

## Order of the Day

### 1. Manx Care Bill 2020 – Second Reading approved

Mrs Sharpe to move:

*That the Manx Care Bill 2020 be read a second time.*

**The President:** Hon. Members, our business this morning starts with the Manx Care Bill, as amended in the Keys, for Second Reading.

10 I call on the mover. Hon. Member, Mrs Sharpe, please.

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

15 Hon. Members, in my First Reading speech, on 10th November, I set out the context and background to the Bill and gave an overview of its content. In moving the Second Reading of the Manx Care Bill, I wish to reinforce why the Manx Care Bill is considered to be an appropriate and timely piece of legislation, as well as answer the questions that were posed to me during the First Reading.

20 The main purpose of the Manx Care Bill is to establish the structure for a separate arm's-length body, called Manx Care, that will be responsible for the provision of health and social care services as mandated by the Department of Health and Social Care, and to set the framework for a clear governance structure between the two organisations. This was recommended by Sir Jonathan Michael in his report into health and social care in the Isle of Man.

A number of questions were raised by Hon. Members in the First Reading, to which I promised feedback, and I will aim to provide that clarification now.

25 The Hon. Member Mrs Poole-Wilson asked about the due diligence process for the existing contracts that are to be novated to Manx Care, and I am pleased to provide an update on that. The current situation with existing contracts has occurred over many years, and, to date, has not received the considerable attention required to help address it. In recognition of this, a plan to ensure future compliance is under development, alongside a new commissioning strategy for health and social care services which is being drafted jointly by the Department, the Transformation Programme and Manx Care. Full compliance is expected to take a number of years, rather than weeks. Although the due diligence process cannot be completed in time for the establishment of Manx Care, action is already being taken by the Department, with the support of the Transformation team, to properly plan and resource this exercise to rectify the situation.

35 The Hon. Member also asked for reassurance that the amendment made in another place to the duty of candour in clause 11 of the Bill would be robust enough to apply to Manx Care, as well as to the Department of Health and Social Care. As Hon. Members will have seen, a further amendment is to be moved by the learned Attorney in relation to this clause, and the opportunity has been taken, when drafting the wording, to put this beyond doubt.

40 The Hon. Member, together with Miss August-Hanson, asked that consideration be given to actively encouraging an annual debate on Manx Care's annual report. As stated by the Minister for Health and Social Care, Mr Ashford, in another place, this would be supported by the Department, and so I am grateful to the learned Attorney, who will be proposing an amendment today to allow for this.

45 The Hon. Member Mr Henderson raised the issue around line management, accountability of consultants and how this is being tackled in legislation, and I know that he has been discussing this further with officers from the Attorney General's Chambers and the Health and Care

50 Transformation team. To be clear, the concerns raised are not proposed to be addressed directly  
or explicitly within the Manx Care Bill or the subsequent National Health and Social Care Bill. The  
Transformation team is aware of the Hon. Member's concerns and would like to reassure the  
Hon. Member that a number of different projects across the Transformation Programme will  
come together to address the underlying issues. This work will be supported by a specific project  
that has been set up to focus especially on workforce and culture as part of the Transformation  
55 Programme.

In addition, there are elements of the Manx Care Bill, and the separation and additional  
governance that it brings about, which are designed to result in stronger corporate, financial,  
clinical and care governance, and greater accountability within Manx Care and the Department.  
The clinical and care governance framework, which is a requirement under clause 22 of the  
60 Manx Care Bill, will have the effect of setting professional standards and practice on the Island,  
which all staff involved in the delivery of clinical services and care would be required to follow. It  
is part of the system-wide governance proposals being worked on by the Transformation team  
and the Department, and very much part of the future governance model for both the  
Department and Manx Care. This is consistent with the position in England, which relies  
65 substantively on appropriate and effective leadership to manage the challenges raised.

Under this model, consultant medical staff will be in a line management structure, ultimately  
accountable to the Manx Care board. The Manx Care board will be accountable, through the  
Department, to the Council of Ministers and Tynwald for delivering care in line with Government  
policy as set out in the mandate. The Manx Care board will be able to give direction to  
70 consultant medical staff through its internal line management structures, and if they do not  
comply there will be all the normal disciplinary processes available within the framework of Isle  
of Man employment law and the Government's human resource policies.

