

TYNWALD COURT PROCEEDINGS

EPT131211D

Douglas, Tuesday, 13th December 2011

Questions for Written Answer

CHIEF MINISTER

**Government officials' sick leave
Number of days and costs**

28. The Hon. Member for Onchan (Mr Hall) to ask the Chief Minister:

In each Government Department, how many officials have had paid sick leave of –

(a) fewer than 5 days;

(b) 5 to 20 days;

(c) 20 to 200 days; and

(d) more than 200 days

in each year since 2007; and what estimate he has made of the cost of the loss of working days because of sickness in that period?

Answer: The following Tables set out the number of members of staff in each year who have been absent from work because of sickness by Department, whether in receipt of full pay, half pay or unpaid sick leave. The tables also show the number of members of staff who have had no sick leave in the relevant year.

TABLE 1 – 2007-2008

Sickness Absence Durations – 2007-08

	Number of Staff No Absence	Less than 5 Days	5 – 20 Days	21 – 200 Days	Over 200 Days	TOTAL
Agriculture, Fisheries and Forestry	32	42	36	25		135
Education	2216	494	390	156	3	3259
Health and Social Security	1552	872	839	548	31	384
Home Affairs	337	166	136	61	5	705
Local Government and Environment	79	58	33	10		180
Tourism and Leisure	458	129	144	76	1	808
Trade and Industry	35	40	15	4		94
Transport	252	198	210	86	10	756
Treasury	106	123	94	26		349
Total	5067	2122	1897	992	50	10128

The cost estimate in respect of working days lost for the year is in the order of £10.4 million or 3.9% of salaries and wages. The average number of days sick leave per member of staff was 7.2 days or 4.6% of working time.

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TABLE 2 – 2008-09
Sickness Absence Durations – 2008-09

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	Number of Staff No Absence	Less than 5 Days	5 – 20 Days	21 – 200 Days	Over 200 Days	TOTAL
Agriculture, Fisheries and Forestry	37	32	46	24		139
Education	2113	507	459	223	4	3306
Health and Social Security	1520	868	907	544	25	3864
Home Affairs	385	130	123	67	4	709
45 Local Government and Environment	68	57	44	12	1	182
Tourism and Leisure	371	136	134	84	6	731
Trade and Industry	29	34	24	7		94
Transport	255	176	187	117	6	741
Treasury	118	129	88	18	3	356
50 Total	4896	2069	2012	1096	49	10122

The cost estimate in respect of working days lost for the year is in the order of £12 million or 4.3% of salaries and wages. The average number of days sick leave per member of staff was 7.7 days or 5% of working time.

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TABLE 3 – 2009-10
Sickness Absence Durations – 2009-10

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	Number of Staff No Absence	Less than 5 Days	5 – 20 Days	21 – 200 Days	Over 200 Days	TOTAL
Agriculture, Fisheries and Forestry	39	28	46	21	1	135
Education	1549	539	433	188	5	2714
Health and Social Security	1595	808	953	551	20	3927
65 Home Affairs	521	140	101	51	3	816
Local Government and Environment	56	61	34	16	2	169
Tourism and Leisure	408	139	130	69	2	748
Trade and Industry	43	30	21	3		97
Transport	314	204	186	94	4	802
70 Treasury	130	137	64	23	2	356
Total	4655	2086	1968	1016	39	9764

The cost estimate in respect of working days lost for the year is in the order of £12 million or 4% of salaries and wages. The average number of days sick leave per member of staff was 7.4 days or 4.8% of working time.

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TABLE 4 – 2010-11
Sickness Absence Durations – 2010-11

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	Number of Staff No Absence	Less than 5 Days	5 – 20 Days	21 – 200 Days	Over 200 Days	TOTAL
Community, Culture and Leisure	433	130	120	60		743
Economic Development	153	86	51	14	1	305
85 Education and Children	1329	624	451	152	1	2557
Environment, Food and Agriculture	45	44	47	24	1	161
Health	1053	584	677	264	3	2581
Home Affairs	450	146	119	68	1	784
Infrastructure	322	216	181	70		789
90 Social Care	581	315	338	139	2	1375
Treasury	87	135	55	10		287

Total	4453	2280	2039	801	9	9582
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95 The cost estimate in respect of working days lost for the year is in the order of £13.7 million or 4.6% of salaries and wages. The average number of days sick leave per member of staff was 8.4 days or 5.5% of working time.

100 The estimates of annual cost, as given above, are based on an average Public Service salary for the year in question, from which an estimate of the average cost per working day has been calculated. The average cost per working day has been applied to each day of recorded absence in the relevant year – it has not been practicable to differentiate between those days which relate to sick leave on full pay, half pay, or are unpaid, therefore no allowance has been included in the annual cost figure in respect of periods of half pay or periods of unpaid sick leave. Further, no allowance has been included in this cost estimate figure to take account of the receipt, by a Department, of the statutory Incapacity Benefit which is due to an individual jobholder but which is remitted to the Department concerned during periods of full pay sick leave.

105 For the purposes of the above Tables the following is relevant:

(i) 'officials' is taken to include all employees of the Department concerned and those members of the Civil Service on the staff of that Department. The figures, therefore, incorporate teachers, medical and nursing staff, care staff, police officers, fire fighters, manual and craft workers, administrative, managerial, technical and professional staff;

110 (ii) data used in relation to staff absence through sickness for each year shown is as recorded on the Government Oracle HR system, as at December 2011;

(iii) while each employment group has its own specific terms and conditions of employment/service, the majority of public service staff would be subject to sick pay provisions broadly as follows: not more than 6 months' sick leave on full pay and 6 months sick leave on half pay period, provided that there is a reasonable prospect of eventual recovery and return to duty. Certain employment groups apply different provisions;

115 (iv) where full pay sick leave applies, the Department concerned will normally receive, with the agreement of the jobholder, the statutory Incapacity Benefit to which they are entitled. Where a jobholder is subject to half pay, sick leave or unpaid sick leave, then they receive the statutory Incapacity Benefit directly;

120 (v) each individual sick absence is recorded in its entirety in the year in which the first day of the absence occurs. However, for the calculation of estimates of cost, the working days lost to sick leave have been included in the relevant financial year;

(vi) salaries and wages totals are taken from the relevant annual Budget document (the Pink Book);

(vii) the Table for 2010-11 reflects the restructuring of Government implemented with effect from 1st April 2010.

