



**LEGISLATIVE COUNCIL  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
Y CHOONCEIL SLATTYSSAGH**

**P R O C E E D I N G S**

**D A A L T Y N**

**(HANSARD)**

**Douglas, Tuesday, 24th March 2009**

**Present:****The President of the Council (The Hon. N Q Cringle, OBE)**

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson), The Attorney General (Mr W J H Corlett QC),  
Mr D Butt, Mr D A Callister, Mrs C M Christian, Mr E A Crowe,  
Mr E G Lowey, Mr J R Turner and Mr G H Waft,  
with Mr J King, Clerk of the Council and Mrs M Lambden, Third Clerk of Tynwald.

**Business transacted**

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*The Council sat in private at 11.25 a.m.*

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## Legislative Council

*The Council met at 10.30 a.m.*

[MR PRESIDENT *in the Chair*]

### PRAYERS

*The Lord Bishop*

### Leave of absence granted

**The President:** Good morning, Hon. Members, I have granted leave of absence to the Hon. Member, Mr Downie, who is off the Island on Government business.

## Questions for Oral Answer

### TREASURY

#### Intelligence Ltd Contract with ISD; value for money

1.1. The Hon. Member (Mr Lowey) to ask a representative of the Treasury:

- (a) *What benefits have been produced by the contract between ISD and Intelligence;*
- (b) *what services have been provided by Intelligence;*
- (c) *whether the contract was put out to tender;*
- (d) *who oversees the work on behalf of Treasury; and*
- (e) *whether the Treasury is satisfied that 'value for money' has been achieved for the Manx taxpayer?*

**The President:** Hon. Members, we have a straightforward Order Paper so we will deal first with the Questions and I call the Hon. Member, Mr Lowey.

**Mr Lowey:** Thank you, Mr President. I beg leave to ask the Question standing in my name.

**The President:** I understand that this Answer is in the hands of Mr Crowe, Hon. Member.

**A representative of the Treasury (Mr Crowe):** Yes, thank you Mr President.

Starting with part (a), the Information Systems Division (ISD) uses third party resources to complement its internal resources in some of the following areas: strategic planning; programme and project management; application development; and system support. This has allowed ISD to take a more flexible approach, managing the use of the external resources according to demand and type of need. It also allows contribution from partners with specific experience in areas which ISD is unable to provide.

The contract between Intelligence Ltd and ISD has resulted in the implementation of a programme and project management approach which has been acknowledged through internal and external assessment as appropriate and a model of good practice. The contract with Intelligence Ltd has further resulted in the successful delivery of a number of business projects including the DTI ship register; work permits for DTI; the Department of Transport vehicle registration and licensing system; the bus ticketing system replacement for DTL; vehicle fleet management for the cross-Government fleet management group; VisitIsleofMan website for DTL; and Home Affairs prison information management system.

Current areas of work include the Department of Education's pupil database; DTL's customer relationship management system; and Home Affairs IT strategy.

Turning to part (b), Intelligence Ltd supply services in the areas of IT strategy enabling business change and IT programme and project management.

Considering part (c), the contract resulted from an open procurement exercise, fully complied with financial regulations and with involvement from Internal Audit and the Attorney General's Chambers.

Turning next to part (d), oversight of the contract is maintained at a number of levels. Within ISD, there are formal review meetings on a two-weekly basis. Also, approximately once a month, the Director of ISD has a review with the Managing Director of Intelligence Ltd. In addition, there is a broad review on a six-monthly basis. In addition, individual projects will be reviewed on a regular basis with the project business sponsor or project board.

It is also important to recognise the Internal Audit plan covers areas such as this on a regular basis. A recent review by Internal Audit of ISD's use of consultants concluded that ISD's control framework provided substantial assurance that material risks are adequately managed and controlled. A review by Internal Audit advised the project methodology was similarly reassuring, with the only area identified as requiring significant attention being the need for individual Departments to prioritise project requests in order to assist ISD and its project review board in the allocation and prioritisation of resources.

It should also be noted that the Public Accounts Committee, in its 2008 Annual Report, concluded its review of ISD saying:

*'The Committee acknowledges that in a fast-moving, technology-driven world there will always be some reliance on outside consultants. Nevertheless some effort is needed to develop skills "in house" – not least in order to ensure Government can be an "intelligent customer" when dealing with suppliers. The Committee believes the Government is to be commended for its efforts on this front.'*

Finally, part (e), Treasury is assured that the relationship is focused on delivering value for money for the taxpayer and that there is evidence to demonstrate that.

**The President:** Mr Lowey.

**Mr Lowey:** I thank the Hon. Member for his lengthy reply. I still have not got the... This is only one contract that has been awarded. Just what is the total amount of contracts that have been awarded?

I am surprised, to put it politely, that the ISD buys in virtually every bit of expertise. How many people work in ISD and what do they do?

