

3.1. Freedom of Information Bill 2014 – Second Reading approved

Mr Robertshaw to move:

That the Freedom of Information Bill 2014 be read a second time.

The Speaker: We turn to Item 3, Bill for Second Reading, the Freedom of Information Bill, and I call on the mover, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

Today's Second Reading of the Freedom of Information Bill is a significant milestone in the Island's ongoing journey towards greater openness and transparency. By introducing this Bill, the Government has been able to deliver on an important commitment given by the Chief Minister when he was elected to the post.

The journey, which has taken the best part of a decade, has culminated in a Bill which the Council of Ministers believes is the right Bill at the right time. The proposals offer a balance between the establishment of a legally enforceable right of access to information and the potential financial implications and impact on day-to-day business that such a right may create, especially in the current economic climate.

The Bill has a number of differences from the one which was introduced into the House of Keys towards the end of the previous administration and which failed to move beyond First Reading before the House was dissolved for the 2011 General Election.

I have circulated a summary of the main differences between the Bills for the information of Hon. Members, differences which are the result of the extra time which a new Council of Ministers facing new challenges has been able to devote to devising a Bill which best suits the needs of the Isle of Man.

At the forefront of Council's thinking when developing the Bill has been the need for a sense of balance; how to enhance the public's right of access to information held by public authorities, whilst at the same time doing so in a responsible manner.

We must bear in mind that the right to information is a significant right but it is not an over-riding right. It is a right that is qualified or circumscribed in various ways; in ways that reflect other countervailing public interests, including the efficient delivery of public administration.

This sense of balance, which is broader than purely financial, is enshrined in the purpose clause of the Bill, which states that its purpose:

'is to enable persons who are resident in the Island to obtain access to information held by public authorities in accordance with the principles that the information should be available to the public to promote the public interest; and exceptions to the right of access are necessary to maintain a balance with rights to privacy, effective government and value for the taxpayer.'

The desire for balance is reflected in the Bill at various points and I want to concentrate my comments on how it impacts upon the scope of the Bill in three important ways.

But before I do this, however, I want to underline that, even with a focus on balance, the Freedom of Information Act will have a profound effect on the Isle of Man. Our residents will have a legal right to information and our public authorities will, unless the Act allows otherwise, have to provide this information. Moreover, although there are provisions to encourage the informal resolution of disputes, where these efforts fail there is a formal review and enforcement structure proposed in the Bill which can result, in certain circumstances, in a public authority being held in contempt of court.

So, the stakes are high. But let me return to how Council has sought to create a balance in the Bill.

First, the legally enforceable right of access under the Bill is available to Isle of Man residents, a proposal which seeks to limit our exposure to the myriad of commercial and other interests which many public authorities are routinely subject to in the UK.

We are already included as a UK public authority in the databases of UK companies who gather and then sell information gleaned from FOI requests. We do not want to be legally obliged to respond to such requests. Also, by limiting the scope of the Act to Isle of Man residents we can focus our limited resources on requests from those who consume and pay for the Government's services and who are directly affected by its decisions.

Second, the Bill proposes that the legally enforceable right of access is available to information created on or after 11th October 2011, the start of the current administration as marked by the election of the Chief Minister. Having such a cut-off has meant that the additional costs associated with reviewing historical information and preparing it for potential release can be minimised.

Third, the Council of Ministers is proposing that the Act's implementation will be phased over two years. The purpose of phased implementation is not to postpone the right of access for the sake of it; rather it is to properly manage the impact of the Act and, crucially, to learn from mistakes and to address teething problems that will inevitably arise. Experience from elsewhere shows that a 'big bang' approach has a profound effect on public administration – and not always for the better.

It is proposed, therefore, that the Act will 'go live' from February 2016 – or very shortly thereafter – for two public authorities: the Cabinet Office and the Department of Environment, Food and Agriculture. These two authorities will provide a pilot for the Act's implementation and for the guidance and training that will sit beneath it. The pilot will provide Government with real time experience of how the Act operates in practice; invaluable in allowing a proper assessment of the Act's impact upon routine business. The over-riding aim is to make the progressive implementation of the Act as trouble free as possible.

