

REPORT OF PROCEEDINGS OF THE HOUSE OF KEYS (QUESTIONS)

**Douglas, Tuesday, 11th March 2003
at 10.05 a.m.**

Present:

The Speaker (the Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell (Ramsey); Mr R E Quine OBE (Ayre); Mr J D Q Cannan (Michael); Mrs H Hannan (Peel); Hon. S C Rodan (Garff); Mr P Karran, Hon. R K Corkill and Mr A J Earnshaw (Onchan); Mr G M Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North); Hon. D C Cretney and Mr A C Duggan (Douglas South); Mrs B J Cannell (Douglas East); Hon. A F Downie and Hon. J P Shimmin (Douglas West); Capt. A C Douglas (Malew and Santon); Hon. J Rimington, Mr Q B Gill and Hon. P M Crowe (Rushen); with Mr M Cornwell-Kelly, Secretary of the House.

Questions Answered Orally

- | | |
|--|--------|
| 1. Wright's Pit East – Increase in Level – Planning Application (Mr Quine) | KQ 186 |
| 2. Manx Radio – Change in Broadcast Policies (Mr Houghton) | KQ 188 |
| 3. Planning Appeals – Petitions of Doleance (Mr Earnshaw) | KQ 190 |

Questions Answered in Writing

- | | |
|--|--------|
| 1. Human Rights Act 2001 – Parts Currently in Force (Mr Henderson) | KQ 193 |
| 2. Industrial Relations Service – Indemnity Policy (Mr Henderson) | KQ 193 |
| 3. Industrial Relations Service – Remedy for Grievances (Mr Henderson) | KQ 193 |
| 4. Industrial Relations Service – Advice Given (Mr Henderson) | KQ 194 |
| 5. Promar International Consultancy (Mr Cannan) | KQ 194 |
| 6. Agriculture – Live Animals – Numbers Exported (Mr Cannan) | KQ 194 |
| 7. Douglas Bus Routes – Price Increases (Mr Henderson) | KQ 196 |
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**Wright's Pit East – Increase in Level –
Planning Application –
Question by Mr Quine**

Question 1. The hon. member for Ayre (Mr Quine) to ask the Chief Minister:

For what reason(s) did the Council of Ministers decide that planning application No 2/1636 in respect of an increase of two metres in the approved completion level for Wright's Pit East should not be called in and dealt with by a special inquiry?

The Speaker: Hon. members, I call on the hon. member for Ayre.

Mr Quine: Thank you, Mr Speaker. I beg leave to ask the question standing in my name, sir.

The Speaker: I call on the hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. The hon. member's question relates to the provisions in the Town and Country Planning Act 1981, Section 1 (2) which relates to what are termed 'special inquiries.' Under that provision, if it appears to the Council of Ministers expedient that the question whether a proposed development should be permitted to be carried out, should be the subject of a special inquiry on the grounds - and these are the important words which I quote from the Act: 'that there are considerations of general importance to the Island which are relevant and which require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose.' The Council of Ministers may determine that a special inquiry be held.

In the particular case to which the hon. member refers, Council did consider representations to the effect that a special inquiry should be held but decided that, as the application did not satisfy the terms of the Section 1 that I have just quoted, this was not a case where a special inquiry could be justified.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Will the Chief Minister accept that the proposition for an extension in the life of the Island's one and only municipal landfill tip is a matter of general importance to the Island? Would he further agree that, given the site is in an 'ecologically sensitive and internationally important area' - and I quote from a DAFF document here - indeed, DAFF's evidence to the original inquiry - and that it is unsealed and does not conform to present-day EU standards for landfill, there is a strong case for a proper evaluation and that that evaluation calls for a facility for Island-wide input which, of course, is peculiar to a special inquiry?

The Speaker: Hon. member for Onchan, Chief Minister, to reply.

Mr Corkill: The hon. member for Ayre referred to the original inquiry. Can I say that there is a valid planning consent and also a licence under the Public Health Act in place for the use of both Wright's Pit East and Wright's Pit North for the deposition of refuse. These planning consents, which are due to expire on 31st December 2003, were granted by the Governor in Council following a public inquiry before an independent planning inspector who reported to Council. At the previous hearing all relevant matters to enable the suitability of the sites to be thoroughly examined were considered very comprehensively. There were environmental assessment reports relating to the ground conditions and possible impacts on the local environment that were scrutinised in great detail, and all objectors had a full opportunity to have their views taken into account.

In the circumstances with an existing operational site an application to extend its life will rely heavily on the evidence previously presented and evaluated, coupled with the results of the environmental monitoring during its life. There can be no justification, however, for arguing that these matters cannot be properly evaluated without a further special inquiry.