**The President:** Mr Crowe, have you got the answer with you, sir?

**Mr Crowe:** When you say the total amount of contracts, are you meaning different suppliers?

**Mr Lowey:** Yes, absolutely, this is only –

**Mr Crowe:** Sorry, I do not have that. I can get that information for you, I will supply that separately –

**Mr Lowey:** I appreciate that.

**Mr Crowe:** There are 68 staff in ISD (**Mr Lowey:** 68!), nine involved with business change. They provide day-to-day support of the Government computer system and provide a help desk. They are also responsible for printing services in the Reprographic Division and the central Government reception desk.

The reason they buy in is because they can vary the amount of contracts. If there is a demand, they can raise the supply from the consultant; when the demand falls, it reduces that supply. They do not have permanent people all the time doing this particular project, but they have delivered a lot of projects, as you can see.

**The President:** Mr Turner.

**Mr Turner:** Thank you, Mr President.

I would like, supplementary to that, to ask the Hon. Member what checks are being carried out that these consultants do not over-engineer these projects and allow the prices to escalate out of control. For example, we always seem to go for the solid gold taps when really all we need is the chrome taps. At what cost?

What checks are being made on these costs and surely, with the number of local authorities across the United Kingdom, many of these systems will not be unique; they may need some slight adjustments to our ways of working, but rather than reinventing the wheel, what investigation is done to see what is out there that could be easily adapted, rather than having everything written from scratch – software, that is, sir?

**The President:** Mr Crowe.

**Mr Crowe:** Thank you, Mr President.

Well, I would imagine that the Internal Audit check that the scope of the engineering works, or the computer works are checked by Internal Audit, as they do regular checks anyway. They do have regular meetings of management with the Department and Intelligence, so I am sure that the expertise of the staff in ISD must be checking all this scoping to make sure that we do not buy what we do not need, or what ISD and the Government do not need.

As to the investigation for buying off-the-shelf software, again this is a subject I have not been briefed on, so I can only say I will find out and supply that to Members later.

**Mr Lowey:** Could the Member answering not agree, 68 staff is more than the total combined staff of the Department of Agriculture, a whole Department, a Division of Government which looks after agriculture, fishing and forests?

Would he also not agree that this Division of the Treasury

is acquiring more and more influence in Government? It is now involved in the business development of the Isle of Man Government and really, at a rate, it was said in Tynwald last week, of £700 an hour, that does seem an awful, terrific charge to get a bus ticketing service for the buses of the Isle of Man. Would he not agree with that?

**The President:** Mr Crowe.

**Mr Crowe:** I think we have to accept, in this day and age, the computer almost... I am not saying rules our lives, but we have it as a... Everything is computerised, even down to having online services for Government, where you can pay your income tax, your VAT. There is a big change in processing, so that I am afraid to say technology is the prime subject and we have to manage it and run it as efficiently as we can. As to whether you compare it to the Department of Agriculture, that is not for me to say; that is a subjective decision or opinion.

As to the staff, I understand that there are five or six staff constantly employed on various projects as are required from time to time, so the cost is not something that I could again say... I am sure it is a reasonable charge in today's climate.

**The President:** Mrs Christian.

**Mrs Christian:** Thank you Mr President.

Could the Hon. Member clarify when he says that there are 69 staff, was it? (**Mr Callister:** 68.) – 68 staff. Are those all employed staff and the consultants are on top of that; or does that include the consultancy staff as well? Has the Treasury done a value-for-money exercise in recent times to consider whether they would be better employing staff, rather than using consultancies?

**The President:** Mr Crowe.

**Mr Crowe:** Yes, the 68 staff are the permanent staff. The Intelligence Ltd staff are on top of that, so they are extra to the existing staff.

As to the value for money, I am not sure whether the Value for Money Committee has looked at this, but I know Mr Downie is on the Value for Money Committee. If he had been here and answered this Question, I am sure he could have given you that detail, but I will again check that out, Hon. Member.

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, may I ask the Hon. Member, if he knows, how many people in total then for various consultancies are currently employed by ISD including their permanent staff?

**The President:** Mr Crowe, do you have that figure?

**Mr Crowe:** Sorry Mr President, I do not have that figure. It is how many consultancies other than Intelligence Ltd –

**Mrs Christian:** How many people.

**Mr Crowe:** Oh sorry, how many people. I think Mr Lowey asked for how many other consultants –

**Mr Lowey:** Yes indeed.

**Mr Crowe:** So again, I will find that out.

**The President:** Mr Callister.

**Mr Callister:** I think, Mr President, my question has been answered. I wanted to really know how many people are employed by Intelligence, but I think the answer might be a bit vague. If we are going to get this in some later form, that will be satisfactory.

**The President:** Mr Turner, then, please.

**Mr Turner:** Thank you, Mr President.

Would the Member not agree with me that it is maybe time a full audit was done as to whether the service we currently have from ISD should possibly be completely outsourced, and investigation with other authorities in the UK as to where they obtain their computer services from, to see whether the overall liability to Government for the costs of running this Division could be reduced, possibly by outsourcing it to a commercial body to provide those services?