125 By way of comparison, the UK Confederation of British Industry/Pfizer Absence and Workplace Health Surveys indicate that in the United Kingdom in:

2010: the average rate of absence was 6.5 days per employee or approximately 3.5% of working time lost (whole economy);

– the average rate of absence in the public sector was 8.1 days per employee;

130 **2009:** the average rate of absence was 6.4 days per employee or approximately 3.9% of working time lost (whole economy);

– the average rate of absence in the public sector was 8.3 days per employee;

2007: the average rate of absence was 6.7 days per employee or approximately 3.3% of working time lost (whole economy);

135 – the average rate of absence in the public sector was nine days per employee.

(There is no record of a report being published by the CBI/Pfizer in relation to 2008)

140 **Safeguarding Children Board
Tri-x Childcare Ltd; consultants**

29. The Hon. Member for Garff (Mr Speaker) to ask the Chief Minister:

145 *In respect of the Safeguarding Children Board:*

(a) what the role of Tri-x Childcare Ltd is;

(b) for what period Tri-x Childcare Ltd is contracted to the Safeguarding Children Board;
(c) how much the contract with Tri-x Childcare Ltd is costing the Isle of Man Government; and in respect of the consultants employed by the Safeguarding Children Board:

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(i) how many consultants are employed by the Safeguarding Children Board and for what purpose;
(ii) what the salaries are of these consultants;
(iii) which of these consultants are based off Island;
(iv) which Government Department employs them; and
(v) when their contracts expire?

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Answer: (a) Tri-x Childcare have been asked to host the SCB child protection procedures and other relevant guidance for primarily professionals and the third sector but also useful information for parents/carers, children and young people will be available. Tri-x host a large number of LSCBs websites in the UK. Benefits are the sharing of best practice and ensuring any new guidance is made available in a timely manner.

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(b) Tri-x are contracted through the Department of Social Care to set up the IoM Safeguarding Children Board website and to provide twice yearly updates so changes can be made to procedures or other website material as required. Any amendments are overseen by the Safeguarding Children's Board.

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(c) £6,000 for the creation of the website and maintenance of the Child Protection procedures.

(i) Two consultants are employed.

One is an experienced Chair of Safeguarding Children Board's in the UK and acts as chair for the Safeguarding Children Board, Serious Case Review and Child Death Overview Panels, provides an independent voice and challenge in respect of the Isle of Man's safeguarding arrangements and professional advice and support regarding the business of the Safeguarding Children Board. The role of the Independent Chair and Safeguarding Children Board Strategic Co-ordinator was agreed by Council of Ministers in July 2011.

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The other acts as the manager of all Safeguarding Children Board's activity ensuring the co-ordination of work generated by the Safeguarding Children Board safeguards and promotes the welfare of children and young people and acts as the co-ordinator for the delivery of the Safeguarding Children Board's Work Programme, identifying potential barriers to success and reporting accordingly.

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(ii) The budget for the Safeguarding Children Board is £112,000 including travel, accommodation and miscellaneous expenditure. Individual salaries cannot be reported due to data protection laws.

(iii) Both consultants are based off-Island

(iv) The Department of Home Affairs currently holds the contracts, although the budget has now transferred to the Chief Secretary's Office.

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(v) Both contracts expire on 31.03.12

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General Elections 2006 and 2011 Proxy votes cast

30. The Hon. Member for Garff (Mr Speaker) to ask the Chief Minister:

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(a) Further to his Answer to Written Question 10 at November Tynwald why he stated that the number of proxy votes cast in each constituency in the 2006 General Election was not known, when the requested information was supplied in an Oral Answer from the Chief Minister to the House of Keys on 22nd June 2010;

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(b) why paragraph 52(1) of schedule 2 (Election Rules) to the Representation of the People Act (requiring destruction of election documents after one year) was cited as the explanation for this information being "no longer available" in November 2011, but not in June 2010; and

(c) if he will now publish the figures for proxy votes cast for each constituency in 2006, both as a number and as a percentage of turn out, alongside the 2011 General Election figures?

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Answer: The information provided in an Oral Answer from the Chief Minister to the House of Keys on 22nd June 2010 was in response to:

'How many proxy votes were (a) applied for and (b) allowed in the 2006 General Election in each of the constituencies?'

205 Information given in response was provided by the Registration Officer who determines proxy vote applications, in accordance with Regulation 35 of the Representation of the People Regulations 2006. This information is retained by the Registration Officer and is not, therefore, destroyed in accordance with paragraph 52(1) of schedule 2 (Election Rules) to the Representation of the People Act 1995.

210 The Question in Tynwald in November 2011 sought information on the number of proxy votes cast in each constituency, and not the number applied for and allowed.

215 The number of votes cast in a constituency is established after the poll and is included with the documents delivered by the Returning Officer to the Clerk of the Rolls. These documents are then held for one year, in accordance with paragraph 52(1) of schedule 2 to the Representation of the People Act 1995, before being destroyed. Consequently, the number of proxy votes cast in the 2006 Election is 'no longer available' and so cannot be provided.

TREASURY

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Film production

Recouping investment; CinemaNX dividend

225 31. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

How he intends to recoup the £11,723,780 investment made in the film 'Me and Orson Welles' and what has happened to £79,825 which is the difference between the dividend payment in 2010 by CinemaNX Productions One Limited and the sum accounted for by CinemaNX Film One Limited?