The current application will be the subject of a hearing by an independent inspector on 17th March to which interested parties will be invited.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Will the Chief Minister not accept that what is proposed here is a substantial, possibly in the order of a 15 to 20 per cent increase in the capacity of this landfill which materially changes the possible impacts from an environmental point of view? Further, would he confirm that the completion level for Wright's Pit East was set in 1995, as he pointed out, with a proper inquiry, and has already been increased by two-and-a-half metres in the year 2000 and that, unless we get a critical evaluation of the current proposal, there is the greatest possibility of current standards being disregarded in relation to any application for an extension of the use of this pit, and the suggestion by the Chief Minister that what was said and done in 1995 is relevant to today's application, I think, is a gross misstatement of what the inspector would see as a reasonable position.

The Speaker: Chief Minister to reply.

Mr Corkill: Several points there, Mr Speaker. Certainly I will not prejudice what an independent inspector may or may not say. Some of the facts that the hon. member has just said I would agree with. His

statement that already there has been a raising - I am not sure that that is correct -

Mr Quine: One of 2.5 metres.

Mr Corkill: - and certainly I will look at that aspect. I am very conscious of the fact that there is a current application going forward, and I have to be careful and factual about what I say so as not to be seen to be influencing that process. What I would say is that there is a valid planning consent, as we are all aware, in place. I do know that the Department of Local Government and the Environment and in particular the Waste Management Unit are most keen to adhere to the standards laid down in previous applications, and I think their track record in that area of the Island in terms of previous sites where reinstatement to the exact detail of planning permissions, which is being done at great expense, has always been carried out and I have no reason to doubt that the department, whilst it needs to be in this area for disposal of refuse, bearing in mind that there is light at the end of the tunnel with regard to the ending of deposition of waste in this part of the Island, I have no reason to doubt that the department will not finish off the work that they have completed to a high standard; they have always done that in the past, but in terms of what the independent inspector may or may not decide in relation to this application, I cannot comment, Mr Speaker.

The Speaker: Hon. member for Glenfaba, Mr Anderson.

Mr Anderson: Thank you, Mr Speaker. Can the Chief Minister give some indication of how long the extension to the life of Wright's Pit East is likely to be given as a result of this extended planning application?

The Speaker: Chief Minister to reply.

Mr Corkill: I do not have the information in front of me, Mr Speaker. I will endeavour to obtain that from the Department of Local Government and the Environment, whose responsibility this area is, and I will let members know.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Again, is the Chief Minister conscious of the fact that there has been an insidious incremental approach to the continued use of Wright's Pit East in relation to landfill and that this has, in effect, circumvented the original comprehensive evaluation that was done in relation to Wright's Pit East? And as this insidious incremental approach to the extension of Wright's Pit East has been ongoing for several years, there is clearly a case now for a renewal and a further current evaluation to ensure that what has happened in

the interim makes it acceptable from an environmental point of view.

The Speaker: Chief Minister to reply.

Mr Corkill: Certainly, Mr Speaker, there is absolutely no circumvention of what is permitted in this area, hence the current planning application. If there were to be circumvention, then it would be outwith any application, and of course government does not behave in that way. I can understand the hon. member's concern about the incremental increase in refuse-tipping in that part of the Island over many years. The hon. member for Ayre, of course, had responsibility for waste disposal at one time not very many years ago and he fully understands the difficulties of bringing on stream the energy-from-waste plant and all of the waste management strategy that fits around that. The department is making good progress, as we can all see, and so I would suggest that the hon. member, although he may find this difficult, be patient that some of the policies that he was very much involved with himself at one time are going to bear fruit soon and that they are coming to fruition, and the area in question will no doubt be restored to the environment that people expect in the north of the Island, which was there for many years. So I would say there is no circumvention and I can sympathise with the hon. member who has had this problem in his constituency for many years.

The Speaker: Hon. member for Ayre, Mr Quine.

Mr Quine: Is the minister aware, and if he is not aware will he make himself aware, of the fact that a written submission was made by myself to the minister of the day in late 1999 - there are members here who are aware of it - making the point at that time that no useful purpose would be served in extending the life of Wright's Pit East or proceeding with Wright's Pit North because there was insufficient capacity to see us through to the opening of the incinerator? Is it not a fact that had that been heeded, we would not be in the position we are today? And secondly, would the Chief Minister advise me of two very simple facts: on what date did the Council of Ministers consider the request for this to go to a special inquiry and was the Minister for the Local Government and the Environment present at Council on that day?

The Speaker: Chief Minister to reply.

Mr Corkill: The hon. member is asking me for dates, facts and figures that I do not have before me, but I am more than happy to respond to hon. members by way of a letter in terms of clearing this. The hon. member alludes to the timing of the incinerator from waste plant coming on stream and the associated landfill strategy that goes around that, difficulties of timing, the fact that previous landfill sites have filled

much more rapidly than was suggested or in fact advised upon by experts at that time and, yes, we are having to deal with a difficult problem. I understand that the hon. member did make those representations at that time over what is a very difficult issue. No-one is saying it is not a difficult issue but there is a current planning application in process and that will take its course.