**The President:** Mr Crowe.

**Mr Crowe:** I think you have to consider the confidentiality and the secrecy aspects, when you are talking about contracting the whole of ISD out to the private sector. I think we need, I am sure, an ISD Department which does handle all the computer systems in the Isle of Man Government and as to whether we should contract it all out, I would be opposed to that idea.

**The President:** Mr Lowey.

**Mr Lowey:** No, I –

**The President:** Alright, Mr Waft, then, please.

**Mr Waft:** There is, as I understand it, through you, Mr President, a table of connectivity within similar jurisdictions with regard to Jersey, Guernsey, Malta and different jurisdictions. I just wondered how we lay in the pecking order of that and how we are progressing?

**The President:** Mr Crowe.

**Mr Crowe:** Sorry, Mr President, could Mr Waft please explain it a little clearer?

**The President:** Well, a table of connectivity is what he called it.

**Mr Crowe:** Yes, I have written it down! (*Laughter*)

**Mr Waft:** A table of connectivity which is customer friendly with regard to all the different forms that have to be filled in and the facilities that the public have and indeed the finance sector has and the banks have and accessibility to government departments, etc: there is a table through which Jersey, Guernsey, Malta and all the other jurisdictions would have the accessibility readily available or not or they are

progressing it. I wonder how the Isle of Man lies with regard to other jurisdictions with similar concerns to our own?

**The President:** Mr Crowe.

**Mr Crowe:** Yes, a very interesting question as to how we stand in the league table. I think it is a very interesting... I am not saying a concept, but customer relations – how the public access government department websites etc, so it is a big subject but I will again circulate that to Members, as to how we stand there.

**The President:** Mr Lowey, are you back again, sir?

**Mr Lowey:** My final question to the Hon. Member is if ISD just thinks it is right that they can contract out most of their work while retaining what I would call the edifice of a Division, surely that is open to the Departments to do exactly the same, that they would opt... They could buy in the expertise that they need for specifics. But do we not find it, now that the Departments have to go to ISD, who then subcontract that work out.

I thought that when the Departments went to ISD they were buying into the expertise of ISD; not then for them to put it out to third parties.

**The President:** Mr Crowe.

**Mr Crowe:** Yes, again an interesting question as to how big ISD should be and whether Departments should contract directly with –

**Mr Lowey:** That is right.

**Mr Crowe:** – consultants, rather than use ISD as the facilitator. It is an interesting idea and I am sure it has been explored by central Government or the Council of Ministers, but it is not something that I can answer today

**Mr Lowey:** I appreciate that.

**The President:** Mr Waft.

**Mr Waft:** Could I just perhaps help the Member. Would he not agree that the introduction of off-the-shelf packages, with regard to any particular area, does run a risk if it is not fully vetted with regard to viruses inculcated into the Government system, which could leave us open to very serious problems?

**The President:** Mr Crowe.

**Mr Crowe:** It depends how much antivirus software there is... antivirus systems there are in any software we buy. Again, it is quite a wide subject, and I am sure that ISD have considered this and the Departments probably look at it each year on their business plan.

**The President:** I think we have given the Question a good airing, but I think Mr Waft's final question raises a thought in my mind that what confidentiality there lies between bus ticketing, children's data and prison services, all in the one house. Never mind.

## TOURISM AND LEISURE

## TT 2009

## Organisation by Platinum Group, DTL and ACU

1.2. The Hon. Member (Mr Lowey) to ask a representative of the Department of Tourism and Leisure:

- (a) What steps the Department has taken to control the expenditure of the 'Platinum Group' who are running the TT races;
- (b) who is responsible for liaison with riders for this year's TT; and
- (c) how responsibility for managing the races is divided between the Department, the ACU and the 'Platinum Group'?

**The President:** Question 2, Hon. Member, Mr Lowey.

**Mr Lowey:** I am grateful to my hon. friend for his reply. I beg leave to ask the Question standing in my name.

**The President:** From this indication, I understand Mr Butt is answering on behalf of the Tourist Department.

**A representative of the Department of Tourism and Leisure (Mr Butt):** Yes, I am sir. Thank you Mr President.

To answer part (a) of the Question, the Platinum Group consists of the Minister of Tourism, who is the Chairman, and the Ministers of Home Affairs and Transport, together with their Chief Executives. This group provides direction at a strategic level on all motorsport events. Responsibility for the operational organisation lies with the TT Festival and Motorsport Arrangements Group, known as TTFMAG, who report direct to the Chief Constable: that is the layer below the Platinum Group.

The Departments of Tourism and Leisure, Transport and Home Affairs, are all represented within the TTFMAG and are responsible for managing and prioritising their own budgets and TT expenditure.

Moving on to part (b) of the Question, the TTFMAG was formed to implement the recommendations of His Worship the Coroner of Inquests, Mr Michael Moyle, following the tragic incident on the 26th Milestone during the 2007 TT, with the emphasis being mainly focused on safety. Responsibility for liaison with the riders for the 2009 TT is part of that group's remit. Specifically within the group, which is led by the Chief Constable, there is a TT and motorsport manager, who is in charge of the day-to-day liaison, with the assistance of two rider liaison officers from outside of the Government. The official organising club, ACU Events Ltd, also play a part in rider liaison issues.

