

**5. Standing Orders Committee of Tynwald –
First Report for the Session 2019-20: Evolving Practice –
Report received and recommendations approved**

The Chairman of the Standing Orders Committee of Tynwald (Mr Speaker) to move:

That the Standing Orders Committee of Tynwald First Report for the Session 2019-20: Evolving Practice [PP No 2020/0068] be received and the following recommendations be approved:

Recommendation 1

That the list in Standing Order 2.2(4) be replaced with the following list:

- '(a) statements by the President;*
- (b) signing of Bills noted on the Order Paper or, with the consent of the Court, circulated on the instructions of the President;*
- (c) announcement to Tynwald of Royal Assent to Acts;*
- (d) papers presented to Tynwald by command of the Governor;*
- (d1) laying of other papers;*
- (e) Questions;*
- (f) statements by Members ~~acting in a governmental capacity;~~*
- (g) motions for the levying of taxes;*
- (h) motions for the voting of money;*
- (i) motions relating to reports presented to Tynwald by the Council of Ministers, Departments, Statutory Boards, Commissions or committees;*
- (j) motions relating to reports of committees of Tynwald;*
- ~~(k) motions relating to reports of Commissions appointed by the Governor;~~*
- (l) other motions;*
- (l1) general debates;*
- (m) public petitions;*
- (n) private petitions;*
- (o) other private business.'*

Recommendation 2

That Standing Orders 3.11(6)–(8) be removed and Standing Order 3.11(9) be replaced with the words: 'Where any report or other document is before the Court on a motion for approval the motion itself shall indicate the particular items for which approval is being sought'.

Recommendation 3

That Standing Order 3.23(7) be amended to read as follows:

'Unless it is of such a nature that its publication would be inconsistent with the public interest, no document may be referred to until a copy has been distributed to all Members by the Clerk of Tynwald with the consent of the President.'

Recommendation 4

That Standing Order 5.1(2) be amended to read as follows:

The President shall not be eligible for membership of any committee of the Court, except the Standing Orders Committee, the Tynwald Ceremony Arrangements Committee (of which the President is chairman ex officio) and the Tynwald Management Committee, ~~the Tynwald Honours Committee and the Tynwald Members' Pension Scheme Management Committee.~~

Recommendation 5

*That Standing Orders be amended to insert in III: General Rules of Procedure a new section:
4A General Debates*

3.20B (1) *Two Members (a Proposer and Seconder) may put down a matter for General Debate.*

(2) *No motion or amendment shall be moved in General Debate, with the exception of a motion for Closure of Debate (see paragraph 9 below), and no resolution shall be agreed to at the end of any such General Debate.*

(3) *Subject to paragraphs (4) and (5), a Member may speak only once in a General Debate.*

(4) *The Proposer may reply to the General Debate.*

(5) *A Member who has spoken in a General Debate may speak again, with the leave of the President, to explain some material point but, in doing so, may not introduce any new matter.*

(6) *No General Debate shall anticipate a matter already tabled for consideration of Tynwald, except by leave of Tynwald supported by a quorum of each Branch.*

(7) *No General Debate shall be permitted at any time on a matter tabled for consideration by a Branch, except by leave of Tynwald supported by a quorum of each Branch.*

(8) *The subject matter of a General Debate shall not refer to any matter which is sub judice, subject to the discretion of the President. In the course of a General Debate no reference shall be made to a matter which is sub judice, subject to the discretion of the President.*

(9) *During a General Debate, a motion for Closure of Debate may be made: "That the General Debate be now concluded", no amendment or debate being allowed.*

(10) *Unless it appears to the President that such motion is an abuse of the rules of Tynwald or an infringement of the rights of the minority, it shall be put forthwith.*

(11) *If such motion is decided in the affirmative by a quorum of each Branch, the President shall call upon the mover of the General Debate to reply, after which the General Debate shall end.*

The President: We turn now to Item 5 on the Order Paper and I call on the Chairman of the Standing Orders Committee of Tynwald, Mr Speaker, to move the motion in his name.