Another aspect of the structure in England is the ability for the Care Quality Commission  
(CQC) to investigate the leadership of service providers. One of the questions asked as part of  
75 any CQC inspection is: are the services well led? The Manx Care Bill brings in the requirement for  
services to be inspected regularly by an external inspector, and the Transformation Programme  
is engaging with the CQC and other independent inspectors to enable such investigations to be  
carried out on the Island, in accordance with Sir Jonathan's related recommendation.

I would like to thank all Hon. Members, both in another place and this Hon. Chamber, for  
80 their close scrutiny of the Bill.

With that, Mr President, I beg to move that the Manx Care Bill 2020 be read for a second  
time.

**The President:** Mr Henderson.

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**Mr Henderson:** I beg to second, sir, and reserve my remarks.

**The President:** Mrs Poole-Wilson.

90 **Mrs Poole-Wilson:** Thank you, Mr President.

I thank the hon. mover for her answers to the questions raised at Third Reading; it is very  
much appreciated. I just have a couple of further questions at this Second Reading stage, if I  
may.

95 The first is in relation to Schedule 2 to the Bill, which covers the mandate for Manx Care. The  
Bill quite rightly provides that the mandate can specify the objectives for Manx Care and the  
services for Manx Care for the financial year that is relevant, but it also references subsequent  
financial years. The mandate must also specify the amount of funding that the Department will  
allocate to Manx Care for the provision of services. I wondered whether the hon. mover could  
just provide some reassurance that where the mandate is going to specify a multi-year approach

100 to provision of services, the Department will also provide a multi-year funding stream. Otherwise, it seems to me there is a danger that the two could disconnect, perhaps unhelpfully.

My second question is something that I mentioned to the hon. mover earlier this morning, and is just a point for clarity, really. Schedule 1 to the Bill talks in detail about the board and how it will operate for Manx Care, and it emphasises that in the membership of the board there should be more non-executive than executive members, and that for the board to be quorate there should be more non-executive members present than executive – and I think these are quite right. I just had a point of clarity. I can see that in Schedule 1 the Bill provides that one of the non-executive members should be the vice-chair, but when you look back at the Statutory Boards Act, which this Bill interplays with, I just wonder whether, for clarity, it is worth being express that in Schedule 2.1 of the Statutory Boards Act it would be important to make clear that the board shall elect one of its non-executive number to be vice-chair. That is not quite clear, and my worry would be that if there was a conflict, would that be helpful? I wanted that raising at this point, just for clarity, in case that does need to be amended.

Thank you, Mr President.

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**The President:** Thank you. I call on Mrs Sharpe to reply, please.

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

120 With regard to the Hon. Member Mrs Poole Wilson's two queries, taking the second one first, I would like to thank the Hon. Member for her query. There are provisions within the Bill which negate certain aspects of the Statutory Boards Act 1987 and therefore give the Manx Care board a greater degree of freedom than other Statutory Boards. However, I will check with the Department with regard to executive and non-executive chairs and I will hopefully be able to reassure the Hon. Member next week on that.

125 With regard to her first query, from what I understand, the DHSC would also specify a multi-year approach, in tandem with Manx Care, but again I hope to bring greater assurance on that next week. Funding is linked back to services, so funding must therefore be for multi-year, but I will bring further clarity on that at the next sitting.

Thank you, Mr President.

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**The President:** Thank you. Hon. Members, I put the question that the Manx Care Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### **Manx Care Bill 2020 – Clauses considered**

**The President:** We turn now to the clauses stage, Mrs Sharpe.

135 **Mrs Sharpe:** Thank you, Mr President. With your permission, I wish to move clauses 1 to 3 together.

**The President:** Is that agreed? (**Members:** Agreed.) Thank you.

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**Mrs Sharpe:** Thank you. Clause 1 gives the short title for the resulting Act.

Clause 2 deals with the Bill's commencement, with the Bill's provisions to be brought into operation by the Department in the usual way, by Appointed Day Order.