Turning to part (c) of the Question, the ACU which is the governing body of motorcycling sport in the United Kingdom, have issued a licence to the Department of Tourism and Leisure to promote the TT Races. The ACU accredit the course, the officials and arrange for the necessary insurance cover to allow the event to take place.

The Department of Tourism has nominated ACU Events Ltd to organise the actual racing element of the TT in accordance with the racing programme. The Department of Tourism and Leisure is responsible for the course setup in accordance with the requirements of the course permit, for arranging the infrastructure and for co-ordinating other

Government Departments and stakeholders, including the TT Marshals Association, as well as managing all commercial contracts and public relations.

The Platinum Group was established to further enhance the co-ordination of activities relating to the TT and provides the overall strategic direction with accountability remaining ultimately with the Minister for Tourism and Leisure.

The Platinum Group is supported by another group, the Gold Group, which consists of the three relevant Chief Executives together with the Chief Constable. They are responsible for operational management with control of the races via the TTFMAG group which, as previously advised, is led by the Chief Constable. It is the TTFMAG which is responsible on a day-to-day basis for setting objectives, determining priorities, clearing blockages, ensuring political relationships and defining the strategic direction in line with political policy and resource and budgeting.

**The President:** Mr Lowey.

**Mr Lowey:** I thank the Hon. Member for his Question –

**The President:** For his Answer, I think!

**Mr Lowey:** – for the Answer to my Question, sir. Can I just say, from his reply it does seem to me that the Chief Constable is in the driving seat when it comes to the TT Races? This is an individual... not the present individual, but a former Chief Constable refused to allow the Police onto the course and is now, within the space of two years, running the event. Does he think that that is desirable?

Can he also confirm to me that he actually instructs financial spending and if that is the case, was it not he, then, that was responsible for the overspend of nearly £¾ million last year and is still making financial demands on budgets that do not exist; and is that satisfactory?

**The President:** Mr Butt.

**Mr Butt:** Thank you, sir.

The Chief Constable is on two of the main groups, the Gold Group, which is the group below the Platinum Group, and also leading the TTFMAG group. Whether it is a good thing that he is there or not, I think it is an improvement on what used to occur in the past, because Mr Moyle's report on the 26th Milestone did show some really serious concerns regarding safety and it looks as if, from the documents that were produced to me, the Chief Constable's priority is safety and he is leading that on the issues of safety.

As to the financing of it, as I have said in my earlier Answer, as far as I am aware, the responsibility for finance lies with each particular Department and they are responsible for their own budget in relation to the TT.

**The President:** Mr Turner, Hon. Member.

**Mr Turner:** Thank you, Mr President.

Would the Member not agree with me that this, what was an organising or co-ordination committee, has now developed into a full-time Division of Government, not only with its own premises, but with full-time staff seconded permanently into their own separate premises from the Department's – no longer are they meeting as a committee but they are working as a unit?

Also, can the Member confirm that the Isle of Man Government bought, obtained, paid for the licence to run the TT when they took it off the ACU when we were supposed to be organising it in house and now we have handed it back to ACU Events, albeit a different body but still part of the Auto-Cycle Union. Are we getting any of that money back?

**The President:** Mr Butt.

**Mr Butt:** Thank you.

Yes, I agree, when you have an answer which I have just given, there seem to be many layers to organise the TT compared to what used to be there, but if you read Mr Moyle's report, which I did in detail, it did reveal lots of practices whereby things had fallen by the wayside, people did not know who was responsible for what in certain actions, mostly to do with safety and I think these committees are a response to Mr Moyle's report very directly, with their specific and chief objective being safety of the TT, the spectators and the riders.

This is a response to that tragic incident and I think that report of Mr Moyle did show that there were some serious flaws in what had been going on. The TT had managed to survive for 100 years without this sort of structure and it was obvious from that report that some practices had taken place which were not acceptable.

As to the size of the organisation, I think when you look at the answer I have given, the three Ministers are involved with their Chief Executives and then a sub-group which is the TTFMAG, which I know involves senior police officers and others, are there to handle the day-to-day running of the TT, again from their report, with safety being the main objective of it.

Can I just tell you what their objectives and priorities are: safety of spectators; safety of officials; safety of competitors; an environment that is attractive to residents and visitors; that transport flows freely; that opportunities for marketing the Isle of Man are taken; that financial and business opportunities are developed and enhanced; and the promotion of events. Those are their priorities on this particular group.

As to the licence of the ACU and how it was bought and obtained, I am afraid I have no information on that.

**The President:** Mr Lowey.

**Mr Lowey:** Could I ask the question about the liaison manager. The liaison manager was to liaise with the riders. Is he now having to take instructions from the Police and others on other matters and where does the control stop, where he was employed by the DTL and is now taking instructions from third parties? Can he confirm that all is not well with the liaison manager?

