

REPORT OF PROCEEDINGS OF TYNWALD COURT (DEBATES AND OTHER MATTERS)

**Douglas, Wednesday, 19th February 2003
at 10.30 a.m.**

Present:

The President of Tynwald (the Hon. N Q Cringle).

In the Council: The Lord Bishop (the Rt Revd Noël Debroy Jones), the Attorney-General (Mr W J H Corlettt QC), Hon. C M Christian, Mr D F K Delaney, Mr D J Gelling CBE, Mr J R Kniveton, Mr E G Lowey, Dr E J Mann and Mr G H Waft, with Mrs M Cullen, Clerk of the Council.

In the Keys: The Speaker (the Hon. J A Brown) (Castletown); Mr D M Anderson (Glenfaba); Hon. A R Bell and Mr L I Singer (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); Hon. R P Braidwood and Mrs B J Cannell (Douglas East); 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, Clerk of Tynwald.

The Lord Bishop took the prayers.

Items Considered

Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2003 – Debate Resumed – Approved	T748
Statement by the President	T751
Old Government Office – Refurbishment – Debate Commenced	T751

Questions were taken at 10.35 a.m. and concluded at 12.53 p.m. They are published separately.

Procedural

The President: Now, hon. members, you will be aware that in fact last evening we were debating item 22 on the order paper. I propose to take item 22 at 2.30 p.m. and then revert to number 6. Does that give our Treasury minister a problem?

Mr Bell: It may do, Mr President. I have quite an important meeting during the lunch hour which may overrun just by a few minutes, and I understand the hon. Mr Attorney, who has been researching an answer to the various points which were raised, has to leave as well.

The President: Thank you, hon. member. Now, bearing in mind, hon. members, that our Treasury minister has a budget meeting at lunchtime and you will be aware that I gave yesterday morning an indication that the Attorney would have leave of absence for government business this afternoon, would you be prepared to sit for 10 minutes and finish this one now? (*It was agreed.*) In that case, hon. members, we will continue with item 22.

Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2003 – Debate Resumed – Approved

Item 22. The Minister for the Treasury to move:

That the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2003 be approved.

The President: I call on Her Majesty's Attorney-General to give the response which was required last evening.

The Attorney-General: Well, thank you, Mr President. Hon. members will, I think, understand that I have not become an expert on data protection overnight but I will, if I may, do my best to explain the background to this order which is being considered by hon. members.

The data protection principles are set out in part 1 of schedule 1 to the Data Protection Act 2002 and are central to the operation of the Act. The first principle is that personal data must be processed fairly and lawfully, and in particular must not be processed unless at least one of the conditions in schedule 2 is met and, in the case of sensitive personal data, at least one of the conditions of schedule 3 is also met. We see, therefore, that sensitive personal data may be processed if, for example, the data subject has given

his explicit consent to the processing, which is paragraph 1 of schedule 3; or if the processing is necessary in order to protect the vital interests of the data subject or another person in a case where consent cannot be given by or on behalf of the data subject, which is paragraph 3; or if the processing is necessary for the administration of justice or if – this might be relevant for hon. members – for the exercise of any functions of Tynwald, the Council or the Keys, for the exercise of any functions conferred on any person by or under any statutory provision, or for the exercise of any functions of the Crown, a department or a statutory board.

So within the general context of schedule 3 there is a power for the Council of Ministers to make an order specifying other circumstances in which the sensitive personal data may be processed. The order which hon. members are considering now is made by virtue of that residual power of the Council of Ministers and replicates with the necessary amendments an order which has been made in the United Kingdom with reference to members of Parliament.

I would suggest that it is important that elected representatives should have the power to process sensitive personal data in order that they may fully discharge their functions and responsibilities in relation to their constituents. The reason non-Tynwald members of statutory boards are not covered by the order is that they have not been elected. It is quite true, and this I think deals with the point raised by Mr Speaker, that the processing or disclosure, as the case may be, may be made by or to an elected representative or a person acting with his authority. This is to enable the elected representative to employ the services of, for example, a secretary or perhaps a spouse to act on his or her behalf. Of course, if it turns out that the agent in question acts outside his authority and/or in breach of the Act the representative may well be politically accountable and perhaps in breach of the Act.

I do entirely agree with hon. members that the wording of the order is difficult. It is based on the comparable UK orders, which in turn have been influenced by EC directives. The purpose of these orders is to ensure that such legislation, both primary and subordinate, is compliant for the purposes of the EC data protection directive. I can assure hon. members that my chambers will give every assistance to them in the interpretation of the orders.

Mr President, it may be that I have not covered all the questions raised by hon. members yesterday evening, but I will be pleased to endeavour to answer any further points which are raised.

The President: Minister, do you care to reply, sir?

Mr Bell: No, sir, just to thank the learned Attorney for the work he has put in, and I hope it helps hon. members.

The President: In that case, hon. members, I put to you the motion printed at 22 on your order paper, that the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2003 be approved. Those in favour please say aye; against, no. The ayes have it. The ayes have it.