To assist with the reading and interpretation of the Bill, clause 3 defines a number of the terms used and signposts the location of several other defined terms.

145 Mr President, I beg to move that clauses 1, 2 and 3 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

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**The President:** I put the question that clauses 1, 2 and 3 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 4.

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**Mrs Sharpe:** Clause 4 requires the Department of Health and Social Care to ensure that there is a comprehensive health and social care service in the Island.

It also confirms that the Department will continue to have the duties conferred on it by the relevant primary legislation, as listed within this clause and associated secondary legislation. The list includes all legislation under which the Department has a function to provide or arrange health or social care services.

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Subsection (3) of the clause further provides that the Department remains responsible to Tynwald for the provision of the Island's comprehensive health and social care service.

Mr President, I beg to move that clause 4 do stand part of the Bill.

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**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** I beg to second.

**The President:** The learned Attorney.

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**The Attorney General:** Thank you, Mr President.

I beg to move an amendment to clause 4 which inserts two words that were missing from the reference to the National Health and Care Service Act 2016. Accordingly, I beg to move the amendment standing in my name:

*Amendment to clause 4*

*1. Page 14, line 29 for 'National Health Service Act 2016' substitute 'National Health and Care Service Act 2016'.*

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**The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

I beg to second.

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**The President:** I put the amendment. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 5.

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

Clause 5 details the duties of the Department in respect of continuous improvement in the outcomes of services, particularly in regard to effectiveness, safety and quality, and this clause requires the Department to have regard to principles of generally accepted evidence-based practice in doing so.

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Mr President, I beg to move that clause 5 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord Brennan:** Thank you, Mr President.

195 I beg to second.

**The President:** I put clause 5. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

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

Clause 6 imposes a duty on the Department to promote autonomy in any provider of health or social care services and any other person or body that is engaged in exercising functions in relation to the health and social care service in the Island. This was a key component of Sir Jonathan Michael's recommendation that there should be an independent arm's-length body set up to provide separation between the provision of services and the strategic direction setting.

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Mr President, I beg to move that clause 6 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 6. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 7.

**Mrs Sharpe:** In exercising its functions, the Department is given a duty in clause 7 to obtain advice from appropriately qualified persons who have a broad range of relevant professional expertise.

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I beg to move that clause 7 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you. I beg to second.

**The President:** I put clause 7. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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**The President:** Clause 8.

**Mrs Sharpe:** Clause 8 places a duty on the Department to involve and consult the public in planning new services or making changes that might impact on existing services. This is to bring in strengthened patient and service-user representation in policy-making and strategic planning in relation to service provision for the Island.

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I beg to move that clause 8 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you. I beg to second.

**The President:** I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

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

Clause 9 imposes a duty on the Department to promote the education and training of those employed in health or social care services.

I beg to move that clause 9 do stand part of the Bill.

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**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you. I beg to second.

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**The President:** I put clause 9. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

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**Mrs Sharpe:** Clause 10 places a duty on the Department to reduce inequalities between service users. This requires the Department to have regard to reducing inequalities with respect to access to health services and social care services and to the outcomes achieved for service users by the provision of these services.

I beg to move that clause 10 do stand part of the Bill.

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**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

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**The President:** I put clause 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

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

Clause 11 places a duty of candour on the Department, which requires it to be open and transparent in the exercise of its functions.

The clause includes a requirement for the Department to make regulations setting out the information to be given in relation to an incident that has occurred which affects a service user's safety. The draft duty of candour regulations are being worked on by the Transformation team currently, with the intention that they will be in place when Manx Care goes live.

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Provision has also been made so that wherever an apology, offer of additional treatment or other redress is offered to a patient or service user as part of complying with the duty of candour, this will not of itself amount to an admission of negligence or a breach of a statutory duty.

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As Hon. Members will have seen under the Bill, a similar duty of candour applies to Manx Care, and I will move that provision when we come to clause 21.

Mr President, I beg to move that clause 11 do stand part of the Bill.

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**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brenna:** Thank you, sir.

I beg to second.

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**The President:** The learned Attorney.

