



**THIRD REPORT OF THE STANDING ORDERS
COMMITTEE OF TYNWALD
FOR THE SESSION 2009 - 2010**

**PETITIONS FOR REDRESS PRESENTED
ON TYNWALD DAY 2010**

THIRD REPORT OF THE STANDING ORDERS COMMITTEE OF TYNWALD FOR THE SESSION 2009-10

The Hon S C Rodan SHK (Garff) (Chairman)

Mr G D Cregeen MHK (Malew and Santon)

Mr R P Braidwood MLC

Mr E G Lowey MLC

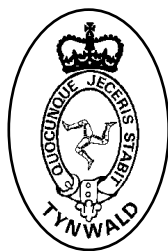
Hon G M Quayle MHK (Middle)

The remit of the Committee is to carry out the duties imposed on it by Tynwald Standing Orders 6.8 and 9.1, and to make recommendations to the Court for the revision of Standing Orders. Tynwald Standing Order 6.8 states that it shall be the duty of the Standing Orders Committee to examine every Petition for Redress to ascertain whether it is in order, and report to Tynwald. Tynwald Standing Order 9.1 states that any Member dissatisfied by a determination of the President may refer the principle of the issue involved to the Standing Orders Committee which shall report thereon to Tynwald.

The powers, privileges and immunities relating to the work of a committee of Tynwald are those conferred by sections 3 and 4 of the Tynwald Proceedings Act 1876, sections 1 to 4 of the Privileges of Tynwald (Publications) Act 1973 and sections 2 to 4 of the Tynwald Proceedings Act 1984.

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All correspondence with regard to this Report should be addressed to the Clerk of Tynwald, Legislative Buildings, Finch Road, Douglas IM1 3PW.



**To the Honourable Noel Q Cringle OBE, President of
Tynwald, and the Honourable Members of the Council and
Keys in Tynwald assembled.**

**THIRD REPORT OF THE
STANDING ORDERS COMMITTEE OF TYNWALD
FOR THE SESSION 2009-10
PETITIONS FOR REDRESS PRESENTED
ON TYNWALD DAY 2010**

1. Three Petitions for Redress were presented at Tynwald assembled at St John's on 5th July 2010. We have considered these in the light of the relevant Standing Orders, which are reproduced for ease of reference at Appendix 1. The Petitions for Redress themselves are reproduced at Appendix 2.
2. Our conclusions in respect of this year's Petitions are set out in the following table:

Petition of	Committee's finding
Charmian Perston	In order.
Marjorie MacMullan & others	In order.
Paul Smith	In order.

3. We draw particular attention to Standing Order 6.11(c), which states that:
"every Petition for Redress must not relate to any specific case which could be or has been adjudicated upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the petition shows that in the particular circumstances it is not

reasonable to expect the petitioner to resort, or to have resorted, to such remedy.”

It is often the case that we have cause to consider the applicability of this Standing Order closely. We judge that the three petitions are in order to be received on the understanding that the remedy sought involves reform generally rather than a resolution of any particular case, although clearly the examples of cases recited in the petitions may be illustrative of a wider problem in each case.

S C Rodan
G D Cregeen
R P Braidwood
E G Lowey
G M Quayle

9th July 2010

Appendix 1

STANDING ORDERS OF TYNWALD COURT
RELEVANT TO PETITIONS FOR REDRESS

VI: PETITIONS AND MEMORIALS

1. General

Petitions and memorials

- 6.1 Every petition or memorial shall be printed or typewritten and shall, save as otherwise provided -
- (1) be headed "In Tynwald" and addressed "To the Honourable Members of Tynwald Court".
 - (2) be in English or, if accompanied by an English translation certified by the petitioner, in Manx;
 - (3) set out the name and address of the petitioner or memorialist;
 - (4) be respectful, decorous and temperate;
 - (5) *[does not apply to Petitions for Redress]*;
 - (6) contain no application for any sum relating to public service, or for compounding any debts due to the Crown, or for the remission of duties payable by any person;
 - (7) contain no erasure or alteration unless the same is specially referred to after the prayer and before any signatures;
 - (8) contain a prayer;
 - (9) be signed by the petitioner or memorialist or an advocate (or, in the case of a corporation aggregate, be executed in any manner authorised by the Companies Acts 1931 to 2004) on the page on which the prayer appears, the prayer being repeated on each page which bears signatures;
(December 2004)
 - (10) *[does not apply to Petitions for Redress]*.