The Chairman of the Standing Orders Committee of Tynwald (Mr Speaker): Gura mie eu, Eaghtyrane.

The Standing Orders Committee of Tynwald has reported on various proposed changes to the practices and procedures of Tynwald Court and we recommend a series of refinements to Standing Orders covering the order of business, the form of motions to agree reports, the circulation of documents referred to in debate, minor editorial changes and, most significantly, the introduction of general debates.

Standing Order 2.2(4) sets out the order of business for monthly sittings of Tynwald. The prescribed order is followed in broad terms but the list in the Standing Order contains certain anomalies and we recommend certain changes to correct these, which are set out in the Report.

Standing Orders 3.11(6) to (8) make provision for the interpretation of certain terms used in motions on reports – that a report be received or accepted, or a recommendation be approved. Standing Order 3.11(6) also disallows a motion that a report be received if the report contains conclusions or recommendations. These were inserted in December 2004 after the then President had referred to our predecessors the question of whether a vote to receive a report should be taken to imply any degree of approval of its contents. The intention was to reduce uncertainty by providing for three scenarios: that Tynwald might approve the whole report, including all its content and any recommendations; that Tynwald might approve only the recommendations; or that Tynwald might not approve of anything in the report but might still wish to receive it. These Standing Orders have not had the intended effect. In particular, the notion that Tynwald could receive a report as a form of neutral acknowledgement without any sense of approbation has not caught on; Tynwald has, in fact, even declined to receive a report. The words added to the Standing Orders in 2004 have placed constraints on the drafting of motions and reports which have yielded no clear benefit. We therefore propose, as part of recommendation 2 below, that Standing Orders 3.11(6) to (8) be removed.

1285 Standing Order 3.11(9) requires that where any report or other document is before Tynwald
on a motion for its recommendations or conclusions to be approved, the motion itself shall set
out each item of such recommendations or conclusions. It was added in 2006 with the intention
of formalising a practice which had, in any case, begun to be followed. The Standing Order has
had unforeseen consequences. A report that includes a great many conclusions or
1290 recommendations – often the case with complicated issues – can unbalance the Order Paper. It
has encouraged workarounds which are technically within the rules, such as having
recommendations in an annex to a report. These make nonsense of the rule. Modern technology
makes the provision unnecessary, since Members and the public can easily see the
recommendations on the Tynwald website and follow the process of debate without having to
1295 print reams of the report. The change proposed in the Report will not affect the general use of
conclusions or recommendations in reports and the use of them within a motion, which remains
an effective drafting style that enables a clear understanding of what Tynwald is being asked to
decide. We propose that Standing Order 3.11(9) be replaced with the words ‘Where any report
or other document is before the Court on a motion for approval the motion itself shall dictate
1300 the particular items for which approval is being sought.’ In our view, this is enough to maintain
the clarity of decision making in a flexible way that can respond to the demands of the particular
case. I emphasise that the change will not affect the ability of Members to amend motions in
order to limit agreement to proposals in a document before Tynwald.

Standing Order 3.23(7) provides that no document may be referred to until a copy has been
1305 distributed to all Members. This is another relic of the past and was backed up in 2006 by a
practice direction stating that papers for distribution should be in the hands of the Clerk of
Tynwald by 5 p.m. the day before the item they relate to is to be debated. The primary purpose
of that practice direction was to allow time for the President to examine any papers in order to
ensure that they would actually support debate and that they were not an abuse of the Court’s
1310 parliamentary privilege by allowing unsubstantiated material into the public domain. Since 2006
the practice of circulating papers in hard copy has all but disappeared. The formal circulation of
papers for sittings by the Clerk of Tynwald is done electronically, and of course now all Members
have at their disposal the means of circulating a document electronically to all other Members.
This is now often done long after the 5 p.m. deadline referred to in the practice direction, which
1315 now belongs to a time before the prevailing use of electronic means of communication. We
propose in recommendation 3 to update the provisions relating to circulated documents so that
the distribution of documents pursuant to Standing Order 3.23(7) should be done through the
Clerk or his staff with the consent of the President, without the previous time limit, but does act
still as a quality check for parliamentary privilege.