**The Attorney General:** Thank you, Mr President.

300 If I could just, firstly, point out that the amendment tabled, and which has been circulated to Members ... I need to ask if I could amend that. It starts off by reading 'Page 16, line 35 for subsections (2) and (3) substitute'; it should also read 'and (4)' – so, it should be '(2), (3) and (4)', if I may.

**The President:** Is that noted and agreed, Hon. Members? (**Members:** Agreed.) Thank you.

**The Attorney General:** Thank you, Mr President.

305 With reference to the amendment to clause 11, if I could explain that the purpose of this is to extend the legal *vires* within the Bill relating to the regulations for the duty of candour. These regulations will set out the procedure to be followed and the information to be provided in cases where incidents such as breaches of safety standards or harm to individuals have occurred in the course of health and social care services being provided.

310 While drafting the regulations required under clause 11, it has become apparent that, in order for the regulations to include everything planned as part of the policy development, an amendment would be required to clause 11 to extend the legal *vires* within the Manx Care Bill. This amendment has come about because the new duties in the Bill were drafted based on English legislation, whereas the duty of candour regulations are being based on the Scottish  
315 legislation, which is a better fit and includes a number of additions considered desirable for the Island. The *vires* as currently drafted require regulations to be made relating to provision of information to a service user and outline the procedure to be followed when providing information. However, the power to make the regulations does not allow for an apology to be  
320 given to a service user, a review into the circumstances of the incident to be undertaken, training and support to be given to staff involved in the incident, or for Manx Care to report to the Department on its performance in relation to the duty of candour. The amendment tabled will extend the legal *vires* to allow for these specific steps and requirements for implementation of the duty of candour for our service providers.

325 As Mrs Sharpe has mentioned in moving the clause, in drafting this amendment consideration has been given, I can tell Hon. Members, to Mrs Poole-Wilson's comments to ensure that it clearly applies to all relevant service providers and not just the Department of Health and Social Care.

Mr President, I now beg to move the amendment standing in my name:

*Amendment to clause 11*

*2. Page 16, line 32 for clause 11 substitute—*

*‘11 Candour*

*(1) A relevant service provider must, in the exercise of their functions, act in an open and transparent way (“duty of candour”).*

*(2) The Department must, by regulations, make provision as to the information to be provided in a case where an incident of a specified description, or a prescribed degree of severity, affecting a service user’s safety occurs in the course of the service user being provided with a health service or a social care service.*

*Tynwald procedure —approval required.*

*(3) Regulations may set out a “duty of candour procedure” and may in particular make provision about —*

*(a) the notification to be given by the relevant service provider;*

*(b) the apology to be provided by the relevant service provider to a service user or relevant person;*

*(c) the actions to be taken by the relevant service provider to offer and arrange a meeting with a service user or relevant person, including asking them whether they wish to receive an account of the incident referred to in subsection (2) or information about further steps taken;*

*(d) the actions which must be taken at, and following, such a meeting;*

*(e) an account of the incident referred to in subsection (2);*

*(f) information about further steps taken and any other information to be provided by the responsible person;*

*(g) the form and manner in which information must be provided;*

*(h) the circumstances in which the relevant service provider is to make available, or provide information about, support to persons affected by the incident;*

*(i) the keeping of information by the relevant service provider;*

*(j) steps to be taken by the relevant service provider —*

*(i) to review the circumstances leading to the incident; and*

*(ii) following such a review, even if the service user or relevant person has advised that they do not wish to receive an account of the incident as mentioned in subsection (2) or information about further steps taken;*

*(l) training, supervision and support to be provided by a relevant service provider to any person carrying out any part of the procedure on behalf of the relevant service provider;*

*(m) a relevant person.*

*(4) Regulations may provide for —*

*(a) the making of a report on the duty of candour which must not mention the name of any individual or contain any information which, in the relevant service provider’s opinion, is likely to identify any individual; and*

*(b) the timing of such a report.*

*(5) Regulations may, in respect of a report referred to in subsection (4), provide that it must include —*

*(a) information about the number and nature of incidents to which the duty has applied;*