Manx Radio – Change in Broadcast Policies – Question by Mr Houghton

Question 2. The hon. member for Douglas North (Mr Houghton) to ask the Chief Minister:

Are you satisfied that Manx Radio intend to amend its broadcast policies in concurrence with the wishes of Tynwald?

The Speaker: I call on the hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. I beg leave to ask the question standing in my name, sir.

The Speaker: I call on the hon. member for Onchan, Mr Corkill, Chief Minister, to reply.

Mr Corkill: Mr Speaker, in short, the answer to the hon. member's question is yes, I am satisfied.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Is the hon. Chief Minister aware that Manx Radio only intend to drop the KiK FM name and plan to continue with split transmission in a similar format to that which currently exists? And also, does he agree that Manx Radio must provide in its future broadcasting programmes a greater emphasis of high-quality local news speech and feature output to the satisfaction of its local listening base, sir?

The Speaker: Chief Minister to reply.

Mr Corkill: Dealing with the issue of splitting services first, Mr Speaker, I understand that the thrust of the strategy review in relation to competitive services is that Manx Radio and its competitors should be complimentary. Manx Radio has announced publicly that its KiK FM service is to come off air at the end of March, and that is as a result of existing contractual commitments being completed.

I am also informed that the station's general daytime music appeal will be more of a Radio 2 style where the present competitor Energy FM is more of a Radio 1 style. It is these adjustments to the music programming that will create room in the market for

the competitor and what the process of creating complimentary services is all about. Now, of course, we do know after our debate that there is an obligation on Manx Radio to expand its speech-orientated community programming and I certainly look forward to that. There are obligations placed on Manx Radio also by its broadcasting licence issued by the Communications Commission. Something I would also wish to say is that there is a responsibility on the Manx Radio Trust to ensure that the station provides the programme service expected of it. The responsibility includes the expectation of new services following Tynwald's approval of the strategy review.

Can I say I do not believe it is in the public interest for Manx Radio to remain in the political arena for too long. That is the very purpose of having such a body as the Manx Radio Trust and to try to depoliticise the day-to-day affairs of the station. So under the new arrangements the trust will make its own independent report annually to Tynwald, and this is in the process, Mr Speaker, through which Manx Radio's performance can be judged in future.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Would the Ard-shirveishagh not agree that he should have gone down the road of what was proposed for a select committee of three members at the December debate on the Manx Radio so that we could have got the right proper checks and balances in so that the funding package would have been of value for the taxpayer in the first place, and would he now not agree that he should have supported my amendment in order to do so? And would the Ard-shirveishagh also not tell us about this independent trust - whose patronage do they need to get on it?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, the hon. member did move a motion in another place about a select committee and failed in his attempt to achieve that aim. If the hon. member is suggesting that a select committee of Tynwald could run a radio station, or rearrange a radio station, then that is a point of view he may have; it is not one I would share with him.

My view in all of this is that the public service broadcasting element of Manx Radio is very important, it is not a particularly profitable way to run a radio station, therefore there will be a requirement for subvention. The report that members had before them at that time in Tynwald showed the costings of what would be required, and Tynwald voted that money through, but that report also highlighted the financial position that Manx Radio found itself in anyway and the deteriorating situation it would have found itself in in years to come.

So the outcome of the report, I think, has been quite successful, bearing in mind the small

marketplace of the Isle of Man. There is split programming to allow competition to take advantage, that main competition being Energy FM who has a licence for Radio 1-style music. Manx Radio has committed and is obliged to move away from that and I think that is what members of Tynwald wanted, but the most important thing that came out of it all was that we wanted a more professional speech-based service and I do know that the process of making that more professional and better for the people of the Island is underway. It is a relatively short period of time since we agreed the report and since the funding was agreed, and I would say that in terms of the trustees maybe they should have a higher profile, but there is certainly no patronage there that I am aware of. They are people who are willing to give their time in terms of public service; I am very grateful to them.

I will circulate a list of their names to hon. members and I would suggest that if the public and hon. members have concerns and comments about the programming in Manx Radio, then these are the people to speak to, to try and depoliticise this part of our media, because I do not believe it is helpful having Manx Radio being kicked around as a political football on a regular basis. It was fair in terms that we needed funding, this is taxpayers' money and that was a very valid debate, but I do think they do now need to be allowed time to consolidate, settle down and deliver what was in that strategic report.

The Speaker: I would just remind hon. members of Standing Order 49(5) when they are asking questions on this matter. Hon. member for Michael, Mr Cannan.

Mr Cannan: Is the Chief Minister aware that Manx Radio is broadcasting through the website on the internet? And is the Chief Minister aware that Manx Radio, through this website broadcasting, is promoting advertisements at no charge, which is in direct competition to the private sector, which is promoting advertisements and is charging their customers? Is this not unfair competition when the Manx Radio has financial stability through its public funding, whereas private businesses outside do not have that stability?

A Member: Hear, hear.

The Speaker: Hon. members, before I call on the Chief Minister, you are broadening it out and I will not allow it to broaden out. The question on the question paper is quite straightforward and supplementaries must relate to that question and must not relate to a debate that took place in another place. Hon. member, the Chief Minister, to reply.