It is proposed that, subject to statutory consultation, the Act will then be extended across the public service using the following timetable: January 2017 – other Government Departments, the Information Commissioner, Tynwald and its Branches; June 2017 – Statutory Boards and Offices; and January 2018 – local authorities and companies to the extent that they perform functions or exercise powers conferred on a public authority under an enactment.

It is important to note that the parameters proposed by the Bill do not in any way restrict the access rights which people currently enjoy. For information requests falling outside the parameters above; that is for requests from non-residents, for requests for information pre-dating October 2011 and for requests for information from a Government body not covered by the Act, access will continue to be governed by the existing Code of Practice on Access to Government Information. The 1996 Code will be reviewed to ensure that it is compatible with the Act, but it is important to stress that the Act will not restrict what is currently available to people. Indeed, it serves to enhance the current position.

There has been much debate about the cost of a Freedom of Information Act. Council believes that in setting these parameters some of the earlier fears about the affordability of the regime can be set aside. However, it is true that the new Act will come at a cost and we should be in no doubt about that: we are introducing what is, in effect, a demand led statutory service.

A central advisory unit in the Cabinet Office has been created and once fully resourced it will take the lead on preparing Government for complying with the Act. Guidance will be issued from this unit and training will be facilitated. The unit will also be able to assist other Government bodies with requests and other on-going administration, although decision-making in relation to the release of information in specific cases will have to rest with the individual public authority.

In terms of financing, the Cabinet Office has received funding over the current budget cycle in respect of the central advisory unit. Three additional roles are budgeted for – a project manager, already appointed, and a yet to be appointed legal officer and administrative officer. The central funding will also be used to meet training and development costs.

In addition to the central costs, the Office of the Data Protection Supervisor – which is set to become the Information Commissioner under the Act, with additional roles and responsibilities, will require extra funding, albeit significantly less than to that set out above.

As it is not possible to have FOI experts in every Department, no additional funding has been allocated for the implementation of the Act other than what I have outlined. However, as public authorities will have additional statutory responsibilities under the Act, future expenditure and resource requirements will have to be assessed with this in mind. There is an expectation that Departments, Boards and Offices will be able to cover the costs of complying with the Act from within existing budgets and this is something that will be further assessed during the Act's phased implementation.

There will also be costs for local authorities and for private companies to the extent that information which they hold will fall within the Bill's scope.

A draft version of the Bill was consulted on over a six-week period earlier this year. On behalf of the Council of Ministers, I would like to thank those who took the time to respond to the consultation, although this appreciation is tempered by a certain disappointment that we received only eight responses from individuals. Nevertheless, the Council of Ministers has spent the intervening period considering the responses and further refining the version of the Bill which was consulted upon.

The Bill is made up of eight parts and four schedules. Part 1 is the introduction and contains the key definitions; part 2 details the right of access to information held by public authorities; part 3 sets out absolutely exempt information; part 4 sets out qualified exempt information; part 5 deals with review and enforcement under the Bill; part 6 is about the Information Commissioner and their functions; part 7 is about publication schemes and the code of practice; and part 8 contains supplementary provisions. Further information is contained within the Bill's 4 schedules: schedule 1 lists the public authorities which fall within the scope of the Act; schedule 2 deals with the appointment and the terms of office of the Information Commissioner; schedule 3 sets out the Information Commissioner's powers of entry and inspection; and schedule 4 deals primarily with the amendment and repeal of existing enactments.

Mr Speaker, I have set out the approach that the Council of Ministers has taken whilst progressing this Bill. In closing, I want to emphasise the belief that Freedom of Information is a positive development. The Bill will bring the Isle of Man in line with many jurisdictions across the world and reflects our commitment to openness and transparency. It is a significant step forward.