230 **Answer:** 'Me and Orson Welles' is one of a number of films in the overall Media Development Fund/Isle of Man Film portfolio. Treasury views the portfolio and investment approach as a whole. Films produced under the CinemaNX label have followed a different investment approach to those produced prior to the transfer of the Media Development Fund to CinemaNX.

235 The asset based investment approach that is now adopted results in Isle of Man Film and the Media Development Fund owning the majority of the films in which investment has been made in and is geared to produce both income and long-term capital returns. The approach to maximising value from the production, 'Me and Orson Welles' is no different to that approach used for any other film. In circumstances where Treasury is advised that the recoupment of the original investment is unlikely to be achieved a write down of the investment will be reflected in the accounts of the Media Development Fund.

240 As regards to 2010 dividend, I am unable to recognise what dividend is being alluded to by the Question.

CinemaNX Limited Recouping investment

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32. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

250 *Whether any of the films in which CinemaNX Limited has invested has yet recouped its initial investment?*

Answer: As outlined in answer to Question 31, the investment approach that has been taken since the transfer of the Media Development Fund to CinemaNX Limited involves income generation and building value, both in terms of the Island's positioning in the film industry and through the process of library creation.

255 As at 8th December 2011, no film has yet entirely recouped its initial equity investment, whereas all films have, or are expected to, entirely recoup that proportion of investment made by way of debt (principally loans advanced against UK generated tax credits).

260 Building long-term value through equity investment is entirely consistent in the film and television industry, as is mixing the investment ratios of debt and equity to ensure revolving cash flow for future investments.

265 **CinemaNX Limited**
Auditor as shareholder

33. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

270 *Why it was thought necessary for a clause in the amended articles of association of CinemaNX Limited to contain in section 25.5 a provision that 'the auditor may be a Shareholder'?*

275 **Answer:** I would refer the Hon. Members to the Companies (Model Articles) Regulations 2006 (SD738/06) and in particular Schedule 1 – Model Articles of Association for a Company Limited by Shares which provides, under Section 25.5, standard wording consistent with the extract quoted in the Member for Douglas South's Question relating to CinemaNX Ltd.

280 **Data Protection Supervisor**
Data quality of Government Departments

34. The Hon. Member for Onchan (Mr Hall) to ask the Minister for the Treasury:

285 *In each of the previous three financial years, which Department systems have been selected for a data quality audit by the Data Protection Supervisor; what the calculated error rate was; and whether there were any directions to review and clean existing data or improve data collection, data input, data verification, or data validation processes regarding new data?*

290 **Answer:** The Data Protection Act 2002 ('the Act') does not provide the Data Protection Supervisor with a statutory power to undertake audits and therefore no such audits have been undertaken and the Office is not resourced to do so.

295 Under subsection 47(7) of the Act, the Supervisor may, with the consent of the data controller, assess any processing for the following of good practice and inform the data controller of the results of the assessment. However, as the consent of the data controller is required, such assessments are rare, but one was recently undertaken in relation to a particular aspect of processing by the Isle of Man Constabulary.

300 Instead, assessments are usually undertaken in response to a request for assessment by an individual. Under section 38 of the Act, the Supervisor must, at the request of an individual who believes himself to be directly affected by the processing of personal data, undertake an assessment. In such cases the Supervisor is required to form a view as to whether or not it is likely or unlikely that the processing has been carried out in compliance with the provisions of the Act.

305 If the Supervisor is satisfied that a data controller has contravened, or is contravening, any of the data protection principles and the Supervisor considers that the contravention is likely to cause a person damage or distress he may issue an Enforcement Notice to seek compliance with the principle or principles in question. The Supervisor prefers to seek voluntary compliance and Enforcement Notices are used as a measure of last resort. In the past three years one Enforcement Notice has been issued to a Department. This Notice was issued to the Department of Social Care and concerned its repeated failure to comply with the right of access to personal data.

310 Until recently the UK Information Commissioner had similar powers. However, in response to a number of concerns, including the number of significant data losses by the public sector, sections 41A, B and C were added to the UK's Data Protection Act 1998. These sections came into force in April 2010 and provide the Information Commissioner with powers to undertake assessments and issue assessment notices where the 'data controller' is a government department or a designated public authority.

315 The Supervisor has not sought similar powers in the Isle of Man due to other developments in data protection. Throughout the world it has been recognised that data protection legislation needs to be modernised, standardised and strengthened. In November 2009 the 'Madrid Resolution' on 'International Standards on the Protection of Personal Data and Privacy' was adopted by the International Data Protection Authorities. (The Data Protection Supervisor was a co-proposer of this resolution).

Since then a number of countries and international bodies have published proposals to amend existing instruments to accord with the Madrid Resolution.

320 Of particular relevance to the Isle of Man are proposals to modernise Council of Europe Convention 108 and the European Commission's Data Protection Directive 95/46/EC. Council of Europe Convention 108 has extended to the Isle of Man since January 1993, while the Data Protection Act 2002 gives effect to Directive 95/46/EC in the Island. The Council of Europe's proposals were recently published, while the European Commission's final proposals are due to be published in January 2012, although the main proposals have been widely reported.

325 These proposals reflect the Madrid Resolution and, amongst other significant changes, require the Independent Supervisory Authority to have the power to undertake audits.

The European Commission has indicated that it intends to insist that a data controller providing services to a resident of an EU member state must comply with its standards regardless of where in the world that data controller may be established. Therefore the Data Protection Supervisor believes that, in order to continue to trade with EU member states, including the UK, the Island will need to make significant changes to the Data Protection Act 2002 to reflect the new standards required by Europe within the next few years.

330 I am pleased to submit this response on behalf of the Office of the Isle of Man Data Protection Supervisor, which, whilst funded by the Treasury, is an Office independent of the Isle of Man Government.

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Bank notes and coins
Question withdrawn

340 35. The Hon. Member for Onchan (Mr Hall) to ask the Minister for the Treasury:

What costs are associated with the exchange or repatriation of bank notes and coins with other sterling zone jurisdictions?