Mr Corkill: Well, obviously I am aware and Manx Radio is aware, Mr Speaker, about comments of undercutting other businesses (**A Member:** Hear, hear.) and can I say that I am informed that Manx

Radio certainly does not operate a policy of undercutting any operator. This claim has been made from time to time. I do not believe it has ever been explained, although the hon. member for Michael refers specifically to the website. But can I say Manx Radio has a wide product range across spot advertising and sponsorship with special promotions always in the market. Depending on various conditions, Mr Speaker, such as the time of day, duration, run of schedule or time-fixed length of contract et cetera, single advertising spots are currently sold in the region of anywhere from £3.50 at the lowest end up to £38 and there are sponsorships as well.

So there are different values depending on the time of the day and the perceived commercial value of advertising, and I take on board what the hon. member is saying with regard to the website. I have no specific data about rates of advertising for the web itself.

The Speaker: Hon. member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker. Turning to the Chief Minister's comments about Energy FM, can he confirm whether Manx Radio are now in co-ordination with Energy FM with regard to local news articles suitable for the younger listeners which can be sent out on Energy FM's frequencies? Can he confirm that that is taking place and, if it is not, can he see that it does take place, sir?

The Speaker: Chief Minister to reply.

Mr Corkill: The hon. member is picking up from a comment that was in the original report and one which I fully agree with him over, which is that the duty of the public service broadcaster, which is our Manx Radio, would be to produce news and information for other outlets (**A Member:** Hear, hear.) and that other outlets could utilise that high-quality public service element and relay it through their own transmissions or elsewhere. I am not aware as to what progress or co-ordination has taken place to date. Obviously it would take agreement on both parties for that to work, but it is something I can follow up on.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Ard-shirveishagh not agree that his previous reply to my supplementary is wrong? Would he not agree that the fact was that the idea of a select committee was to put the structure in place to make sure that we got value for money for the building, not to politicise the day-to-day running of the company? And would he also not agree that that was a missed opportunity that now you allow a situation that they are allowed to run it with no proper structure so that they can make it up as they go along, and would he also not agree that that is the

problem that we have got at the present time and that his picking of the trust is done on patronage basis from the Council of Ministers?

The Speaker: Chief Minister to reply.

Mr Corkill: The list of trustees has not come about by patronage from the Council of Ministers, and can I say that we have a board of directors who run the company and look at the finances of the company on a regular basis, and that is their purpose. We do not need a separate board of directors, nominally a select committee, in my view.

Mr Karran: To put the structure in the first place.

Mr Corkill: We have directors who are putting into place a new structure that was agreed in that report. *(Interjection)*

The Speaker: Hon. member for Douglas South, Mr Duggan.

Mr Duggan: Thank you, Mr Speaker. Could I ask the Chief Minister, is he aware that KiK FM is very popular, especially with the youngsters?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, there is a certain irony in this, Mr Speaker, that since that report came out and was agreed I have picked up on a number of comments from people who have said, 'Yes, KiK FM - we will be sorry to lose it' but that was one of the recommendations. Manx Radio's directors did say that, in this report, whatever it contained they would follow and they would agree with and that, I suppose, from their point of view is a casualty of the process, but it was a process they were willing to subscribe to and did subscribe to wholeheartedly, whatever the result they abide by. But the answer to the hon. member for South Douglas, Mr Duggan, is that under the new structure it is expected that Energy FM will pick up on that market share and make a business of it.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Vainstyr Loayreyder. The Chief Minister has given us a description of the developments that government and Manx Radio are progressing. Could he advise: which government department is responsible for progressing these developments? How will this progress be measured? What specific timescale is this department working to **(Mr Houghton:** Hear, hear.) and what facilities are there to appraise members of this House and another place?

Mr Houghton: Hear, hear.

The Speaker: Chief Minister to reply.

Mr Corkill: Certainly I hold the directors of the company accountable for the progress of what was in the report and what I will do, Mr Speaker, is invite the radio station to actually present to hon. members the progress to date and what the timetable is and how they intend to roll out the programme of changes and I think that might be useful to hon. members to see what is actually happening.

Mr Houghton: Hear, hear.

Planning Appeals – Petitions of Doleance – Question by Mr Earnshaw

Question 3. The hon. member for Onchan (Mr Earnshaw) to ask the Chief Minister:

- (1) When finalising a planning decision following an appeal conducted by an independent inspector, would you make a statement regarding the difficulties ministers face as it appears, too frequently at present, those ministers face petitions of doleance if they agree with the inspector or if they disagree; and*
- (2) what is your view on taxpayers' and ratepayers' money being spent by one body of government on serving a petition of doleance on another body of government?*

The Speaker: I call on the hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. I beg leave to ask the question standing in my name.

The Speaker: I call on the hon. member for Onchan, Mr Corkill, the Chief Minister.