**The President:** Mr Butt.

**Mr Butt:** Yes, I think the role of this person is the TT and Motorsport Manager who is a member of the TTFMAG and that is led by the Chief Constable so I am presuming – and I cannot give this as a fact – that the Chief Constable leads that group and this motorsport manager will work to that group under the leadership of the Chief Constable.

**Mr Lowey:** And not to the Department?

**Mr Butt:** That would appear to be from the structure I have before me, Mr President. (*Interjection by Mr Lowey*)

**The President:** Now, hold on, Mr Turner.

**Mr Turner:** Thank you, Mr President.

The Member, in his original Answer, said he had read in detail the report of the Coroner of Inquests. Can he confirm that that report recommended that someone reviews the structure of the organisation and that review was to be carried out by someone with experience of such reporting structures such as a senior police officer and at no time in the Coroner's report did it say they were to get involved in the full-blown organisation of motorsport events?

**The President:** Mr Butt.

**Mr Butt:** Yes, I can confirm that.

Returning to Mr Lowey's question about the responsibility of the motorsport manager, the rider liaison officer, that group is then responsible to the Platinum Group, which are the three Ministers of the three Departments involved so, ultimately, direct leadership of that person will be the Ministers involved.

**The President:** Mr Lowey.

**Mr Lowey:** Would the Member not agree that they are the same people advising themselves?

**The President:** Mr Butt.

**Mr Butt:** I think the Ministers of the three Departments were relying on the expertise and experience of the Chief Constable and his staff and other people involved with the ACU and the ACU Events Committee

**The President:** Okay, I think...

**Mr Lowey:** Could I give one final supplementary.

**The President:** Alright, Mr Lowey.

**Mr Lowey:** Thank you for your forbearance, Mr President, and to my friend, Mr Butt.

What steps are the existing committees planning for the succession of the future organisation of this world-class event? How does it help to get local people involved in the organisation, as was, that built the century of the races – the local participation? How does this new regime fit in with that?

**The President:** Mr Butt.

**Mr Butt:** Thank you, sir.

I know that these committees do liaise with the TT Marshals Association who are crucial to the organisers of the TT. I cannot answer that overall question specifically, but I do hope that the Minister for Tourism and the Departments involved do bear in mind and take into account your question, that the future of the TT is important to us all and the history of it and I do hope that it continues into the future.

**LOCAL GOVERNMENT AND THE ENVIRONMENT**

**Advertising vehicles in countryside  
Prohibition and weaknesses in law**

1.3. The Hon. Member (Mr Lowey) to ask a Member of the Department of Local Government and the Environment:

(a) *Whether the Department is aware of the 'Carnival of Cars, Vans and Flags' displayed at the Blackboards (a well known black spot for accidents) on the main road from Douglas to the Airport;*

(b) *whether this is a blatant attempt to circumvent the prohibition on advertising in the countryside;*

(c) *whether 'advertisements on wheels' have been recognised as a weakness in the law and if so, what steps are being taken by the Department to plug this anomaly and with what degree of urgency; and*

(d) *whether the Department has taken any steps to date to persuade those who have placed this display to act responsibly, and if not, why not?*

**The President:** This time, we will move on and we turn to Question 3 on the Order Paper: again, Mr Lowey, please.

**Mr Lowey:** Yes, again, I would like to thank Mr Butt for his previous answers on behalf of the Department; and I beg leave to ask the Question standing in my name.

**The President:** Mrs Christian, I think it is you to reply to this one.

**A Member of the Department of Local Government and the Environment (Mrs Christian):** Yes, thank you, Mr President.

The Department, in answering part (a) of the Question, is aware of the vehicles and their advertisements in the field to the south-east of the Blackboards on the main road from Douglas to the Airport.

In response to part (b), it *may* be a blatant attempt to circumvent controls of advertising. However, the Department believes there is a breach of the Control of Advertisement Regulations 2005 and there may be a need to obtain planning approval for a change of use of the land in question, since a part of the field is now being used for the display of advertisements rather than for agricultural purposes. However, that is a moot point on which we would need to take some advice.

In answer to the third part of the Question, the Department does have law pertaining to 'advertisements on wheels' as the Hon. Member has called them. The Control of Advertisement Regulations 2005 permit advertisements to be displayed on or in a vehicle provided that the vehicle is normally used as a moving vehicle and is not principally used for the display of advertisements. These matters have to be tested, Mr President.

Finally, the Hon. Member asks whether the Department has taken any steps to date to persuade those who have placed this display to act responsibly and if not, why not? Mr President, the Department has entered this case on the enforcement officer's list of work and it will be dealt with in due course. However, he has to prioritise his work and it has been logged in his work list and he will be taking action on it, but has not yet had the opportunity to do so.

**The President:** Mr Lowey.

**Mr Lowey:** I thank the Hon. Member for her – I will use the word I am thinking anyway – 'cagey' reply.

Could I just say, in answer to part (c), there may be a breach and I used the words 'advertising on wheels', where we have asked this question in the last 12 months, and we had the reply 'the difficulty with wheels'. The flags that are installed in that field at the moment are not on wheels and neither are the billboards on wheels. Therefore, it is a flagrant breach of advertising in the countryside.