345 **Answer:**

[Question withdrawn]

350
INFRASTRUCTURE

DoI road adoption
Number of bonds held

355 36. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Infrastructure:

How many bonds for road adoption the Department has; how many have still not been used; how old they are; and why they have not been used?

360 **Answer:** The Department encourages developers to offer their roads for adoption so that residents benefit from having a Highway Authority to act in regard to all matters of maintenance and management of the road. Roads can be adopted under Section 4 of the Highways Act 1986 and these agreements contain an offer to adopt the road on the condition that it is constructed to a specified minimum standard. The agreements contain a performance bond that can be drawn on by the Department in the event that the developer fails to build the road to an acceptable, reasonable standard.

Currently the Department has 33 Section 4 agreements (surety bonds) lodged with developers for estate road adoptions:

370 • Thirteen have entered the 12 months' maintenance (defects correction) period, after which they will be adopted if all the defects highlighted by the Department's Estate Roads Inspector have been corrected by the developer.

• Nine are currently active, which means that these estate roads are under construction. Such roads are inspected periodically by the Estate Roads Inspector at various stages to ensure that the roads are built in accordance with Manx Roads 2 and to an adoptable standard.

375 • Eleven are outstanding or older bonds where complications or problems have arisen. These currently remain unresolved and unadopted but the Department continues to attempt to reach agreement with active developers. However, if any developer has refused to co-operate, or has ceased trading, the Department can commence the process of calling in the bonds.

380 Since January 2009, the Department has adopted 46 estate roads, 24 of which date back as far as the 1980s and 1990s. These had remained unadopted for many years and for a variety of reasons. But in the past two years the Department's recently appointed Estate Road Officer has made significant progress reducing this historical backlog. The majority of the old outstanding estate roads have now been brought up to the required standard and have been adopted. Only 11 old bonds remain outstanding but work is continuing to ensure that any estate road is brought up to an adoptable standard either by agreement or by calling in the bond.

385 The aim of a Section 4 agreement (estate road bond) is to ensure that new estate roads are constructed consistently and to the appropriate adoptable standards set out in a document known as Manx Roads 2. A Section 4 agreement is a three-way agreement between the Department, the developer and a third party surety who is engaged by the developer. The surety is to guarantee that sufficient funding is available to enable the Department to construct or complete the roads and footways if the developer was unable to complete the works to the required standard or has ceased trading. They can only adopt roads that have been constructed to an adoptable standard because, otherwise, the public purse would be liable for maintenance, and the costs of maintaining a road that is not constructed to reasonable standards can run into many millions of pounds.

390 The Section 4 agreement is voluntary although, in most cases, a developer will approach the Department offering new estate roads for adoption at the planning stage. Neither party is compelled to enter into an agreement but if roads are not offered up for adoption they will remain private roads. In these rare cases, the roads will not become public highways maintainable at public expense. However, once an agreement is entered into, the Department is obliged to adopt the roads on completion. If the roads are not constructed to an adoptable standard or if the developer refuses to carry out defects corrections in the 12 months maintenance period, the Department can use (call in) the bond surety to undertake the works necessary to bring it up to an adoptable standard.

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**Roads in housing developments
Number not adopted by DoI**

37. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Infrastructure:

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How many roads in housing developments have not been adopted by the Department?

Answer: An adopted highway in most cases has been built to a specified minimum standard which is maintainable at public expense. A private road is generally owned by the adjacent property owners and may not have been built to any particular standards. Ongoing maintenance will fall to the owner of the development or property owners.

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As advised in Written Answer 36, the Department encourages developers to offer their roads for adoption so that residents benefit from having a Highway Authority to act in regard to all matters of maintenance and management of the road. Roads can be adopted under Section 4 of the Highways Act 1986 and these agreements contain an offer to adopt the road on the condition that it is constructed to a specified minimum standard.

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The Department does not keep records of unadopted estate roads. If a developer has not entered into an adoption agreement, either by choice or omission, the Department is not obliged to record that the road

remains unadopted.

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**Public sector housing
Central and local government functions**

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39. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Social Care:

Whether there is a duplication of functions with both central and local government having housing within its remit; and whether he has considered passing the houses within central government's control to those authorities that already have housing within their remits?

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Answer: The Department of Social Care is just one of 19 Local Housing Authorities who manage a total of 5,943 properties, including sheltered accommodation. The number of properties owned and managed by those individual Housing Authorities range from two to 2,163. The Department is the second largest Housing Authority, with a total of 1,161 properties. I would agree it is very likely there is duplication of functions across all 19 Housing Authorities.

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The point the Hon. Member is making is a valid one, as there appear to be obvious opportunities to create efficiency savings and potential service improvements by examining the number of Authorities involved in the delivery of the housing service.

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As I recently stated in the press, my Department commissioned a fundamental review of housing earlier this year to consider the Island's future housing needs and the options available to Government to make Public Sector Housing provision more financially sustainable.

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In the New Year I will publish the review's findings and commence consultation on a potential range of options to help Government in the provision of sufficient affordable housing at a sustainable cost. It is also vital we have an effective public debate on this important topic to determine how we will evolve housing policy to achieve this goal. I look forward to the engagement of Mrs Beecroft and other Members in this matter which affects all of us, both current and future generations.

Any decision to alter the delivery of public sector housing at this stage would be premature and I can assure Mrs Beecroft any changes which are brought forward will be done so through Council of Ministers and, ultimately, Tynwald.

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**Children in poverty
Numbers in Isle of Man**

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40. The Hon. Member for Onchan (Mr Hall) to ask the Minister for Social Care:

What recent estimate he has made of the number of children –

(a) in absolute poverty;

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(b) in relative poverty; and

(c) with combined material deprivation and low income in the Isle of Man?