Mr Corkill: Thank you, Mr Speaker. In answer to the first part of the hon. member's question, I would say that when considering a planning decision following an appeal conducted by an independent inspector the minister should consider the following matters: firstly, whether the procedures have been followed correctly; secondly, whether the inspector has considered all matters that are reasonably relevant to the matter; thirdly, whether the inspector has considered matters which should not have been considered; and fourthly, whether the conclusions and recommendations reached by the inspector were reasonable on the basis of the evidence produced.

If a minister, having considered the above, believes that the inspector's conclusions and

recommendations are reasonable, then he or she can be content to support them. Clearly there are times in complex matters where a minister may require legal advice in reaching a conclusion. The minister does not have to give reasons for the decision unless the decision does not follow the recommendation of the inspector.

In answer to the second part of the question, I can understand that in some instances people can feel aggrieved by decisions of ministers and may wish to consider further action. I believe that they should only contemplate such action if there is clear evidence to indicate that one of the matters outlined above has not been properly applied - that is to say, if there is clear evidence that either the procedures have not been followed correctly or that the inspector has not considered all matters that are reasonably relevant or that the inspector has considered a matter which should not have been considered, or that the conclusions and recommendations reached by the inspector were unreasonable or irrational on the basis of the evidence produced. In my view it would be extremely rare for such an occurrence to happen and, where ratepayer's or taxpayer's money is involved, any body of government should consider whether it is in the public interest for such money to be spent and whether the remedies available to the courts would provide a solution.

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker, and I would like to thank the Chief Minister for his helpful reply. As a supplementary, on part (1) of my question, would the Chief Minister agree with me that ending up in court to defend yourself is not everybody's idea of a great day out, and while we would hope not, in the present 'damned if you do and damned if you don't' type of climate, human nature being what it is, is there a danger that their wish to avoid ending up in court may influence the view of the decision-maker?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, obviously, Mr Speaker, the courts are there to resolve issues in an independent fashion and separate from ourselves, and that is an important separation. I would certainly hope and I am quite sure that ministers who are faced with making these planning decisions do so entirely on the facts before them and make decisions based on factual evidence, and if they require interpretation of that factual evidence then, of course, legal advice is available to them and they make their decision based on what the independent inspector has come up with.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Ard-shirveishagh not agree, with his concerns about politicisation of the previous question, that somehow it would be wrong that this issue has been raised by a department member that is affected by the minister over this issue and this also is as important an issue to keep the judiciary issues outside the political sphere of parliament as well?

The Speaker: Chief Minister to reply.

Mr Corkill: I do not believe this question has got any relevance to the previous question because -

Mr Karran: No, it is political.

Mr Corkill: - it is a separate issue. I understand the rights of any member bringing a question to this hon. House and I will do my best to answer it, but I would agree with my hon. colleague from Onchan, Mr Karran, that it is important to keep the judiciary separate from the political process, and that was in my original answer.

The Speaker: Hon. member for Douglas North, Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder. Could the Chief Minister make comment with regard to part (1) of this question in relation to how far his government has progressed an indemnity policy to cover members of government faced with such a situation for the future?

The Speaker: Chief Minister to reply.

Mr Corkill: This is an interesting situation, Mr Speaker, because I can say quite clearly, hand on heart, that if any member of Tynwald acting as a minister in the issues of planning appeals acts reasonably and if they base their decision on inspectors' reports, then they have absolutely no reason to think that they need or require any indemnity, but in a situation where - and I talk about an interpretation now by the High Court, not my own - a court were to determine that the individual did act unreasonably, maliciously or without foundation, then 'should that member have indemnity?' is the question that I would put back to the hon. member. This is an issue that has been reviewed and continues to be reviewed because there are areas in the periphery of this subject that do require change, in my opinion. The basic concept of acting reasonably is enshrined in many aspects of our legal process and I think we have a duty, as members of this House, Mr Speaker, always to think that we have acted reasonably.

The Speaker: Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Thank you, Mr Speaker. Regarding part (2) of my question, would the Chief Minister agree with me that although we are not exactly seeing showers of these petitions at the moment, they are expensive and they seem to be becoming infectious, and furthermore, where public money is available for disposal, there can be a greater temptation to spend it than if it was your own?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, I did say in my original answer, Mr Speaker, whether it is taxpayers' money or ratepayers' money, there is a duty on those involved to use it wisely (**Mr Earnshaw:** Absolutely.) to the furtherance of the public of the Island as a whole, and I understand what the hon. member is saying. That must be paramount in people's minds. But there are occasions when the High Court has to be utilised in these types of situations and it is up to individuals to work out the merits of that. Without referring to anything in specific terms these aspects will change on a case-to-case basis.