If we are being now told by the Member of the Department of Local Government and the Environment, who is charged to protect the environment, that we can only protect the environment when the officer can get round to protecting the environment and it is on a timetable of availability, I think that is not good enough for the people of the Isle of Man who look to the Department to defend the environment. Would she not agree that that is a fair comment?

**The President:** Mrs Christian.

**Mrs Christian:** I would agree that it is a factual comment, Mr President, but I do not think it is a fair comment. We have only one officer. We are taking steps to provide that officer with additional support which requires us to find another post in the Department. We have, hopefully, found another part-time post, taking a job away from somebody else. We, hopefully, have made some resource available. We will be seeking support from the Civil Service Commission for the change in the job descriptions in order to give this one officer additional support.

With regard to all the work that would be involved in the area of policing advertisements, it might be necessary to have an army, Mr President. I am not defending the fact that we are not coping with all the breaches but we do, so far as the public is concerned, try and prioritise what might be regarded as more serious breaches of planning, first.

In the Hon. Member's mind, clearly this particular incident is a matter of concern to him and, as I say, it will be dealt with. The officer who deals with this does approach people who put up banners around the countryside and quite often, they take them down straightaway. But if they do not, we have quite a considerable process to go through in order to apply enforcement action, which all takes that officer time.

We could look around the town of Douglas and look around Departments of Government and see that there are breaches of advertising all the time. but the Department is not manned up to tackle them all. That is not an excuse. I think, sometimes, it is a fact that people do not realise that there should be a planning approval to put up banners. Look at the Villa Marina. It is covered in banners. I rather doubt that anybody has ever applied to put them up, Mr President.

In the past, the balance to be struck between allowing people to do advertising of events in the community or whatever is something that has been permitted. Indeed, the wording is almost permissive in that the Department, 'shall exercise its powers under the regulations only in the interests of amenity and public safety'. The Hon. Member will argue that there may be a public safety issue at the Blackboards. The Department has consulted the Department of Transport on this issue who say that there is not a concern about the Blackboards. We may all have our own interpretation on that. One would assume that going towards Douglas, there is an

issue of safety at the Blackboards, but perhaps, not the same issue coming from Douglas.

However, the Department will be pursuing these people for an application for an advertisement which would be considered under the Regulations as to whether or not there is any danger to safety by the placing of those particular vehicles and flags, and so on, in that situation.

I do have to say, Mr President, that, whilst the Hon. Member does feel that the Department is not doing as much as it can to protect the environment, it would find it very difficult to do more but is taking steps to try and improve the situation in terms of staffing.

**The President:** Mr Callister.

**Mr Callister:** Thank you, Mr President.

Bearing in mind that, and certainly appearing in the Question here, there is a reference to the Blackboards being a well-known black spot for accidents – and I do not think anyone can disagree with that (**Mr Lowey:** Absolutely.) and putting that aside – if this was allowed to go ahead and we had a proliferation of these around the countryside, that would be a whole series of black spots in themselves against the Isle of Man.

Could I ask the Member answering for the Department when this officer gets this to the top of his priorities list, what powers does he have then in order to...? Is there a power to say that these vehicles and banners must be removed?

**The President:** Mrs Christian.

**Mrs Christian:** The process, Mr President, is that he can invite them to remove them under the... but they do not have to do so if they wanted to make an issue of it. If the Department does not get co-operation from the parties concerned, then enforcement action has to be taken, i.e. an enforcement file has to be prepared, an enforcement notice has to be issued, we have to consult with the Attorney General's Chambers about the process, and the matter can go to court. It is quite a long and convoluted process in some cases.

The alternative is and, quite often, they are sometimes... maybe not in the circumstances such as this, but the person who is placing the advertisement can submit a planning application in order to take steps to comply with the regulations and the law.

Normally, if a person puts an application in, enforcement action is suspended until that application is considered, which further holds up the process, because if an application is then granted, then there is no point in pursuing the enforcement issue or there would be, again, a pressure on whether or not to support the enforcement issue, given the pressures on both the Department and the Attorney General's Chambers.

**The President:** Mr Turner, Hon. Member.

**Mr Turner:** Thank you, Mr President.

Would the Member answering on behalf of the Department take back to the Department that there should be some liaison with DAFF when they are drawing up their Countryside Regulations to avoid this? Would the Member not agree that what we are not trying to stop is the small scale advertisements of events and things; but what we are trying to stop is sites being used for blatant commercial advertising

such as this, banners, flags, big billboards being placed in the countryside?

**The President:** Mrs Christian.

**Mrs Christian:** Mr President, I do not know what the Hon. Member means by DAFF and its regulations – perhaps he could clarify that and then I can assist better.

**Mr Turner:** Certainly, when DAFF are drawing up their Countryside Care Scheme on how this land is supposed to be used, this whole purpose of using fields for parking monstrosities and putting up billboards could be part of the exclusions, perhaps.