Answer: There are currently no specific measures for absolute and relative poverty across Government. However, there are a number of indicators which start to help to illustrate the current scale of deprivation:

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- 1 in 9 primary aged children receive free school meals (701/6,580 pupils)
 - 1 in 7 secondary school children receive free school meals (1003/6585 pupils)
 - 1,050 children's families receive Income Support
 - 1,550 children and young people live in households claiming Family Income Supplement
 - there are 300 children classed as 'Child In Need'
 - 73 Children are subject to a Child Protection Plan. 28 of those are through neglect and 24 through emotional abuse
- (around 50% of these are under 5 years);

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- 127 children are looked after

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**Housing Authorities
Rent deficit 2009 to date**

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41. The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Social Care:

What the rent deficit was for each of the –

(a) Housing Authorities; and

(b) Elderly Person Committee Housing Authorities; in

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(i) 2009-10;

(ii) 2010-11; and

(iii) 2011 to date?

**Answer: Housing Deficiencies
2011-12 Budget**

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Authority	Budget (2011-12)
	£
Braddan	728,490
Castletown	37,860
500 Douglas	2,268,772
Peel	333,413
Port Erin	92,639
Port St Mary	150,157
505 Ramsey	1,847,862
Rushen	9,286
Castletown and Malew EPHC	230,276
Cooil Roi EPHC	119,393
Marashen Crescent EPHC	442,140
510 Peel and Western EPHC	371,974
Ramsey and Northern EPHC	670,271
Royal British Legion	39,617
Onchan EPH	457,498
Total	7,799,648

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2010-11 Deficiency Paid

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	£
Braddan	295,270
Castletown	57,459
Douglas	1,200,000
Peel	582,455
Port Erin	(1,538)
525 Port St Mary	56,694
Ramsey	1,289,164
Rushen	8,906
Castletown and Malew EPHC	133,510
Cooil Roi EPHC	23,543
530 Marashen Crescent EPHC	185,905
Peel and Western EPHC	343,114

	Ramsey and Northern EPHC	415,000
	Royal British Legion	33,312
535	Onchan EPH	396,466
	Total	5,019,260

	2009-10	Deficiency Paid
540		£
	Braddan	496,113
	Castletown	
	Douglas	1,67,790
545	Peel	275,000
	Port Erin	20,000
	Port St Mary	90,000
	Ramsey	815,414
	Rushen	10,810
550	Castletown and Malew EPHC	210,696
	Cooil Roi EPHC	130,072
	Marashen Crescent EPHC	241,820
	Peel and Western EPHC	300,395
	Ramsey and Northern EPHC	295,000
555	Royal British Legion	47,999
	Onchan EPH	352,000
	Total	5,134,398

560 For 2010-11 and 2009-10 the amounts paid are not the full deficits for the year, as only 80% of any deficit can be claimed throughout the year the balance being paid when the audited accounts are completed.

HM ATTORNEY GENERAL

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**Heritage Homes and DEC land swap agreement
Whether legally binding**

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42. The Hon. Member for Michael (Mr Cannan) to ask HM Attorney General:

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In respect of the land swap agreement between Heritage Homes and the Department of Education and Children:

(a) Whether the Department of Education and Children complied with the Education Act 2001, section 3 and made an order under Schedule 2 of the Act, in which the relevant public notice is required to be given; and

(b) if not, whether the agreement is legally binding?

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Answer: (a) The Hon. Member has already been informed, by letter dated 17th November 2011, by the Government Advocate that enquiries concerning Departmental business are to be addressed to the Department concerned, rather than to the Attorney General. In any case, it is understood that the Hon. Member asked a Question in similar terms to part (a) of this Question of the Minister for Education and Children during the sitting of the House of Keys on 29th November 2011, to which the response was that the Department has not yet brought to Tynwald a relevant Order in accordance with Schedule 2 to the Education Act 2001. If the Hon. Member requires any clarification of the position, it is respectfully suggested that he raise the matter again with the Minister.

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(b) It is respectfully suggested that the Hon. Member should direct this Question to the Minister for

Education and Children, who would then take legal advice as to the position, as necessary. It is not appropriate for the Attorney General to give a view on a matter which is currently being dealt with by a Department which may wish to seek advice thereon from his Chambers.

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**Investigation/prosecution of Dr D H Hoehmann
Breakdown of costs; public interests**

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43. The Hon. Member for Douglas South (Mrs Beecroft) to ask HM Attorney General:

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(a) What the total cost to his Office was of the investigation and prosecution of Dr Dirk Heinz Hoehmann on charges of obtaining pecuniary advantage by deception, broken down by:

(i) investigations, consultations and prosecution costs;

(ii) legal costs incurred outside his Chambers but within the Isle of Man;

(iii) legal costs incurred outside the Isle of Man;

(iv) court costs; and

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(v) any other significant costs within his area of responsibility;

(b) whether the costs of the defence have been or will be paid out of public funds; and how much they are;

(c) whether compensation will have to be paid out of public funds to Dr Hoehmann on account of imprisonment and related items; and, if so, how much; and

(d) why he considered that it was in the public interest to prosecute Dr Hoehmann, rather than arrange for him to be returned to Germany to serve a pre-existing prison sentence?

610

Answer: (a) It is not possible to quantify the costs of work done by officers in HM Attorney General's Chambers in relation to advising the Isle of Man Constabulary during criminal investigations and undertaking prosecutions because work carried out in Chambers is not recorded on a time basis with reference to individual cases. Further, Chambers does not meet the costs of other agencies engaged in the criminal justice process, such as the Isle of Man Constabulary and the courts. Costs to Chambers are quantifiable only where payments are made to individuals in the course of a case, such as witness expenses or the costs of external legal advice, including representation, where appropriate, by English counsel.

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Accordingly, (i) to (v) can be answered as follows:

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(i) Witness expenses are estimated at approximately £1,000. The costs of advice/representation provided by English Counsel was £20,200 net of VAT. No other costs are quantifiable.

(ii) None known.