*(b) an assessment of the extent to which the relevant service provider carried out the duty;*

*(c) information about the relevant service provider’s policies and procedures in relation to the duty, including information about—*

*(i) procedures for identifying and reporting incidents; and*

*(ii) support available to staff and to persons affected by incidents,*

*(d) information about any changes to the relevant service provider’s policies and procedures as a result of incidents to which the duty has applied; and*

*(e) such other information as the relevant service provider thinks fit.*

*(6) The relevant service provider must publish a report referred to in subsection (4) in such manner as the relevant service provider thinks appropriate.*

*(7) "Apology" means a statement of sorrow or regret in respect of an incident referred to in subsection (2) and an apology or other step taken in accordance with the duty of candour does not of itself amount to an admission of negligence or a breach of a statutory duty.*

*(8) "Relevant service provider" has the same meaning as in paragraph 7(11) of Schedule 1.'*

**The President:** Mrs Poole-Wilson.

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**Mrs Poole-Wilson:** Thank you, Mr President.

I beg to second.

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**The President:** Hon. Members, I put the amendment as moved by the learned Attorney. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 11 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

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**Mrs Sharpe:** Thank you, Mr President. With your permission, I wish to take clause 12 and Schedule 1 together.

**The President:** Is that agreed? (**Members:** Agreed.) Thank you.

345

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

Clause 12 provides that Manx Care is established as a Statutory Board, and it gives effect to Schedule 1. Schedule 1 is divided into three Parts.

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Part 1 deals with the membership of Manx Care. It sets out the number of executive and non-executive members, how they are appointed, the length of tenure for non-executive members, what constitutes a quorum in meetings of the board and how voting shall be taken on decisions by the board.

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Part 2 deals with Manx Care staff. It provides that Manx Care staff may consist of transferred employees of the Public Services Commission, other staff who have been transferred to Manx Care under a staff transfer scheme, new employees of the Public Services Commission and any direct appointees.

Part 3 deals with inspections of Manx Care, and of service providers that have entered into arrangements with Manx Care, by independent inspectors who will inspect and report on the provision of services against quality indicators and agreed requirements.

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The Department is required, each year, to draw up a schedule specifying the services that will be inspected during the year and a list of services which the Department plans to arrange inspections of in each of the next two years. The Department is also required to ensure that every service provided under the mandate is subject to an inspection at least once every five years. Provisions are included for determining the date when scheduled inspections will take place and also for the Department to be able to arrange unscheduled inspections of services, as long as these do not unreasonably impede upon the service itself. Manx Care may arrange inspections in addition to those arranged by the Department, and in all cases the service provider must assist inspectors and provide any necessary information.

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Inspectors are required to provide reports on the inspections carried out and are also required to report other matters of concern, that have come to their attention during an inspection, which they believe might benefit from further inspection. The inspectors' reports are required to be published, with the exception that information may be withheld where publication would jeopardise the safety of any person or data protection and confidentiality principles.

375 Where a report shows that Manx Care is failing or has failed, the Department has the power to issue directions under clause 30. Furthermore, if the Department is made aware by inspectors of an issue that requires further inspection, it must publish its plan for dealing with that issue.

Mr President, I beg to move that clause 12 and Schedule 1 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

380 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

**The Attorney General:** Mr President, I have an amendment to Schedule 1.

385 **The President:** Schedule 1, Hon. Attorney, yes.

**The Attorney General:** Thank you, Mr President.

As you will see from the amendments which have been laid before you, I seek to move an amendment to Schedule 1.

390 In paragraph 3(1) of the Schedule there is a specific provision to disapply section 3 of the Statutory Boards Act 1987. The intended effect is to replace the usual rules for tenure of office for members of Statutory Boards with those set out in Schedule 1. The first two of the amendments which I propose to move to Schedule 1, combined, put beyond doubt that the provision to disapply section 3 of the Statutory Boards Act 1987 is relevant to all members of  
395 Manx Care and not only non-executive members, as might have been interpreted by the provision being placed within a paragraph that specifically related to non-executive members.

The remaining amendment to the Schedule clarifies that the Manx Care board will have the ability to hold board meetings virtually in future, which seems prudent given the COVID-19 situation.