The Speaker: Hon. member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Ard-shirveishagh not agree that opinion of what is reasonable is a matter of opinion and what the hon. member thinks is reasonable another hon. member may not think is reasonable, and would he not agree that that cannot be the criterion for allowing the extension of the support of litigation protection that hon. members need? Would the Ard-shirveishagh also agree that this issue highlights another important imbalance: if you are in the executive club you are covered by insurance, if you are not in the executive club - the likes of myself - we have to cover ourselves as far as litigation? (**A Member:** Hear, hear.) And would he also not agree that none of us in this hon. House wants to see a waste of money, but we also do not want a situation in the past where departments were not allowed to prosecute departments, because that is not healthy democracy? The law has to be for everybody.

The Speaker: Chief Minister to reply.

Mr Corkill: The last point first, Mr Speaker. There are occasions when it is perhaps in the public interest for departments to prosecute other departments. Departments of government should not think that they belong to a different set of rules from society in general (**Mr Karran:** Hear, hear.) and by legislation we set standards that everybody has to adhere to, including government.

With regard to the issue, if I can just recall what the hon. member said, of indemnity again and what one member may think as reasonable and another member may not, I have to say, Mr Speaker, I am quite

content to have my actions as a member of this hon. House scrutinised by the High Court if that is what happens from time to time, and it is up to the independent judiciary to determine what is reasonable and what is unreasonable under the terminology of the legislation that we put to them. I am quite content with that situation because, quite simply, that is what the general public have to deal with and we should be no different from the general public.

Mr Karran: Hear, hear.

Mr Quine: That is right.

The Speaker: Hon. member for Rushen, Mr Gill.

Mr Gill: Thank you, Mr Speaker. Could I ask the Chief Minister: is he comfortable that the experience of one part of his government taking legal action against another, reflects the joined-up corporate government that we have heard described in his recent plan?

The Speaker: Chief Minister to reply.

Mr Corkill: It is a very pertinent question, Mr Speaker, and the answer is no, it does not show joined-up government, and steps are in place to try to address it (**Mr Henderson:** Hear, hear.) and those will become public in due course.

The Speaker: A final supplementary on this question. Hon. member for Onchan, Mr Earnshaw.

Mr Earnshaw: Yes, thank you, Mr Speaker. As the present message from the Treasury minister is to cut costs and reduce spending, would the Chief Minister agree with me that there must be a better way of resolving these differences than putting money in the pockets of lawyers, and would he consider ways of achieving this, please?

The Speaker: Chief Minister to reply.

Mr Corkill: Well, perhaps I have already half-answered that question, Mr Speaker. I would not want to say that we should take money completely out of lawyers pockets, otherwise they will be knocking on the door. Can I just say we all have a duty to spend the taxpayers' and ratepayers' money wisely for the benefit of us all, and that is certainly what this government tries to achieve. The Treasury minister is quite right that value for money is an important aspect, but there is sometimes the need for things to be aired in a judicial atmosphere and that will happen from time to time, so I am not going to say things will never go to court because that would be quite wrong, but value for money is an excellent motto to follow.

The Speaker: Hon. members, that concludes questions for oral answer. Item 3 on our order paper is questions for written answer of which there are seven questions which have been circulated to hon. members in compliance with standing orders.

Human Rights Act 2001 – Parts Currently in Force – Question by Mr Henderson for Written Answer

Question 1. The hon. member for Douglas North (Mr Henderson) to ask the Chief Minister:

What part or parts of the Isle of Man Human Rights Act 2001 are in statute and current law in the Island?

Answer

The Human Rights Act 2001 was passed on 16th January 2001.

The Human Rights Act 2001 (Appointed Day) (No. 1) Order 2001 brought certain provisions of the Act into force on the 1st March 2001. These provisions were section 1, subsections (4), (5) and (6) and sections 13,14,17,18,19 and 23. These provisions confer powers to make subordinate legislation under the Act.

The remaining provisions of the Act (including those inserted by the Human Rights Act (First Protocol) (Order 2002) are awaiting a further appointed day order.

In summary, the whole of the Human Rights Act 2001 is in statute and only the provisions relating to the making of secondary legislation are in force.

It was always intended that implementation take place during 2003, and we are still on course for that. The exact date is yet to be determined by the Council of Ministers. There will need to be sufficient time between the announcement of the date and the implementation of the Act for public awareness to be raised and for the professions to make their own preparations. We are committed to ensuring that people's rights are respected and that public service delivery is compliant with these internationally agreed standards. It is in the interests of the Island as a whole that the emphasis should be on quality, not speed.

During consultations with the UK Government on their experiences in introducing their Human Rights Act, they recommended that at least two years should be made available for preparation but the Island circumstances are not so analogous with the UK as one might first think. We are a small jurisdiction, yet we are responsible for the same legal complexities as a larger country. There are nearly one thousand Acts of Tynwald currently in force, supplemented by secondary legislation, but of course the Act is not just about legislation, it is concerned with the quality of

public service delivery. It must be borne in mind that the Isle of Man Government has responsibility for the delivery of public services which in the UK would be delivered by local authorities. As well as strategic planning and central government policy, we must ensure that the delivery of healthcare, policing, education and so on are all compliant. This must be achieved with comparatively limited resources.