625

(iii) If the purpose of this Question is to seek confirmation of the amount paid to English counsel in relation to the proceedings in the Island, the amount is as stated in (i). Otherwise, no costs have been incurred outside the Island as HM Attorney General has not been a party to proceedings in any other jurisdiction.

(iv) Nil; and

(v) Nil.

630

(b) The Defendant applied for, and was granted, Legal Aid prior to the trial and, accordingly, the defence costs incurred from the date of the grant of Legal Aid will be met from public funds. It is understood that no details of the costs to be claimed have yet been submitted to the General Registry for assessment and, accordingly, it is not presently possible to quantify the amount. The Defendant did not make any application for any of his costs incurred prior to the grant of Legal Aid to be met from public funds.

(c) There is no mechanism by which an acquitted person would ordinarily receive compensation in respect of any period during which he or she had been remanded in custody by order of the court pending trial.

635

(d) This Question proceeds on a misapprehension. These were never alternative options. First of all, HM Attorney General cannot 'arrange' for someone to be returned to another jurisdiction. Because European Arrest Warrants have no force in the Island, the Defendant's return to Germany could only be achieved by an extradition request from the German Authorities to the Home Office and a warrant for the Defendant's arrest being issued under the Extradition Act 1989.

640

Secondly, any decision to prosecute is taken in adherence to the principles set out in the Code for Crown Prosecutors, published by the Director of Public Prosecutions of England and Wales, and involves an

645 assessment by the Prosecutor as to whether there is a 'realistic prospect of conviction' and whether a prosecution is needed in the public interest. The fact that proceedings may be contemplated by another jurisdiction to seek the return of an individual to stand trial or serve a sentence is not determinative when assessing the public interest factors.

650 Having assessed the evidence, it was concluded that there was a 'realistic prospect of conviction' in this case concerning the allegation that the Defendant, on 13th March 2005, dishonestly obtained for himself a pecuniary advantage, namely, that he was given the opportunity to obtain remuneration in an office or employment at Noble's Hospital, Douglas in the Isle of Man by deception by falsely representing that he had not been convicted of any criminal offence in the United Kingdom or any other country. In fact, on 7th May 2004, after a seven-day trial at the Nuremberg-Furth Regional Criminal Court, the Defendant had been convicted of 44 separate offences of fraud and subsequently required to attend at the St Georgen-Bayreuth Prison on 1st March 2005 to begin his sentence of two years and 11 months. The Defendant never attended, as required, to serve his sentence.

655 A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour, or it appears more appropriate, in all the circumstances of the case, to divert the person from prosecution.

Public interest criteria relevant to this case included the following:

660 • The more serious the offence, the more likely it is that a prosecution will be needed in the public interest – in this case, the pecuniary advantage obtained was substantial; the total amount paid to the Defendant by the Department of Health and its predecessor from 1st July 2005 to the end of October 2010 was £792,116.88.

665 • A prosecution is likely to be needed, for example, if the Defendant was in a position of trust – in this case, the Defendant was Consultant in Otolaryngology at Noble's Hospital;

• The Defendant is alleged to have committed the offence while under an order of a court – in this case, the Defendant had made the false declaration after conviction and after he should have started serving his sentence in Germany.

There were no public interest factors against prosecuting in this case.

670 Throughout the case, the issues relating to the strength of the evidence and the public interest factors were kept under constant review.

675 ECONOMIC DEVELOPMENT

Building stone Extraction and importation

680 44. The Hon. Member for Garff (Mr Speaker) to ask the Minister for Economic Development:

For each of the last three years:

(a) *how many tonnes of building stone were extracted from quarries in the Isle of Man for use by the local construction industry;*

685 (b) *how many tonnes were imported;*

(c) *which quarries in the Isle of Man are licensed to extract building stone;*

(d) *whether their extraction capacity is being met; and*

(e) *what plans the Department has to implement a national minerals strategy?*

690 **Answer:** (a) All quarrying operations on the Island are controlled by Mining Agreements in the form of either a Mining Lease or Mining Licence issued by the Department of Economic Development under the provisions of the Minerals Act 1986.

695 Under such agreements, mineral operators are required to complete half-yearly royalty statements, issued by the Department at the end of May and November respectively. Such statements confirm the tonnage of mineral sold during the respective royalty period. Hence, the Department has a record of all building stone produced and sold on the Island. Royalty statements over the past three years have been examined and the total declared sale of building stone tonnages are as follows:

700	Year ending May 2009	1,677 tonnes
	Year ending May 2010	1,593 tonnes
	Year ending May 2011	1,174 tonnes

It is assumed that most building stone extracted from Manx quarries is used by the local construction industry, although Pooil Vaaish Quarry has a long history of stone exports.

705 (b) It is not known how many tonnes of building stone are imported into the Island, although the Department has recently been advised that approximately 400 tonnes is imported per month, c. 4,800 tonnes per annum.

710 (c) Earystane, Starch Mill, Cringle and Pooil Vaaish quarries currently operate under Mining Agreements issued by the Department. Historically, building stone has also been supplied from the former Dreemskerry Quarry and South Barrule Quarry; however, neither of which have operated over the past three years. It is important to recognise that the Mining Agreements allow the quarries to not only extract building stone but to also produce various forms of aggregate from the off-cuts and any waste material that is not suitable for use as building stone. Of the current building stone quarries, only Earystane focuses primarily upon the production of building stone.

715 (d) Each Mining Agreement contains a specified permitted annual extraction limit which varies from quarry to quarry as a result of a combination of factors. Extraction limits cover all quarry products, not just the tonnage of building stone. The tonnage of building stone as a proportion of the annual permitted extraction limit also varies from site to site, largely based on the nature of the stone and the prevailing geological conditions. For the past three years, annual extraction limits have not been met by any of the aforementioned quarries.

720 (e) Following a Planning Inquiry in September 2008 held to consider the former Department of Local Government and the Environment's decision to refuse planning permission for an extension of Dreemskerry Quarry in 2006, the Inspector appointed to preside over the Inquiry advised in his Report to the Council of Ministers that the Department of Local Government and the Environment should look to produce an all Island Minerals Strategy. The Department of Infrastructure is, therefore, currently considering the scope and form of such a strategy.