1320 Standing Order 5.1(2) sets out the principle that the President may not serve on committees,
but lists a series of exceptions and the list needs to be updated in the light of the various
changes that have been made to the committee structure.

1325 Finally, we come to general debates. In the course of a continuing professional development
meeting for Members the question of general debates arose. These are debates without a
resolution, in the same way as adjournment debates in the House of Commons at Westminster.
There is widespread agreement among Members that it would be to the advantage of Tynwald if
certain matters could be debated without the distractions of the wording of a motion that
indicated any fixed decision. So, recommendation 5 proposes a new opportunity for Members to
1330 put down matters for general debate. Recommendation 1 includes provision for debates in the
list setting out the order of business.

With that, Mr President, I beg to move the motion standing in my name.

The President: Hon. Member, Mr Cregeen.

Mr Cregeen: Thank you, Mr President.

1335 I beg to second and reserve my remarks.

The President: Hon. Member of Council, Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President.

1340 I would like to ask the hon. mover if the handling of secondary legislation is still under consideration by the Committee.

Thank you.

The President: Hon. Member of Council, Miss August-Hanson.

1345 **Miss August-Hanson:** Thank you, Mr President.

It is a great relief to see that general debate ... I have been quite vocal for some time, as a journalist ... Asking a question that does not lead is quite important in bringing about a solid range of answers.

1350 Can I ask the hon. mover: is it currently against our Standing Orders in any way for us to have had general debate anyway? I have not seen anything that prevents it, so could he explain in some level of detail how these changes actually allow for general debate, compared to what we already have?

The President: I call on the mover to reply. Mr Speaker.

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The Chairman: Thank you very much, Mr President.

1360 Two points there. Firstly, in terms of secondary legislation, yes, that is still very much under consideration and it is at an advanced stage; and in fact, were it not for coronavirus we might have been ready to bring it to Hon. Members. It is, however, a more substantial change and a more substantial consideration for Members about how we do things, and we have decided at this point that it would not be good just to bounce that in to Members by email without some in-depth explanation as to the thinking behind that. So, consideration is quite advanced on that but not yet complete and it may be that it will have to wait for a time beyond coronavirus because, whilst it is an important part, it is not an urgent part of our parliamentary proceedings and we would like to make sure that everyone fully is on the same page before we move forward with that.

1375 With regard to the general debate, there is no current provision for a general debate. So, in terms of what would be required, we would still require a motion at the moment and that motion would lead to a vote. Even if it was that such and such a topic be noted, there would need to be a discussion and there would need to be a vote. The changes that we have on the Order Paper here today mean that a vote would no longer be required on the issue; the debate would just conclude and we would move to next business. So there is no vote, and that should then reduce the need for amendments because it is just a matter of discussing it, and that would be the big change. Even a motion that said that something be noted could then be amended and it leads to that sort of debate, which is not what was sought after if we are looking for a general debate; this is something else.

I notice that Miss August-Hanson is seeking to interject.

The President: Mr Speaker, at your discretion.

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The Chairman: Miss August-Hanson, I am happy to take the interjection.

Miss August-Hanson: Thank you, Mr Speaker.

1385 I understand that it makes those changes. We have always been allowed to have a general debate, though, on a subject matter, as opposed to it leading one way or the other and prompting the level of argument. Can I just make that clear?

1390 **The Speaker:** Yes, the point is made. I think the change is that we now have no need for amendments and no ability to vote on the back of a general debate, and that would be the big difference with this.

I will leave it at that, Mr President. I beg to move.

The President: Thank you, Hon. Members.

1395 The question is at Item 5 on your Order Paper. It is assumed the Court is in agreement; if any Member wishes to register dissent, please do so now. No dissent having been indicated, the motion is carried.