400 Mr President, I beg to move the amendments to Schedule 1 standing in my name:

*Amendments to Schedule 1*

4. Page 30, after line 13 insert —

*'(11) Section 3 of the Statutory Boards Act 1987 does not apply to members of Manx Care.*

5. Page 30, line 24 omit *'(and accordingly section 3 of the Statutory Boards Act 1987 does not apply)'*.

6. Page 31, after line 29 insert —

*'(4) A meeting may be physical or virtual.'*

**The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

405 I beg to second these amendments and also note that if there is any further clarification required between the interplay of Schedule 1 and the Statutory Boards Act, that may be brought forward at Third Reading.

**The President:** Thank you.

410 I first put the amendment to Schedule 1. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put that clause 12 and Schedule 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

415 **Mrs Sharpe:** Thank you, Mr President.

Clause 13 gives Manx Care its function, which is to arrange for the services specified in the mandate to be provided on behalf of the Department. In doing so, it must operate within the mandate, applicable regulations and directions that are given to it.

420 This clause also clarifies that the Department retains accountability for all its functions, even if these are being discharged by Manx Care.

Following an amendment in another place, this clause includes provision that existing arrangements between the Department and any partners who work to provide the Island's health and social care services are transferred automatically to Manx Care.

I beg to move that clause 13 do stand part of the Bill.

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**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

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**The President:** I put clause 13. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

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**Mrs Sharpe:** Thank you, Mr President. With your permission, sir, I propose to take clause 14 and Schedule 2 together.

**The President:** Is that agreed? (**Members:** Agreed.) Thank you.

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

The purpose of clause 14 is to require a mandate to be published each year, which is to be set by the Department after consultation with Manx Care. This mandate will set out what services should be provided to address the needs of the population, to what standard and the amount of funding available to provide those services. The Department is required to monitor Manx Care's performance against the requirements of the mandate. The Department is also required to lay the mandate before Tynwald, ahead of the start of each financial year.

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This mandate must include the matters specified in Schedule 2, which is essentially a list of the information that must be included within the mandate as a minimum for that financial year and subsequent financial years, if appropriate. As pointed out in another place, this list includes the ability for the Department to require the use of Government shared services. It is planned that Manx Care will be required by the mandate to utilise Government shared services, as it will be one of the biggest users of these services and Government shared services are designed to make efficiencies across the Government and maintain professional expertise. However, there is an understanding that in order for Manx Care to be effective and to be fully held to account, it needs to be properly supported by those shared services. In order to ensure that this will be the case, robust shared service agreements are being put in place between Manx Care and the service providers. Ultimately, if there is repeated failure of the shared service providers, Manx Care will be able to seek to use other suppliers.

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With the approval of Tynwald, Schedule 2 can be amended by regulations to add to, omit or vary matters that must be covered by the mandate. This provides flexibility for the future, while ensuring there is appropriate oversight of any changes.

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Mr President, I beg to move that clause 14 and Schedule 2 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put the question that clause 14 and Schedule 2 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 15.

**Mrs Sharpe:** Clause 15 provides the mechanism for the Department to revise the mandate during the year. Normally, this must be done by agreement with Manx Care, but in exceptional circumstances, where considered necessary, may be done by the Department.

475 Any revision must be laid before Tynwald together with an explanation of the reasons for making the revision. The mandate must also be published in its revised form.

I beg to move that clause 15 stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 15. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

485

Clause 16.

**Mrs Sharpe:** Mr President, with your permission, I propose to take clauses 16 and 17 together.

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**The President:** Is that agreed? (**Members:** Agreed.)

Mrs Sharpe.

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

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Clause 16 provides that Manx Care has a general power to take actions relevant to it carrying out any of its functions under the Act.

Clause 17 confirms that this power allows Manx Care to enter into arrangements with other health and social care providers in order to discharge its functions under the Act. In doing so, this does not take away any liability from Manx Care with respect to those functions. This will allow Manx Care to commission health and social care services that it cannot provide directly.

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I beg to move that clauses 16 and 17 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clauses 16 and 17. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 18.