725 The Department of Economic Development has produced and continues to update a Minerals Resource Plan. This document is a report on the Island's general geology; sets out where minerals are likely to occur; indicates the extent of mineral reserves which have valid planning permissions for extraction; assesses past demand for minerals and attempts to forecast future mineral demand. The Mineral Resources Plan has been used extensively in the past by quarry operators as a source of information when preparing planning applications for mineral extraction. It is envisaged that once the Island's Minerals Strategy has been adopted, the Mineral Resources Plan will continue to be used as a source of information on the Island's mineral resources.

735

EDUCATION AND CHILDREN

740

Centralised pupil data system Purpose; numbers; costs; data protection

45. The Hon. Member for Garff (Mr Speaker) to ask the Minister for Education and Children:

In respect of the Department's centralised pupil data system:

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(a) *what the purpose is of holding records of all school children and their parents on a centralised pupil data system within the Department;*

(b) *what the current total number of people is on the centralised pupil data system, including all pupils, parents and guardians;*

(c) *what the cost was of setting up this centralised pupil data system;*

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(d) *what the annual running cost of the centralised pupil data system is;*

(e) *whether a system of role-based access control has been set up within the Department to ensure the centralised pupil data system complies with the Data Protection Act;*

(f) if he will consent to allowing the Data Protection Supervisor to audit the processing of data within the centralised pupil data system for good practice; and

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(g) if he will publish the details of any internal audit his own Department may have made of the centralised pupil data system?

Answer: (a) Currently, the Department is reliant upon individual schools to supply limited, decontextualised data to the Department. This is gathered in sections, e.g. we have month by month attendance data by school and we have attainment data by cohort in each school. This allows us to take some very generalised views of quality and outcomes, but does not, for example, allow us to investigate and intervene across the piece on the impact of attendance on achievement, cohort and school differences etc. The database will also allow us to make evidence based decisions on the effectiveness of provision for a range of groups, e.g. looked after children, children with disabilities, low level SEN, youngest children in cohort, achievement of pupils with entitlement to free school meals etc.

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We have struggled to make evidence based decisions other than at single school level and have not been able to set policy based on evidence as well as we could.

A further example would be: is there any evidence on the IOM to indicate higher achievement for pupils who have attended Department funded pre-school?

765

Single System – In addition the data will be more secure on this system. The information on parents will be limited to the information currently gathered in schools.

770

Furthermore, early intervention will be enabled to its fullest extent with automated triggers. For example, a student whose attendance falls below a specified limit would generate an e-mail to intervention groups who would be able to act instantly upon the live information.

The Department have a number of services that support students in our schools, SEN, Education Liaison Officers etc. These services will centralise their case management for specific pupils onto this single database. This enables the Department to hold a single, accurate picture of students in our care.

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Finally, no information on parents or carers will be extracted from the school systems. This data will remain in the schools where it was initially gathered.

(b) Details of data in Synergy at the moment (still in test phase only two schools currently involved):

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Onchan

415 pupils

No parent/guardian data

One contact for school (Headteacher with contact details as for school)

785

CRHS

842 pupils

No parent/guardian data

One contact for school (Headteacher with contact details as for school)

790

(c) £267,500.

(d) Annual running costs £44k.

(e) Yes, a system has been devised and discussed with the Data Protection Supervisor, who has advised that this meets requirements.

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(f) Yes.

(g) No audit carried out, as still in test phase.

800

HEALTH

Dr D H Hoehmann

Value of work done at Hospital

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46. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Health:

During the time that Dr Dirk Heinz Hoehmann was employed as a consultant at Noble's Hospital –

(a) whether Dr Hoehmann's work at the Hospital was satisfactory;

810 *(b) whether Dr Hoehmann provided value for money in terms of the work he performed for the salary he was paid; and*

(c) for how long after Dr Hoehmann stopped doing any work at the Hospital he was paid; and how much was paid to him in relation to that period?

815 **Answer:** (a) Mr Hoehmann worked as an ENT Consultant from July 2005 until April 2011. During this time there were no major concerns with regard to his clinical practice.

(b) Mr Hoehmann was remunerated on the Consultant salary scale, in accordance with the terms and conditions of service for medical staff. Mr Hoehmann worked to the normal Consultant contract and his timetable reflected the needs and demands of a busy ENT practice which was divided between outpatient clinics and theatre sessions and the resultant patient administration. Mr Hoehmann also worked an on-call rota, working for seven days in succession every alternate week.

820 (c) Mr Hoehmann's salary stopped immediately he became unavailable to work for the Department of Health and thus no payment was made to him for any period after he stopped work.

825

**Cronk Grianagh land
Development plans**

830 47. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Health:

What the Department is planning to do with the parcel of land at Cronk Grainagh; and whether he has considered passing the land to the local authority for development?

835 **Answer:** In order to provide a comprehensive Answer, I feel that it is necessary to advise on the estates strategy that was developed for land in the Department's ownership, which will put into context the plans for the fields which are the subject of this Question.

The former DHSS owned considerable tracts of land associated with the former Ballamona Hospital. In April 1998 the Department submitted a paper to the Council of Ministers regarding the future of that land and made various recommendations. Please see below an extract from that paper:

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845 "The Department's thinking in arriving at these proposals has been dictated by one of the fundamental principles supporting the relocation of the Island's main hospital services to the Ballamona site – that is, the ability to ensure (so far as it is reasonably possible to predict these things) that no future generations faced with the need for re-developing the main hospital should be confronted with the problem of location. The retention and judicious use of adjacent land, not immediately required for the present development but within what might be termed the "hospital zone", should provide that assurance".

850 At the time that the decision was made to build the new hospital, a major factor in the decision making process was the inability to extend the former Noble's Hospital because it became 'landlocked' following its original construction. Council of Ministers endorsed the Department's paper.