We are not alone in this experience. The Channel Islands are in a very similar position and, despite having been as much as a year ahead of us with their human rights programmes, they are now no closer to specifying a date. Much has been achieved since 2001, but the complexity and enormity of the task should not be underestimated.

Industrial Relations Service – Indemnity Policy – Question by Mr Henderson for Written Answer

Question 2. The hon. member for Douglas North (Mr Henderson) to ask the Chief Minister:

Is the Industrial Relations Office covered by an indemnity policy either singularly or generally by government policy on indemnity policies in respect of any liabilities incurred during the course of its functions?

Answer

The Manx Industrial Relations Service is covered by the government's central insurance arrangements. The policy states that the cover extends to 'legal liability to third parties for breach of professional duty due to negligent act, error or omission in the course of business as defined by the policy.'

The industrial relations officers themselves are not personally liable for actions undertaken during the course of their work for the service, and therefore, are not personally insured.

Industrial Relations Service – Remedy for Grievances – Question by Mr Henderson for Written Answer

Question 3. The hon. member for Douglas North (Mr Henderson) to ask the Chief Minister:

What remedy is open to a member of the public who believe that they have received incorrect and inadequate advice from the Manx Industrial Relations Service?

Answer

Users of the Manx Industrial Relations Service have a formal avenue of complaint to the Governor in Council. In the rare circumstance of a client feeling unhappy with the service provided, the Industrial Relations Officer would encourage that person to discuss his concerns with him, with a view to improving the service.

If this informal approach proved unsatisfactory, the complainant could address the Governor in Council by writing a formal letter of complaint to the Chief Secretary.

Industrial Relations Service – Advice Given – Question by Mr Henderson for Written Answer

Question 4. The hon. member for Douglas North (Mr Henderson) to ask the Chief Minister:

Does the Industrial Relations Officer advise members of the public of their rights to seek legal and union advice if pertinent to that case?

Answer

Where appropriate, members of the public are advised that they can seek advice from an advocate. Union members are directed to their union for advice and/or representation.

In the case of an enquiry regarding factual information, the Industrial Relations Service would endeavour to answer straightforward queries themselves. In the case of a person considering litigation and seeking advice as to the best course of action available to them, the Industrial Relations Service would advise that person that they may engage the services of an advocate. Where that person is a union member, they would be advised that they may seek advice and representation from that union.

Promar International Consultancy – Question by Mr Cannan for Written Answer

Question 5. The hon. member for Michael (Mr Cannan) to ask the Minister for Agriculture, Fisheries and Forestry:

- (1) *What has been the total cost (including expenses) of the Promar International Consultancy Review of the Isle of Man's meat and dairy sector;*

(2) *on whose recommendation and on what criteria was the Promar International Consultancy chosen; and*

(3) *what are the curriculum vitae, qualifications and experience of the lead consultant, Mr James Smallwood?*

Answer

I can confirm that the agreed total cost of the Promar International Consultancy Review of the Isle of Man's meat and dairy industry was £60,000. This figure is inclusive of all expenses, but exclusive of VAT.

Promar International Consultancy were awarded this contract following a tendering exercise, run in accordance with the approved government tendering procedures as set out in the government's financial regulations. Promar were one of five organisations who tendered and made subsequent presentations to representatives of the Department of Agriculture, Fisheries and Forestry and Treasury. It was unanimously agreed that Promar offered the most comprehensive proposal for conducting this review, as well as offering the greatest range of experience, expertise and value for money. They were thereby awarded the contract.

I do not consider it proper to offer James Smallwood's curriculum vitae, which contains personal and private information.

However, his résumé shows that he has extensive knowledge and experience in the agricultural and food sectors, gained through working with and providing advice to leading food companies in the UK, Ireland, the US and New Zealand. In New Zealand he both advised and implemented strategies for business and market development for agri-food organisations as well as being an adviser to the New Zealand Treasury on agri-food matters.

Agriculture – Live Animals – Numbers Exported – Question by Mr Cannan for Written Answer

Question 6. The hon. member for Michael (Mr Cannan) to ask the Minister for Agriculture, Fisheries and Forestry:

In respect of live exports of animals - will you provide details of the number of animals by age and species (beef, dairy, ewes) exported during:

(1) *November 2002;*

(2) *December 2002;*

(3) *January 2003; and*

(4) February 2003?