The Act will create for the first time a legally enforceable right of access to information held by public authorities for the people of our Island. Whilst there will undoubtedly be costs arising from this new right, the Council of Ministers is confident that these costs will be properly managed and that, ultimately, they are outweighed by the benefits that the Act will bring.

Finally, I can advise the House that following the recent presentation, there will be an opportunity for Hon. Members to discuss any aspects of the Bill that they wish to next Wednesday, 10th December in the King Orry room of Government Offices.

Mr Speaker, I move the Freedom of Information Bill 2014 be read for a second time.

The Speaker: Chief Minister.

The Chief Minister: Mr Speaker, I beg to second and reserve my remarks.

The Speaker: The Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I think that, whilst obviously I would have liked to see it go a lot further, I think, to be fair, at least it is a stumble in the right direction, and we should congratulate executive Government because there are so many vested interests over the years. The biggest being that have held back the Manx nation has been the privilege of power to create the abusive

monopolies that have been to the detriment as far as the freedom to flourish for all within our society.

So I think that the Chief Minister should be patted on the back as far as getting it to this level because where in the past, basically when we went into this House, 30 years ago, the institutional corruption was based on the fiefdom-ism of knowing the right people. That was always the Manx National saying – not *traa dy liooar*; it is not what you know, it is who you know.

I believe that this, whilst it is not utopia, it is a step in the right direction and I think that is something that should be recognised because there are going to be some awful vested interests who would not want to see any issue as far as the freedom of information. I only hope that what we will see is that it will be improved.

I would like to ask the Minister, and obviously I do not expect him to answer it here today, but if he is having this presentation and I can remember to put in my diary and I have not got something else on, I would like to... maybe you could answer them in your presentation in the Council of Ministers' suite of offices when we come to it.

Why is a legal officer required by the Cabinet Office in order to provide this service? If a query does not appear to be valid, then why not refer it to the Information Commissioner for guidance? Or is the legal officer there to vet answers? If so, surely it is only about providing factual information. That is the first one.

Who within the Department is responsible for the accuracy of the response – the Minister, the chief executive, the legal officer, the project manager? The reason I raise that issue is because of what we generally get, and we have seen it over the decades here, where we have the dumb blonde routine, and nobody is actually responsible for anything when it comes down to holding the Government to account, generally for multi-million scandals.

What is the recourse if an individual undertakes legal action based upon the Freedom of Information response which is found to be inaccurate? Who issues the code of practice? Should this be included in the schedule to the Act and only amended by Tynwald, as the current plan is that it only gives the power to Council of Ministers?

Do you think that that is the right way forward, that it can be done behind closed doors? it does fly in the face of Freedom of Information. The code of practice will be laid before Tynwald. Does this mean that Tynwald gets to approve it, amend it, the code of practice, or is it going to be a rubber stamp? Is it possible that they could have a full debate on this issue with a free vote, before it comes into use?

Why is the central advisory unit being established now, at least two years before it rolls out to other Departments? Surely this cost can be saved in these difficult financial times.

Are the roles being created for a legal officer/project manager/administration officer permanent or are they fixed term for two years, in order that we do not end up getting somebody stuck into a job that we then cannot get out of?

Can the mover, if he has answers to these now, by all means answer them now, Vainstyr Loayreyder, but the requirement that it needs to be an Isle of Man resident can be overcome by a determined individual or organisations. Does the mover of this Bill think that this will only delay the process and increase the costs that similar authorities capable of requiring additional information is requested, why are we so concerned about people having to be on the Island? There might be a good reason why they are not on the Island.

The other is that there is an indication as far as the fee that may be paid by various stages. Can the Shirveishagh just explain what sort of fees there are going to be in order to make sure that we have the situation, Vainstyr Loayreyder, where the rich get justice and the poor get the law, especially with the cutbacks in legal aid? How is he going to address the issue of the situation of fees? Allowing for the fact that the existing code does not have a fee, does he feel that this new proposal for fees will have a big difference?