855 Since 1998, the Department has sold parcels of land to Braddan Parish Commissioners for amenity and recreation purposes (Strang Corner Field and Ballaoates), to the former DoLGE for first-time buyers (Cronk Grianagh) and to the former DAFF for the Millennium Oakwood. In addition, fields have been leased to the former DTL (Ballafletcher Fields) and to Braddan Parish Commissioners (part of Ballaoates) for further amenity and recreational purposes.

860 The land that remains in the Department's ownership are the Leece Lodge Fields and the Cronk Grianagh site. The Department has no interest in retaining the Leece Lodge Fields and advanced negotiations had taken place with Braddan Parish Commissioners, who wished to acquire them. However, these negotiations failed due to the covenants that the former DoLGE and DoT required on the conveyance. The Commissioners objective in acquiring the fields was to maintain a 'green belt' between the housing development on Braddan Road and the housing development at Cronk Grianagh. The proposed covenants undermined that objective and the conveyance did not proceed.

Now we come to the Cronk Grianagh site. This land is to the south west of Braddan Road and its close

865 proximity to the acute hospital gives it a particular strategic value. The land to the north east of the hospital is
not in Government's ownership. The Department does not have any plans for this area at present. We do not
know how the provision of acute healthcare will advance over the next twenty years and the pressures that
such medical advancements will have on future generations to provide the appropriate facilities from where
this care will be provided. Consequently, the retention of this land for future healthcare use is the current
strategy that the Department has adopted. This is particularly pertinent, to avoid a repeat of the 'land locking'
that eventually afflicted the former Noble's Hospital.

870 The Department did enter into discussions with Braddan Parish Commissioners with the intention of
leasing the area to them for recreational purposes. The estimated cost of £50,000 to £100,000 to develop the
fields for recreational purposes proved to be prohibitive.

875

HOME AFFAIRS

Young offenders aged 12 to 18 Statistics for last five years

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48. The Hon. Member for Ramsey (Mr Singer) to ask the Minister for Home Affairs:

In the last five years, how many persons aged 12 to 18 have been:

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*(a) apprehended; and
(b) interviewed for causing criminal damage;
how many have been:*

*(i) prosecuted; and
(ii) cautioned;
and how many have re-offended after:*

890

*(A) prosecution; and
(B) receiving a caution?*

Answer: While wishing to provide full and complete answers to the Hon. Member for Ramsey's
Question, the Department is restricted in what information is available and, importantly, by the fact that such
data is not in the format requested.

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In addition, the terminology used in the Question also poses some problems in providing the information
requested, for example:

(1) the word 'apprehended' is not known to the criminal law. The Police may arrest offenders with or
without a warrant for causing criminal damage; they may interview them after arrest or they may interview
them under caution on a voluntary basis;

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(2) cautioning is not the only non-judicial sanction used in respect of young people. The multi-agency
Youth Justice Team also makes use of lesser warnings and, on a voluntary basis, restorative justice options;

(3) the age group, subject to the Question, covers both juvenile and adult offenders, with adults being
defined as a person reaching the age of 17, and recidivism rates for adults are not routinely kept by the
Constabulary.

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However, in order to be of as much assistance as possible, the Department is able to provide the following
information for the period between 2006-07 and 2010-11:

- 322 juveniles were interviewed by the Police for criminal damage offences;
- 48 of them were prosecuted and 20 of those subsequently re-offended. This equates to a re-offending rate after a court appearance of 41.66%;
- 121 of them were formally cautioned and 28 of those subsequently re-offended. This equates to a re-offending rate, post-caution, of 23.14%;
- the remaining individuals interviewed were not subject to prosecution or caution, but were, instead, subject to a lesser sanction such as a warning, or were asked to carry out restorative work. One hundred and fifty three young people fell into this category, of whom 16 re-offended. This equates to a re-offending rate of 10.46%.

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Dr D H Hoehmann
Costs of investigation, prosecution and imprisonment

49. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Home Affairs:

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What the total cost to his Department was of the investigation, prosecution and imprisonment on remand of Dr Dirk Heinz Hoehmann broken down by –

(a) Police time;

(b) transportation and security;

(c) legal costs;

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(d) cost of imprisonment; and

(e) any other significant costs?

Answer: The Answers are as follows:

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(a) Approximately 560 hours. The exact cost cannot be determined because of the variety of police officers involved at different grades. However, a minimum salary cost is likely to be £7,396, based on police officers at the rank of Constable on commencing service after the probation period.

(b) Transport and security costs are included in the Prison costs and unfortunately it is not possible to determine these separately.

940

(c) Legal costs relate to the prosecution of the case which is undertaken by the Attorney General's Chambers and, therefore, there are no costs to the Department.

(d) The cost of holding a prisoner for the period held is £78,003 ¹.

(e) £1739.92 for travel costs to meet Federal German Prosecutors.

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¹ The vast majority of prison operating costs are fixed costs. As such, most of the cost stated is unavoidable. Only a significant sustained lower prison population would permit a significant reduction in the overall prison cost.

WATER AND SEWERAGE AUTHORITY

950

Dried sewage sludge pellets
Annual output

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50. The Hon. Member for Onchan (Mr Hall) to ask the Chairman of the Water and Sewerage Authority:

What the annual output of dried sludge pellets was in each of the past five years?

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Answer: It is only possible to provide the annual output of dried pellets produced at Meary Veg since 17th April 2008 as, prior to that date, the facility was being operated and commissioned by the contractor.

I can confirm the sludge drying facility at Meary Veg produced:

767 tonnes of pellets between 17th April 2008 and 31st December 2008;

963 tonnes were processed in 2009;

1067 tonnes were processed in 2010;

and 996 tonnes have been processed to the end of November this year.

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This information was confirmed to the Hon. Member for Onchan (Mr Hall) in writing by officers of the Authority on 5th December 2011.