2. Public Petitions

Presentation of public petitions

- 6.2 *[does not apply to Petitions for Redress]*

Public petitions not to be debated

- 6.3 *[does not apply to Petitions for Redress]*

Printing public petitions

6.4 [does not apply to Petitions for Redress]

3. Petitions for Redress

Petition may be presented on Tynwald Day

6.5 A Petition for Redress may be presented at Tynwald only when assembled at St John's.

Mode of presentation

6.6 (1) A Petition for Redress may be presented at the foot of the Hill by the petitioner or a person authorised by the petitioner; such authorisation shall appear in the petition.

A Petition for Redress may also be presented on behalf of a petitioner by a Member.

(2) A petitioner presenting a petition shall approach the Hill by the processional path.

(3) No Petition for Redress may be presented at the foot of the Hill by more than three persons.

Petition to be handed to Governor

6.7 (1) If presented by a petitioner a Petition for Redress shall be handed by the petitioner at the foot of the Hill to the Clerk of Tynwald who shall forthwith deliver the petition to the Governor.

(2) On delivery of the petition to the Governor, the petitioner shall return along the processional path.

(3) If presented by a Member, a Petition for Redress shall be handed forthwith by the Member to the Governor.

Reference to Standing Orders Committee

6.8 (1) The Governor shall, on receipt of a Petition for Redress refer the petition to the Standing Orders Committee.

(2) It shall be the duty of the Standing Orders Committee to examine every Petition for Redress to ascertain whether it is in order, and report to Tynwald.

No reading of or address on petition on Hill

6.9 A Petition for Redress shall not be read, nor shall any Member speak to it in Tynwald, until the Petition for Redress has appeared on the Order Paper.

Requisites of Petitions

6.10 Standing Order 6.1, except paragraphs (5) and (10), shall apply to a petition for redress.

Contents of Petitions

6.11 Every Petition for Redress must -

- (a) relate to a matter of public interest;
- (b) relate to a matter falling within the province of Tynwald;
- (c) not relate to any specific case which could be or has been adjudicated upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the petition shows that in the particular circumstances it is not reasonable to expect the petitioner to resort, or to have resorted, to such remedy;
- (d) contain no reference to any matter the substance of which has been determined by Tynwald in the current Session.

6.12 A Petition for Redress which is in order but which has not been the subject of a resolution for its investigation by a Select Committee of Tynwald within five years following the end of the month in which it has been presented on Tynwald Hill shall be deemed to have lapsed and shall cease to be before the Court (whether or not a general election to the House of Keys shall have taken place within that period).

Appendix 2

IN TYNWALD

To the Honourable Members of Tynwald Court

The Humble Petition of Charmian Perston, Upper Ballayack, Earystane, Colby, Isle of Man, IM9 4HN

Sheweth

That

I underwent a left hemi-thyroidectomy privately at Nobles Hospital on June 19, 2008. My voice was weakened after the surgery, which I expected having had a similar but much short-lived experience 25 years earlier. In September 2008 I raised concerns about my continued lack of voice quality with the operating surgeon. He told me that the right vocal cord was tight, but everything was ok and to trick the man in my head into getting myself better, in addition to other recommendations. *No mention was made of my left vocal cord.* I followed his recommendations faithfully. I also voluntarily resigned my employment as I thought this might help. With no improvement after 15 months, I sought a second opinion in December 2009. Mr. Lancaster, the Ear Nose and Throat consultant at Aintree Hospitals, Liverpool, told me that my vocal cord was paralysed due to nerve damage and that I could have further surgery to remedy the situation.

I went into shock because I had been told that all was fine by the operating surgeon. I raised my concerns with him about the quality of care – both pre and post operative - I received from him and asked if he could explain Mr. Lancaster's findings. I was not satisfied with his response as he said the paralysis must have happened after he saw me in September. As a result of this response, Mr. Lancaster ordered further diagnostic scans to eliminate any potential underlying malignancies which may have caused the nerve damage. Fortunately, these were all clear.

I approached Nobles Hospital to lodge a formal complaint but was told that I had to go the General Medical Council because it was a private contract between me and the surgeon.

I was unhappy about this, but did as advised. Upon explaining my situation to the official at the GMC, he said that I could lodge a complaint, and also suggested that I contact the Care Quality Commission. After going through my circumstances yet again, the Care Quality Commission told me that they had no jurisdiction over the Isle of Man.