There is a highly formalised method of requesting information suggested in the Bill which may deter requests. Is there a reason why we need to have such a highly formalise method of requesting information?

The practical refusal of information under this legislation – the issues of saying that it is vexatious, frivolous, misconceived or lacking in substance – there is not meaning given in the interpretations of how you define that, so that could come down to executive of whoever is in the inner circle deciding to use the royal prerogative of mates, as far as that issue is concerned.

Can the Shirveishagh explain why there is an exemption for information on health or safety? Admittedly, if it is an individual's health or safety, I would take it that this legislation will not affect individual people but it will affect the broader concept as far as that is concerned.

The exemption from duty to comply with certain notices – the Chief Minister, the Ard-shirveishagh is the arbitrator. Could there be a concern of political interference as far as that is concerned, allowing for the fact that now that the Chief Minister and the Treasury Minister are the real Members of the Post Office, that we might as well... we could save money by their fees, as far as that is concerned, and their 10% increase?

So why are we saying that the Chief Minister should be the arbitrator? Is there a reason why you feel that that should be the case, when executive Government is almost certainly going to be the people that people are going to be wanting information on? It certainly will not be the Liberal Vannin Party, and we cannot rely on the Treasury Minister to actually put out factual information when it comes to the Liberal Vannin Party anyway!

So there are other issues like the operational code, at the same time as the Freedom of Information legislation, after February 2016, will have to be compliant, but it seems that it is confusing, clumsy, and costly. Is there a reason why we are looking for saving money? We want to save money, but what we want is the most efficient way of saving money, even when it comes to Freedom of Information, without affecting the principle of the fact that the public is –

Mr Robertshaw: Mr Speaker, may I intervene for a moment, please, just to – ?

The Speaker: It is up to the Hon. Member, to give way.

Mr Robertshaw: May I intervene? Just can you explain that last question again? I was not absolutely clear about that.

Mr Henderson: Give him a copy of your questions, Peter.

Mr Karran: Well, Vainstyr Loayreyder, yes, I am happy to give a copy of the questions, and maybe some of them that he could bring out...

The issue was that the operational code comes in at the same time as the Freedom of Information legislation, after February 2016, but the concern is that it is confusing, cumbersome and costly. Has he looked at that issue, as far as saving money is concerned? Because we are all wanting to support the Council of Ministers when it comes to saving money in these difficult times.

Rather than the public interest, which is the cornerstone of Freedom of Information, within the legislation there are the potential financial implications and impact of day-to-day business of Government, which creates such a right to cease as far as the dominance as far as this legislation is concerned. Who is actually going to make that role, as far as making sure where there are things that are seen as being too expensive for you to try and get that information.

The implementation of the proposals that are in this piece of legislation, with the culture of Government, to truly embrace Freedom of Information, how does he believe that that would actually happen when we have seen with questions just by my hon. colleague, where we find that people are getting paid double amounts of money for doing the same project, as far as the Freedom of Information is concerned?

Vainstyr Loayreyder, I have at least another six or eight others. I think the most important thing – I see the House getting a bit tired, I will give the Hon. Member this hit list –

Mr Henderson: Circulate it!

Mr Karran: But what I would like to say is that we have seen the horror stories – we saw the horror story of the Report of the Select Committee of Tynwald on the Petition for Redress of Mr and Mrs Spadoni, the actions of the Marine Administration, where Mr and Mrs Spadoni... If they had had early access to Document 437, the case would not have dragged on for over 10 years and caused a horror situation, not just for Mr and Mrs Spadoni, but also for the family, creating a tragedy of cover-up and a disgraceful situation.

I believe that hopefully, with the likes of these proposals, we will maybe stop those sorts of situations where an abuse of power by the executive and the cosy arrangement – we will stop that happening again.