And this time, hon. members, we will take the opportunity to have a lunchtime break. Thank you.

The Court adjourned at 1.05 p.m. and resumed at 2.30 p.m.

Statement by the President

The President: Please be seated, hon. members. Now, hon. members, in the final question this morning on the question paper I believe that my frustration was beginning to show, and if I was a little over the top in relation to the hon. member for Rushen, then I am happy to apologise, but there we are.

Old Government Office – Refurbishment – Debate Commenced

Item 6. The Minister for Local Government and the Environment to move:

That Tynwald approves the expenditure of a sum not exceeding £8,640,000 for the refurbishment and redevelopment of old Government Offices.

The President: Hon. members, we revert to our order paper to item 6, and I call on the Minister for Local Government and the Environment.

Mrs Crowe: Thank you, Mr President. On its move to Douglas from Castletown, the legislature was first housed in what subsequently became the old Douglas courthouse in Athol Street before moving to the present Tynwald or Legislative Buildings in the 1880s with accommodation – a very small Clerk of Tynwald’s Office – being provided in old Government Office, known now as the ‘Wedding Cake’. With the construction of what was then known as Central Government Offices in 1975 the opportunity was taken to provide the Clerk of Tynwald’s Office with accommodation on the top floor of that building, which he shared with a number of other users. As far back as 1990 the Department of Highways, Ports and Properties, which was then the responsible department for providing accommodation for the legislature and the Clerk of Tynwald’s Office, was aware of the need to review the accommodation position on the top floor of Central Government Office.

One idea investigated but subsequently rejected because of planning difficulties was the construction of a mansard-roof on top of Central Government Offices so as to provide accommodation for the Clerk and the legislature and, indeed, the Chief Minister’s Office. However, despite periodic discussions with both the

then Clerk of Tynwald and the Chief Secretary, it was only as a result of the completion of the transfer of departments into Murray House and Illiam Dhone House and the centralisation of Treasury within the Central Government Offices and the positive progress made in advancing the Courts of Justice and Registries complex, that in 1993 further attention was given to the accommodation problems on the top floor of government office.

It was determined that what was needed was a long-term accommodation strategy both for the Clerk of Tynwald’s Office and for the legislature – 1993. A proposal was suggested that both the old Government Office and the General Registry building – the latter being vacant once the new Courts of Justice and Registries complex had been completed – should be designated for the legislature and the Clerk of Tynwald’s Office. The parties concerned, that is to say the Department of Highways, Ports and Properties, the Tynwald Management Committee and the House of Keys Consultative Committee, agreed that there was much to commend this proposal. Old Government Office, the Wedding Cake, and the General Registry building were buildings of character and are suitable as the seat of one of the world’s longest established parliamentary systems.

In February 1995 this hon. Court approved a capital scheme for implementing the reorganisation of the top floor of Central Government Offices for the Chief Minister’s Office, the Clerk of Tynwald’s Office and the legislature. This scheme went some way to addressing the deficiencies in the facilities provided for by the Clerk of Tynwald’s Office and the legislature, but not too far. It provided for a larger central reference library and allowed it to expand a little, serving hon. members, the general public and the Clerk of Tynwald’s Office. It provided reading and writing facilities for the hon. members of this Court, with two private interview rooms. It provided a committee room opposite the central reference library, but that is all that it provided. The particular scheme at the time provided the Chief Minister’s Office with secure, self-contained accommodation.

In approving this scheme in 1995, the hon. Court was informed that this was but the first phase in a programme which would include the refurbishment of old Government Office and the existing registry building and this was for use by the legislature and the Clerk of Tynwald’s Office.

Work began in earnest in 1995 in drawing up a brief for the refurbishment of old Government Office and the old registry building. This was done in close consultation with the Tynwald Management Committee, the Clerk of Tynwald’s Office, the Department of Local Government and the Environment, which by this time had taken over responsibilities for providing accommodation from the then Department of Highways, Ports and Properties.

The Department of Local Government and the Environment in their Office of Architecture prepared a comprehensive feasibility study and option appraisal, taking a great deal of officer time. This concluded that

the best option was to refurbish these historical buildings but to link them by constructing an innovative, new infill building on the site of the documents storage annex of the old General Registry. This proposal will provide much improved facilities for the general public, the legislature and the Clerk of Tynwald's Office, and it would allow for the size of this particular chamber to be increased.

Subsequently it was agreed with the Tynwald Management Committee that this option was the preferred option, as it would maximise the use of the location and give government a much enhanced asset. In consequence of this decision, the Department of Local Government and the Environment and the Tynwald Management Committee submitted a successful bid for capital funding as part of the budget process. On 9th May 2000 members of the legislature were invited to a presentation of the infill scheme, and later that month this Court approved a capital sum not exceeding £400,000 for precontract fees.

The President: It would appear, hon. members -

The Court adjourned at 3.10 p.m. due to a power failure.