**Mrs Christian:** Well, that is a matter that the Hon. Member could consult with DAFF on, but I could also point out that these Regulations – the 2005 Regulations – are all part of the Planning Advisory Review (PAS) of planning and we would be grateful if any Members have views on the planning regulations – in particular on the advertising regulations – if they would submit their views to the Department.

I accept the Hon. Member's point that there is a feeling, and I think there is a growing feeling about advertising in general, not least about these boards which are displayed in fields and so on, but if they are not there for a long period of time, there is a difficulty in enforcement.

**The President:** Mr Callister.

**Mr Callister:** Yes, thank you, Mr President.

As far as DAFF is concerned, the Countryside Care Scheme has gone ahead. It is now complete. I will certainly check to see if there is any cover in respect of banners and so on. I suspect there is because it is a very fully detailed Scheme. But the question is, surely this land has a designation as agricultural land, is there not a requirement for a change of use if you are going to use a section of that land for advertising purposes? (*Interjections*)

**Mrs Christian:** Mr President, there is a difficulty here. If you go to the courts, it is a matter of fact and degree. You might say that it is a change of use of a small area of the field, but it may still continue to be grazed by animals. It could be determined by the courts that it is not material. That is one aspect of it which I mentioned earlier, that it is possible that there is a change of use requirement, but on the other hand, it may be deemed by the courts that this is not material.

**The President:** Mr Lowey.

**Mr Lowey:** I am disappointed with the Hon. Member's response, I really am, because I do believe she has given the green light to anybody with a field anywhere on the Island to litter that with motor cars and flags that flap, billboards, and keep them there, and then move them. Her case is weakened because this particular landowner used this particular field in the same year doing the same thing, only with a different triangular thing, left it for a month and then moved it to another part of the Island and displayed it on the TT course. Again, it is not an accident. It is by design and therefore, it is a flagrant disregard for what the use of the countryside is about.

So, there is not much question about it that they are

pushing the boundaries as hard as they can and I do not think it is right.

**The President:** Perhaps, Mr Lowey, we could come to a question too now.

**Mr Lowey:** The question is, is the Department then, in their prioritising of these complaints, prioritising them on the right criteria? Is it first come, first served or is it because of the seriousness of it? And notwithstanding what the Department of Transport says about it not being a black spot, I wonder what their workmen are doing fixing bridges and putting up arrows facing towards Douglas? And if flags flapping in the wind to draw your attention is not distraction – well, it really begins to beggar belief what the Department of Transport is about!

**The President:** Mrs Christian.

**Mrs Christian:** Thank you, Mr President.

First of all, can I say that I have a great deal of sympathy with the view expressed by Mr Lowey. I dislike advertising spreading all over the countryside, but we have to try and operate within the legislation that we have before us. We have to try and deal with over 500 cases a year, which all take a considerable amount of time from the officer that we have.

**Mr Lowey:** I appreciate that.

**Mrs Christian:** Now, the Hon. Member says he appreciates that.

**Mr Lowey:** I do appreciate it.

**Mrs Christian:** It is not coming across, Mr President, in his response to my Answer. I am sorry if he feels that I have given the green light, but I have tried to explain the situation in relation to the Department's position. He may prefer that I did not tell him what the position was, but that is not to say that this is to give the green light. The Department will take steps but the issue is that there are other concerns that have to be enforced, that people have expressed complaints about and where they affect them very considerably so that the officer has to make some sort of priorities in dealing with these issues. When he tackles people who have put up advertisements, if they remove them, that is fine. Hunky dory. Job done. Where they do not choose to move them, then action has to be taken in a formal way.

**The President:** Mr Crowe, Hon. Member.

**Mr Crowe:** Thank you, Mr President.

I do have sympathy with Mrs Christian because having served on the Planning Committee, it is a very difficult problem and one that is highly visible. I do recall though that, in my time there, there was the power to issue enforcement orders and I think presumably that still applies, where there is a breach of planning.

**Mrs Christian:** Indeed, Mr President, I think I have already mentioned that there is an enforcement procedure but that takes time. The officer has to visit the site, prepare

a file to issue the enforcement notice. If the enforcement notice is not complied with, the matter can then go to court. It is a laborious procedure. However, there are penalties at the end of it and, hopefully maybe, the penalties will bring this matter to heel a bit. But I also would invite Members, if they have concerns about the legislation, to express views, in terms of the planning review.

**Mr Lowey:** Could I...?

**The President:** No. Mr Callister.

**Mr Callister:** Thank you, Mr President.

In view of these answers and in view of the parts of the legislation that the Member has been able to read to us, does the Member think now that the law is too weak in this area, basically?