But one thing I am concerned about with the Freedom of Information Bill is that it does not go further. I think he needs to make sure that we are not just once again window dressing, like we have seen when it comes to financial regulations, when it comes to so many things with executive Government. I believe that one of the problems that he needs to look at, as the independent Member for East Douglas, who came in here with a different agenda from what he is more likely having to do now –

The Speaker: Stick to the point, Hon. Member, please. *(Interjections)*

Mr Karran: – is the fact that there seems to be far too much control, as far as executive function over the Freedom of Information Bill that we have in front of us. Is he satisfied, if he was not sitting in a ministerial seat, with what is being proposed today? Allowing for the fact that it is a move in the right direction, I support that, as far as this piece of legislation is concerned.

Mr Shimmin: That is him supporting the Bill!

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

My enquiry will be a little bit simpler perhaps to deal with than the previous speaker's.

I am just wondering on the impact assessment, on page... oh, I have not got the number – clauses 81 and 82. It talks about the increase in expenditure and it also says the Cabinet Office has made available money for the central advisory and implementation unit in the Cabinet Office. But I just wonder how they have managed to do that. Where has that money come from?

Also, it is said here that the Data Protection Supervisor will resume new functions and responsibilities. There will also be resource implications there, in terms of human resource training costs for their staff. I just wonder, two questions there: has the Minister any idea of what the actual annual costs are likely to be in terms of setting everything up, and also whether or not the Data Protection Supervisor is to be given additional powers on top of his additional responsibilities, bearing in mind that he cited more than once to Hon. Members that he would like, or the office would like more teeth in legislative terms?

And finally, in terms of the charging of fees again, surely the Member must have an idea what sort of charges they are looking at, because indeed, will they not already have draft regulations ready to go with this, bearing in mind it will be a two-year introduction, starting with just two Departments?

So it is just that the reason always given in years gone by in previous debates that I have been involved with, about not doing this, was the cost. The cost was going to be prohibitive, and therefore

we would not have freedom of access to information. So if the Minister can give us an idea of how they battled with that, how they have brought the cost down, what the costs are likely to be, I would appreciate it, please.

The Speaker: Hon. Member, Mr Cretney.

Mr Cretney: Yes, at Second Reading stage, I want to stand and endorse the principle of the Freedom of Information legislation before us today. I have long been a supporter. Indeed, I think the progress which has been made over the last few years to get to this stage is significant, because I once chaired a committee years ago, and at that stage... I had come to Tynwald, I chaired a committee which resulted in the code of practice which we have today, and at that stage the world was going to... It was one of these things where the world was going to fall in if we... There was *much* concern about Freedom of Information, but actually in a progressive democracy, it is a *good* thing. It is something which should be embraced and I just wish to thank the executive of the Council of Ministers for bringing this before us today.

Yes, it is going to take time till we actually get to its full introduction, but I welcome the movement today which is taking place, and I think it can only be a good thing for the future.

Mr Watterson: Hear, hear.

The Speaker: Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

Just to put on the record, I think the issue to do with the Spadonis and the fishing boat incident was the UK Administration (**Several Members:** Hear, hear.) because there was plenty on the record which actually proves that.

With reference to their Freedom of Information Act before us here today, I welcome the introduction of this – not before time, I suppose – but there are concerns that I do have. Maybe the long delay coming in. Obviously, too we are only able to examine when it comes into being the first is the Cabinet Office and the Department of Agriculture, Forestry and Fisheries. I wonder whether the Minister could give us an explanation on how he is going to protect or not interfere with the Data Protection Act, which will be outsourced or ringfenced. How will his Department or he himself as the Minister for that Department currently, or the Chief Minister, protect it from being influenced on those decisions?

Also can I ask, there is the code of practice which Members can use, and I have used a few times. It says here it is going to be revised before the Act comes into force. I would love to find out what the revisions are going to be.

One of the other issues I do have to do was where it says that the two public bodies would be the Cabinet Office and also DEFA.