Answer

The answer to the hon. member's questions is set out in tabular form below:

Details of the live exports of cattle and sheep from October 2002 to February 2003

October 2002		
Species	Age (months)	No. of Animals
Bovine (dairy)	>24	14
Bovine (beef)	6-18	26
Ovine (ewes)	Aged	206
Ovine (rams)	Aged	19

November 2002		
Species	Age (months)	No. of Animals
Bovine (dairy)	>24	37
Bovine (beef)	>24	42
Bovine (beef)	6-18	24
Bovine (beef)	<6	6
Ovine (ewes)	Aged	604

December 2002		
Species	Age (months)	No. of Animals
Bovine (dairy)	>24	13
Bovine (beef)	>24	7
Bovine (beef)	6-18	29
Bovine (beef)	<6	2
Ovine (ewes)	Aged	360

January 2003		
Species	Age (months)	No. of Animals
Ovine (ewes)	Aged	348

February 2003		
Species	Age (months)	No. of Animals
Bovine (dairy)	>24	12
Bovine (beef)	6-18	17
Bovine (beef)	<6	13
Ovine (ewes)	Aged	249

Supplementary Information

- (1) The figures of 49 beef animals, over 24 months of age, and 76 dairy cattle are indications of the trade in quality breeding animals from the Isle of Man into the United Kingdom.
- (2) All livestock for export are subject to inspection and certification by my department's veterinary officers, at the exporters' expense.
- (3) Only those animals that satisfy the criteria, on health status, identification and fitness to travel are certified to be exported.
- (4) The provisions of the Welfare of Livestock During Transport Order 1997 apply and are rigorously enforced.

**Douglas Bus Routes – Price Increases –
Question by Mr Henderson
for Written Answer**

Question 7. The hon. member for Douglas North (Mr Henderson) to ask the Minister for Tourism and Leisure:

Can you indicate for all Douglas bus routes what price increases have just been introduced with a comparison of the old rates?

Answer

For the purposes of calculation of bus fares the Isle of Man is broken down into six 'zones', and each of the 16 main bus route groups (which may operate

either within a single zone or cut across several zones) is broken down into what are known as 'fare stages'. There are usually several individual bus stops within a single 'fare stage'.

For travel within a fare stage, the fare is 50 pence adult single (formerly 45 pence) and 30 pence child single (formerly 25 pence). The cost of the recently introduced adult return is 80 pence (formerly 90 pence) and child return is 50 pence (formerly 50 pence). Many journeys which take place within Douglas would be within a single fare stage, and so would be charged this fare.

Many Douglas residents may wish to purchase a 12 journey ticket (a single zone, namely zone 1, covers all of Douglas/Onchan, and many surrounding areas), for a cost of £5 for adults, and half that for children. This would reduce the cost of a single journey to 41.7 pence for adults and 20.8 pence for children. The cost of 12 journey tickets has not been increased, nor were 1,3,5, and 7-day explorer tickets. My department sells in the region of 70,000 'Manx 12's journey tickets' per year. Currently these tickets are available at The Travel Shop, Bus Garages, Pickwicks, WHSmith, summer MER stations and certain other retail premises. My department would be happy to consider applications from other outlets for the sale of 'Manx 12's journey tickets'.

It is worth noting that whereas return fares were previously calculated by adding together two singles, for a particular journey, these fares are now cheaper than two singles. The effect of this change in policy is that some fares for return journeys have not increased.

The fare stages have also been simplified and reduced in number, the net effect of which is that adjacent areas in the Douglas/Onchan areas may now attract the same fare, whereas before they were different.

Fares in the Douglas area, old and new, are as follows:

Journey	Journey no.	Adult Single		Adult Return	
		Was	Now	Was	Now
Douglas – Anagh Coar	21	65 p	60 p	£1.30	£1.00
Douglas – Pulrose	21	50 p	60 p	£1.00	£1.00
Douglas – Upper Douglas	22, 3, 4, 5, 6	50/65 p	60 p	£1.00/£1.30	£1.00
Douglas – Onchan	23, 24, 25, 26, 27	70 p	80 p	£1.40	£1.40
Douglas – Cooil		65 p	60 p	£1.30	£1.00
Douglas – Braddan	5A, 6, 9, 11	65 p	60 p	£1.30	£1.00
Douglas – Strang	5A, 6, 9, 11	70 p	80 p	£1.40	£1.40
Douglas Saddlestone/Braddan Bridge	5A, 6, 9	65 p	60 p	£1.30	£1.00
Douglas – Farmhill	21	65 p	60 p	£1.30	£1.00
Douglas – Willaston	22	65 p	80 p	£1.30	£1.40
Douglas – Governors Hill Estate	28	65 p	80 p	£1.30	£1.40

Certain fares have been reduced in order to 'normalise' the fares on routes servicing Pulrose, Farmhill and the surrounding area. This is to help curtail an anomaly whereby passengers undertaking shorter journeys were paying a higher fare than those undertaking longer journeys. The reason that this problem arises is due to the routing of the service, which is itself determined by road conditions (one-way systems, access etc). It is acknowledged that this is not an entirely satisfactory solution, but is felt to be the best compromise in the circumstances. However, it is anticipated that fare structures will be reviewed at some time in the future to see if they may be simplified further, and it is hoped that this anomaly can be removed at that stage.

Finally, it is worth noting that fares have not increased for four years and were last subject to increase in 1999, despite significant increases in operating costs including diesel fuel oil during this period. Furthermore, children travelling to and from state schools, full-time students, and senior citizens will continue to travel free.