At this point I made several desperate telephone calls to the hospital and was finally pointed in the direction of the manager Mrs. Barbara Scott. She told me, after further research, that the situation on the Isle of Man was the same as the other NHS hospitals in mainland UK in that there was no complaint procedure for private patients.

My position is this:

While it may be that procedures here on the island are in keeping with NHS hospitals in the UK, the patients on the Island are at a *significant disadvantage*. Patients wanting private treatment in the UK have the choice of going to private hospitals where there is a complaint procedure if they wish to express/communicate some dissatisfaction. *We do not have that choice here.*

Patients – private or otherwise - on the mainland also have the security of knowing that their quality of care is monitored by the Care Quality Commission, should they choose to raise this issue. *We do not have that opportunity here.*

The General Medical Council is an off-island organisation which may or may not attach the level of importance to quality of care complaints. In fact, *doctors are not obliged to respond to any complaint made this way.*

By referring patients to the GMC, the situation is arguably made worse for the following reasons:

1. The patient does not have much confidence in the level/quality of care here on the island
2. Their already high stress levels are raised even further
3. It is not in the doctors' interest to have cases referred to the GMC when they may well be resolved in a reasonable manner here.

In addition, this may also affect the business community, which the Island courts. Companies bring their employees and may offer them private health insurance. But there is nothing on island to handle any complaints which may arise from private treatment here.

It is not clear why Private Patients on the Isle of Man do not have the same level of opportunities available to the NHS patients here as well as the Private Patients in the UK?

Wherefore I, Charmian Perston seek that the matter of the system of complaints about medical treatment for private patients be further investigated with the aim of establishing a complaint procedure system on the Isle of Man for private patients.

Perston.
5/7/2010

IN TYNWALD

To the Honourable Members of Tynwald Court

The Humble Petition of Marjorie MacMullen, 28 Cannan Court, Kirk Michael,
Yvonne Williams, 23, Cannan Court, Kirk Michael,
Michael Cook and Dorothy Cook both of 26, Cannan Court, Kirk Michael and
June Young 25 Cannan Court, Kirk Michael

WHEREAS

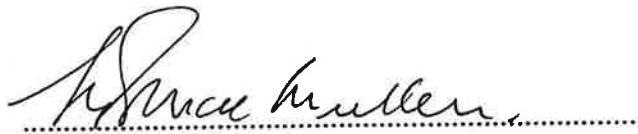
The Petitioners are all owners of freehold bungalows at Cannan Court, Kirk Michael. Certain services are provided by Kirk Michael Community Housing Association, a company limited by guarantee and incorporated in the Isle of Man. However, in recent times a dispute has arisen over the service charge payable by the freeholders and some services have been withdrawn. Despite efforts to communicate no information has been provided and negotiations have broken down.

It appears that there is no remedy at law as existing legislation only covers leasehold property.

Wherefore your Petitioner seeks that Tynwald Court appoints a Select Committee to examine reform of the law relating to service charges with specific reference to freehold property.

Signatures:-

Marjorie MacMullen


.....

Yvonne Williams


.....

Michael Cook


.....

Dorothy Cook


.....

June Young


.....

IN TYNWALD

5th July 2010

To the Honourable Members of Tynwald Court


The Humble Petition of Paul Smith, of 47, Ashbourne Avenue, Douglas, IM2 1NR.

Sheweth that

The post of Legal Aid Certifying Officer is not a Civil Service position but is a Crown Appointment who holds office at the pleasure of the Lieutenant Governor. Therefore, if you make a complaint about the Legal Aid Certifying Officer you have to complain to the Lieutenant Governor. If however your complaint is about the Legal Aid Certifying Officers discretion to issue legal aid certificates in favour of an ex-partner in matters relating to proceedings issued in the Family Division of the High Court the Lieutenant Governor does not have jurisdiction to adjudicate a complaint of this nature. In these circumstances you can only pursue your complaint by applying to the High Court and taking legal advice. Section 6 and 7 of the European Convention of Human Rights states that there has to be in place within any Government body a process by which any complaint against any person working within that public authority is heard along with an appeals process. The cost and risks involved in High Court action will be a deterrent to any complainant of moderate means. As such they are not likely to be able to proceed with a complaint against the Legal Aid Certifying Officer.

Wherefore your Petitioner seeks that

This Honourable Court enquire into the impact on the administration of justice of the lack of a cost free complaints process through the Lieutenant Governor or internal Government procedures in relation to decisions by the Legal Aid Certifying Officer.



.....
Paul Smith

5th July 2010

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July 2010

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