With reference to that, with the information which is current, we are not going to be able to examine anything prior to a certain date on that. How does the Minister of this particular Department then protects all that information that is, or should be, in the public domain into the Public Records Office? Can I seek an assurance from the Minister then that all the information, when it comes in, goes into the Public Records Office, it is not interfered with, altered in any way, shape or form?

As I say I find the interpretation of ‘public authorities’ is a bit loose, when it is ‘persons, bodies, public owned companies, holders of any office’.

Also, I am disappointed... some time ago, I did put in some correspondence regarding why did we not include trade unions and also political parties? Because if we are all in it together, why can we not examine what they do? As a member of a trade union still, paying fees, I would not mind that at all.

The other reference I do have is that, like my hon. colleague from Onchan, Mr Karran there, there are frivolous applications, vexatious, malicious, mischievous, lacking in substance: who actually makes those decisions? I do not expect you to respond today.

Can I say to you, I am just wondering why the Minister is having his... when it is a parliamentary issue, having it in the Chief Minister's suite. That is the wrong word; I cannot remember what the word is.

Mr Cretney: It is called the King Orry Room.

Mr Quirk: Why is it not in the Barrool Suite, because that is where the political debate should take place?

Also issue regarding fees to be charged and set down. What are the fees? Are they going to be set reasonable? Somebody is going to make that particular decision to say this is a long issue, his is a complicated issue. Also Mr Karran says, if it is something to do with law, and if the answers are coming back, I presume that is why we are having a legal officer in that particular role there. Can it be used in a court of law or not?

There are some other minor issues that I do have, but indirectly, I do welcome that. I do not welcome spinning it out to 2018, for everybody to be in there, especially local authorities. They are not as white as white they can be.

Mr Watterson: They are not ready either.

Mr Quirk: No, none of them are, as far as I am concerned!

There are issues to be examined specifically in local authorities there, and if we are waiting to 2018 to have something done, it is not right. It should be a lot quicker. It comes in in 2017, then follows on, the Minister has just said, to June 2017 on other issues. There should be others included in here. It is a way forward.

I wonder, and it is a concern to me when we only got 12 responses from that. (**Several Members:** Eight.) You said 12 –

The Speaker: No talking across the floor, please.

Mr Quirk: I am not talking across the floor, Mr Speaker. I am talking *to* the floor, I think.

A Member: Yes. You might as well be.

The Speaker: Whoever was talking across the floor.

Mr Quirk: I am keeping my head down, Mr Speaker.

But I think the Minister did say there were 12 responses there. That is poor, when you consider this was supposed to be a major issue. I wonder whether the issues are still there.

The Speaker: Hon. Member for Onchan, Mr Hall.

Mr Hall: Thank you, Mr Speaker.

Whilst I welcome the principles of this Bill, I do have one concern. I have not quite been able to ascertain exactly what it says, and that concern, Mr Speaker, comes from a possible imperfection, I suppose, if I can call it that. That is to do with when we look at the public interest, in terms of the balance.

In assessing the public interest, the balance appears, as far as I can interpret it, to be in favour of a concealment. The right to disclose is to apply only if the public interest in disclosure outweighs the

public interest in maintaining the exemption. I do not think we start with a terrifically strong value, I suppose, in law that gives the right of public access to Government information, subject to only the necessary exemptions.

I think that in the Bill, it is vitally important that there is a clear presumption in favour of public disclosure to remove any possible defects that favour concealment. Of course, ultimately, it is not for the Government or a Minister to decide, but it is the courts that will decide the meaning of the Bill in the form that gets enacted. By having a public right of access and then qualifying that with exemptions and limitations, without a clear presumption in favour of public access unless there is very good reason not to disclose that information, the Bill as far as I can see would stand defective.

So is the balance of this Bill tilted in favour of public disclosure? That, I suppose, could be done by placing the duty to provide advice and assistance in public authorities and I think that would encourage a change in the Civil Service and ministerial culture to promote open Government and discourage unnecessary secrecy.

