate on the Thursday.

Q71. Mr Karran: Is there any policy of the Council of Ministers, where there is something of such strategic importance, that they get given more than four days' notice, in order to come up with a comprehensive viewpoint? Obviously, there is a difference between the policy of whether we are going to give £25 hill sheep subsidy or £20 hill sheep subsidy: we are not talking about that, but issues of strategic national importance.

860 Is there no policy, as far as whether they should be given more time, in order to come up... or does it just highlight what some of us are concerned about, that because the Chief Minister hires and fires, really they are there to nod through whatever the Chief Minister wants?

865 *Mrs Williams:* If any Minister is uncomfortable, they can ask for a matter to be deferred and that happens – I would not say regularly, but it happens. If a Minister feels uncomfortable and wants more time or more information, they can ask for that matter to be deferred and –

Q72. Mr Karran: Can an individual unilaterally ask for that to happen and would it be adhered to?

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Mrs Williams: An individual can ask for that to happen and –

Q73. Mr Karran: But there is no structure for the Council of Ministers to have to allow for a Minister to have that right of veto? It is up to the Chief Minister to decide whether he wants to.

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Mrs Williams: It is not up to the Chief Minister; it is a matter of consensus.

Q74. Mr Karran: So there are rules and regulations, as far as the proceedings of the Council of Ministers, that allow for this to happen?

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Mrs Williams: Certainly. If a Minister wants more time, and if his colleagues agree with him that he should be given more time, it is a matter of consensus within Council, and that will happen. It is not unusual for that to happen.

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Q75. Mr Karran: But is that an issue, where it originates from the particular Minister's direct involvement with the issue?

Mrs Williams: No.

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Mr Karran: The next one I would like to –

Q76. The Chairman: Before you go on to your next one – sorry, Peter – can I just ask quickly: was it requested on this occasion, on 22nd January?

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Mrs Williams: Certainly, it was scheduled for the discussion to continue, anyway, because I think, if I am right that 22nd January was a –

The Chairman: Was a Monday.

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Mrs Williams: – Monday, so the discussion was scheduled to continue in the normal Council meeting in any event.

Q77. The Chairman: So a Minister did not ask for it to be deferred, then, for further consideration?

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Mrs Williams: It was not the case of it being deferred. There was a continuation of discussions.

Q78. The Chairman: That differs slightly to what we, as Members, were advised. We were told that the Chief Minister had given a deadline of 5.00 p.m. on the Monday for any concerns to be raised.

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Mrs Williams: I would need to check the records, but I believe it was further discussed after that day, from memory, but I would need to check that.

The Chairman: Please, if you could check and advise us.
Sorry, Mr Karran.

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Q79. Mr Karran: Can I ask also, Mrs Williams, what sort of timescale of real debate was given by the Council of Ministers on the option that was later to be forced on to Tynwald, put on to Tynwald, over the restructure of Government? Did it take a whole afternoon, as far as the debate over the proposals of the Chief Minister?

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Mrs Williams: Again, from memory, Mr Karran, it took quite a long time, yes.

Q80. Mr Karran: Is it possible for this Committee to have a copy of the minutes? Obviously, they will be kept private and confidential.

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Mrs Williams: That is a matter for the Chief Minister.

930 **Mr Karran:** As far as the verbatim... as far as this issue is concerned, so that we can actually try and find out whether there was any rationale, as far as who was leading this thing – was it the Chief Minister, was it the members? – as it seems to slightly contradict.

Obviously, this is a political issue, and you are not here for politics; you are here for administration... of the concerns of a number of Ministers who were very, very upset over the issue. Can we ask for that, so that we can – ?

935 *Mrs Williams:* You would have to ask the Chief Minister.

Q81. Mr Karran: For that, right.

940 *Mrs Williams,* obviously you are not here to talk about politics, but the bottom line seems to be, from your input as far as this restructure of Government is concerned, that it seems, because of the lack of real input from this Governance Committee, that it was just made up as it went along, as far as what the Chief Minister wanted as far as the restructure of Government is concerned.

945 Can you give us any information to reassure me, as a Member of the Scrutiny Committee, that there were proper systems of government in place on such a strategically important issue, so that we can have some sort of date line more than what we seem to have at the moment? It just seems very woody, as far as I am concerned.

950 *Mrs Williams:* I have already said, I will give you what information I can, Mr Karran. I have already said that Ministers are free to challenge, to discuss, to ask for deferral. That is all that I can assure you of, that they are free to do that.

Mr Karran: Thank you very much. I just think it would be very interesting to know what the actual procedures are, to prove one thing...

955 **Q82. The Chairman:** Okay, before you ask your question, Mr Malarkey, Mrs Williams, if you could provide the information as much as you can, in terms of how much time of consideration was given by the Council on the 22nd, that would be very useful.

960 *Mrs Williams:* I will, Mrs Cannell, but I am not sure that we take notes of what time we finish, to be fair, but I will see what we can –

Q83. The Chairman: Well, surely minutes would record the start and finish of a meeting, would they not?

965 *Mrs Williams:* Not necessarily the time –

The Chairman: That is norm across the board, to minute the time of the start of the meeting –

Mrs Williams: The start of the meeting, but I do not think we say what time it ends...

970 **The Chairman:** I find that extraordinary, because it does with every other Department I have worked on. Mr Malarkey.

975 **Q84. Mr Malarkey:** Yes, one – I promise – final one. In your role as Chief Secretary, senior officer, are you happy with the timescale from, let us say 2007, up to the Report being laid to Tynwald, that it was appropriate, the way it was handled and the late acceleration of the Report? Are you quite happy that it was done properly and the way it was handled, basically?

980 *Mrs Williams:* It is my job to ensure we comply with the Standing Orders and the rules and regulations, Mr Malarkey, and we did.

Mr Malarkey: Right. Well answered.

The Chairman: Thank you.

985 I am going to invite our Clerk for today, Mrs Lambden, to see if there is anything that she would like to ask.

The Clerk: I have no questions, thank you.

990 **The Chairman:** You have no questions, right.
Well, it just remains for me to thank you for coming this afternoon. I hope we have not kept you too long.

Mr Braidwood: You will have plenty of time on your hands when you retire!

995 **The Chairman:** We wish you well in your retirement.

Mr Malarkey: We do indeed.

Mrs Williams: Thank you.

1000 **The Chairman:** And season's greetings to you. Thank you very much. (**Mr Malarkey:** Thank you.)
That concludes our taking of public evidence. Thank you very much to members of the public for attending.

The Committee sat in private at 4.14 p.m.