**The President:** Mrs Christian.

**Mrs Christian:** I think, Mr President, that (a) we could do with a strengthened enforcement element in the Department, and (b) there is, perhaps, a requirement to have some clarity on, for example, the change of use of land issues, just to clarify whether that is a major issue that we can pursue. It may be though, that it can only be dealt with on a case by case basis as to whether it is a material change of use. So, there are difficulties, I think, in interpretation where you have words such as 'principally for the display of advertisements', you come into a matter of interpretation of the words, or 'the vehicle is not normally employed except as a moving vehicle'. Well, that is clear enough, I suppose.

**Mr Lowey:** It is sat there.

**Mrs Christian:** I do think that there is an increasing reaction from the public which may lead us to reconsider the legislation.

**The President:** Okay. Now, finally, Mr Lowey, your supplementary.

**Mr Lowey:** My final supplementary. Could I invite the Hon. Member to visit the Lake District and find out from them why they would not tolerate this for one second and why all the difficulties are here on the Isle of Man? It should not be allowed and I urge the Member to get on the boat and to nip up to the Lake District and take her Minister with her. Sorry.

**The President:** Mrs Christian.

**Mrs Christian:** I note the Hon. Member's comments. I have recently been in the Lake District, at the planning authority of the Lake District, and perhaps there is something we can do there about National Park rules, if not a total National Park status.

**Mr Callister:** Hear, hear.

**Mr Lowey:** Let us make the Isle of Man a National Park.

## Orders of the Day

## Gender Recognition Bill Second Reading postponed

### Social Security (Amendment) Bill Third Reading approved

2. Mr Butt to move:

*That the Social Security (Amendment) Bill be now read a third time and do pass.*

**The President:** In that case, Hon. Members, having completed the Questions, let us move on to Item 2 on the Order Paper which is the Social Security (Amendment) Bill and it is down for Third Reading. Mr Butt, over to you, sir.

**Mr Butt:** Thank you, sir.

I would like to thank Members so far for their support with this Bill and its progress through the Council. I did have one query from Mr Lowey, I think it was, about whether there have been any prosecutions under the Schemes designated in this Bill which have been reduced over the last few years. I can inform the Council that, as far as can be ascertained, there is no record of any prosecutions specific to the Schemes listed in this Bill.

Mr President, the purpose of this Bill is to give flexibility to Tynwald to create Social Security schemes which have no direct comparison in the United Kingdom and which have regard to social conditions in the Island. It also provides that any similar future provision will have a firm legal basis. The Bill also provides that those schemes that have been passed by Tynwald, by order, are treated as if they have been passed by primary legislation.

I can assure Members that there are no schemes being added or withdrawn by this Bill and that Tynwald will always approve any scheme being brought forward to add or remove any elements of Social Security legislation.

Mr President, this is a positive move enabling Tynwald to have the flexibility to provide better services for our citizens and to demonstrate that we are innovative in how we creatively provide additional safety nets and continuously strive to improve the lot of those who need Government assistance. I would like to thank my seconder throughout this process, Mr President, and colleagues here for their support with this Bill.

Mr President, I beg to move the Third Reading of the Social Security (Amendment) Bill 2008.

**The President:** Mr Crowe.

**Mr Crowe:** I beg to second and reserve my remarks.

**The President:** Does any Member wish to comment on the Third Reading? In that case, Hon. Members, I will simply put to Council that the Social Security (Amendment) Bill 2008 be read for a third time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

3. Mr Lowey to move:

*That the Gender Recognition Bill be now read a second time.*

**The President:** When we turn to Item 3, Hon. Members, we have the Gender Recognition Bill. I understand that Mr Lowey has asked that this Bill be delayed for at least two weeks – that takes us up to 7th April – to enable consideration to be given to the proposals put forward by the Lord Bishop. I think, separately, the Lord Bishop has indicated that he would wish to move the amendments in a slightly revised order, maybe, from what was on our original Order Paper so, in fact, it gives time all round, Hon. Members. In that case, we will not be dealing with the Gender Recognition Bill today, but it will come before us next again on 7th April.

### Procedural

**The President:** Hon. Members, that gives me a query insofar as our next week's sitting because, on next week's sitting, it does mean that we have run out of legislation again –

**Mr Lowey:** And out of questions.

**The President:** And we have, I think, but the one Question from Mr Turner which, if Mr Turner is happy that that should be carried over to 7th April, I am in your hands, Hon. Members, as to whether you require to put any Questions for 31st March or not. It appears to me... Mr Butt has indicated that he will be off the Island on 31st March – he is off on Government business. So, Hon. Members, it appears, with no legislation before Council, that we may very well not call a sitting.

**Mr Turner:** Mr President, I am happy for my Question to be carried over. It is ongoing. There is no urgency with it.

**Mr Lowey:** I have two Questions that I wish to put down for next week but again, they can wait until the following week, Mr President.

**The President:** I am quite happy to call a sitting. Mr Lowey, I had not appreciated that you had Questions down. I knew Mr Turner's Question was there. Hon. Members, are you agreed that there be no sitting of Legislative Council called for next Tuesday, 31st March? (**Members:** Agreed.)

In that case, Council will now sit in private, Hon. Members. Thank you very much.

*The Council sat in private at 11.25 a.m.*