Mr Speaker, I turn to the Human Rights Act. From my understanding of that, that gives primacy to the right of freedom of communication to the public, and therefore the Bill needs to be modelled... It is important that it is modelled in this way and provides safeguards of the public right of access.

But what happens Mr Speaker, when the balances are exactly even? It does not appear, as far as I can see, to be clear, when this equality happens. It seems to me that it will be very difficult. In fact, it will be very difficult to discern in a subject such as this, than in an ordinary case which comes before the courts, because the issues are, in my view, often intangible and extremely difficult to weigh.

With any system, Mr Speaker, of the burden of proof, you know where you are going to actually start, and then that makes it much easier for a proper and fair decision to be made. Unless we get this right – unless the Bill gets this element right – then there would not appear to be much prospect in being an open culture of freedom of information, which I think ultimately is what this Bill is about. That is my concern and caution, on which I would seek some clarity before moving forwards, Mr Speaker.

Thank you.

The Speaker: I call on the Minister to reply, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr Speaker.

Can I thank the Chief Minister for seconding the Second Reading this afternoon. And thank you to all the Members who very kindly contributed to this Second Reading.

I am also grateful to Mr Karran for providing me with all his questions, and if I omit any or answer them in an inadequate way this afternoon, then I am sure I will make amends later.

First of all, turning to Mr Karran, if I may, and the legal officer, it is very important that in itself, the Freedom of Information Act is very simple, very straightforward. It becomes complex in certain areas, particularly with regard to qualified exemptions. There is going to be a learning curve for us all: the Cabinet Office and DEFA when we first start it up; then as it spreads out like ripples in a pond to all the other Departments and local authorities. There is an awful lot for us to learn.

I suppose you could parallel it a little bit to health and safety law coming in, where we had to start thinking differently. In fact, what the Freedom of Information Act will do is it will ask us all to think differently, quite fundamentally, and there is a need at the centre of for us to have a degree of legal advice to help us steer our way through the process. It is a learning curve for everybody.

The second question that Mr Karran raised, the person responsible: of course, the Minister is the Department, so the Minister in each Department will ultimately be responsible for the accuracy of the replies that come out from his or her Department.

Yes, the code of practice will be laid before, but it will be laid before and there will be opportunity for Members to consider that in detail and respond to it. This is a process that we are finding our way into, and it is as much a case of presenting a Bill, but also developing its interpretation and getting feedback. So it is iterative in that respect.

There is a need to form a central office. It is there for a number of years; it is funded for a number of years, and obviously it will have to be reviewed, both the cost and the staffing, once the whole process is established, it has stretched out and has got as far as local authorities. Then if it is not needed in its present form, of course, it will be reviewed at that stage.

The interesting point made by Mr Karran, Member for Onchan, about okay, could you sneak around it, I think he meant, from the point of view of non-Isle of Man residents? The short answer is, I suppose, yes. But we get then into the issue of potential vexatious applications. If you have got a repetitive process, *ad nauseam*, then there would be a need to take a view on that.

A number of Hon. Members, including my hon. friend, fellow Member for Douglas East and someone else, raised the issue of fees. Those fees are not yet fixed, but specifically focusing on the point that Mr Karran made, obviously it is very important that the level of fees would in no way inhibit the poorest in our community making a reasonable application. That goes without saying. The fees have yet to be fixed. I think that was a question raised.

The point was made about the formal method of request. I am not sure I agree with that. I think it is important to get the requests in through a gateway in a specific set format, and I think that will help the applicant seeking information, just as much as it will help the recipient of the request.

I am not quite sure I understood the question about exemption with health and safety. The exemption there for health and safety is where there is a potential impact on someone's health or safety or wellbeing, which should really speak for itself.

There was concern expressed about the right of the Chief Minister to apply, as it were, an executive exemption, and fear. Well, to my knowledge – and I *may* need to correct myself on this, but I doubt it, later on – almost all Freedom of Information Acts have this ultimate executive exemption, but clearly it must not be used except in exceptional circumstances. That goes without saying, otherwise it brings the whole system down around its ears.

I did actually stop the Member at this stage and ask him what he meant here, so I am not sure I have got my answer absolutely correct. The Freedom of Information Act will come in and will sit alongside the access code for information which currently exists. That must go on, because the Freedom of Information Act is coming in progressively. It is not coming in in a big bang, so the access code for information will sit alongside it and continue to be the source of information for the general public for all other areas and Departments that are not yet covered by it and progressively it will be replaced, and then become redundant.

There is no doubt about it, and I would emphasise to Hon. Members the importance of this – this will change the complete culture and mindset of Government. Make no mistake about that; and I do ask Members to really focus on this. At the presentation I made in the Barrool Suite, I was a little bit concerned that we only had an hour. I felt I rushed it a bit, because we had to get back to another place, I think. That is why I have asked for a second opportunity to go through this Bill with Hon. Members, because I would like as many Members as possible to really grasp the implications of what we are doing here. They are profound and serious.

I think there was a point made again that we are not far enough. I do not agree with that. It goes far enough, it really does.

And there is no executive control here. There was a suspicion amongst one or two of the contributors that there was executive control over the Freedom of Information Act. No, there is not. Remember, the appeal processes are all in place and ultimately it can go to court and it can be a contempt of court. So we have all got to be very careful how we apply our thinking to the whole process.

Turning to Mrs Cannell, she asked me to focus on clauses 81 and 82, the impact assessment. The money is in the Budget for three years; I doubt that we will use it all. I think we have worked very, very hard to try to get, we believe, this Act in effectively and efficiently, but in terms of cost as limited as it can possibly be. Some jurisdictions have not only been bowled over by the big bang and the instant impact on all the Departments, but also it hit their budgets in a pretty heavy way, and everybody knows right now the constraints that we are under.

I have not got the specific figure for the Data Protection Supervisor's costs when he converts to the Freedom of Information Commissioner, but I will do my best to give an outline to the Hon. Member as soon as I can.

I thank Mr Cretney for his endorsement. I appreciate that very much.

Turning to Mr Quirk, Member for Onchan, he raised the point about protecting from improper interference. I think I have already touched upon that. That will not happen. That *must* not happen.

I think he talked about information prior to 2011. Of course, that information is still available to everybody under the access code to information. (*Interjection by Mr Quirk*) It does not include unions, nor will it. It is not appropriate that it should.

It is appropriate that the Council of Ministers should bring the Bill forward and now it is a matter for Hon. Members to take through this Hon. House.

I do not agree with Mr Quirk's assessment that we are spinning it out for two years. I did try to touch upon that in my opening remarks. We have got to deal with this progressively, manage it carefully and give Departments progressively the opportunity to become more and more acquainted with it and get more advice from those who have already absorbed the process.

I again reiterate the point. To try to do it as a big bang would be pretty calamitous, I would argue.

Turning to Mr Hall, again a Member for Onchan, he expressed concern about the balance of public interest, and where that sits, and where it sits if it is equal. My instinct on this one – and I might be corrected later and I will come back on it – is that if there is an equal element of balance, then it would probably go in favour of the applicant, rather than anything else. But this balance of interest is a very important issue. There is no doubt about it but it is the interpretation of that process which will be inspected at any time by the Information Commissioner, if it is referred to him. Then we will get guidance coming back from that to adjust and trim our interpretation. So it is terribly important that we enter into this process responsibly because what we are doing, what we are saying and the outcomes will be reviewed and considered carefully.

I think that covers everything. Let me just check these last notes on Mr Hall...

The qualified extension area is something that I like to go through in detail when we meet on 10th December, if that is possible, because qualified exemption is quite a complex area, and I think we could all do with considering it in more depth.

I think with that, Mr Speaker, I have gone through all the questions as best I can, and I look forward to meeting Members on 10th December.

The Speaker: Hon. Members, the motion before the House is that the Freedom of Information Bill be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.