**Mrs Sharpe:** Clause 18 allows Manx Care to make private health services available on the Island with written approval from the Department and providing that such services do not interfere with Manx Care's functions under the Act or cause any disadvantage to non-private patients. This is similar to the Department's existing duty in relation to private health services and allows for such services to be contained within the mandate.

515

The clause also stipulates that the Department will remain the body that will determine the charges payable by private patients.

I beg to move that clause 18 do stand part of the Bill.

520

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

525 **The President:** I put clause 18. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 19.

530 **Mrs Sharpe:** Clause 19 makes provision to allow Manx Care to have facilities within its hospitals that sell refreshments, gifts and similar items.  
I beg to move that clause 19 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

535 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

540 **The President:** I put clause 19. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 20.

**Mrs Sharpe:** Clause 20 requires Manx Care to be effective, efficient and economical when carrying out its functions.  
I beg to move that clause 20 do stand part of the Bill.

545 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

550 **The President:** I put clause 20. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 21.

555 **Mrs Sharpe:** Clause 21 places a duty of candour on Manx Care, similar to that placed on the Department under clause 11, and requires Manx Care to comply with any regulations that are made by the Department under that clause.  
I beg to move that clause 21 do stand part of the Bill.

560 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

565 **The President:** I put clause 21. Those in favour, say aye; against no. The ayes have it. The ayes have it.  
Clause 22.

570 **Mrs Sharpe:** Clause 22 requires Manx Care to establish, operate and promote a clinical and social care governance framework and ensure that any other service provider which has made arrangements with Manx Care to provide services is required to operate an equivalent framework.  
I beg to move that clause 22 stand part of the Bill.

575 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

580 **The President:** I put clause 22. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

585 **Mrs Sharpe:** Clause 23 deals with the duty placed on Manx Care to improve the quality of services it provides, similar to the duty that is placed on the Department under clause 5.

With the approval of Tynwald, the Department may impose requirements and standards in relation to Manx Care's duty with a view to ensuring that services are of an appropriate quality.

I beg to move that clause 23 do stand part of the Bill.

590 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President, happy to second.

595 **The President:** I put clause 23. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

600 **Mrs Sharpe:** Clause 24 imposes a duty on Manx Care to reduce inequalities, similar to the duty that is placed on the Department under clause 10.

I beg to move that clause 24 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

605 **Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 24. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

610 **Mrs Sharpe:** Clause 25 imposes a duty on Manx Care to promote autonomy. As the Department will be required to provide Manx Care with the freedom to deliver services as it sees fit while meeting the stated needs, quality and financial standards, Manx Care will do the same when contracting with other service providers.

615 I beg to move that clause 25 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

620 **Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 25. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 26.

625 **Mrs Sharpe:** Clause 26 imposes a duty on Manx Care to promote education and training, similar to the duty that is placed on the Department under clause 9.

I beg to move that clause 26 do stand part of the Bill.

630 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

**The President:** Mrs Poole-Wilson.

635 **Mrs Poole-Wilson:** Thank you, Mr President.  
Just a small question, actually. Clause 26 talks about persons being ‘employed by’ or becoming ‘employed in’. I just wondered whether the terminology employed is wide enough to cover all the potential arrangements that an individual might enter into with either Manx Care or a third party contractor. I am thinking about a contract for services provided by somebody in a consultancy-type arrangement. If the Hon. Member cannot clarify that now, I would appreciate some clarification, because again, if it is something that needs to be expanded – if that language needs to be adjusted to cover all conceivable arrangements – then hopefully we could pick that up by Third Reading.

Thank you, Mr President.

645 **The President:** Mrs Maska.

**Mrs Maska:** Just adding to my hon. colleague’s comments, I wonder, in investigating that aspect, the possibility of a third sector party being engaged to carry out some services – as has happened in the past, especially in social care aspects – whether the education appropriateness would be rolled out to that sector or made available, or the standard would be comparable.

Thank you, Mr President.

**The President:** Mrs Sharpe to reply.

655 **Mrs Sharpe:** Thank you, Mr President.  
I would be happy to provide clarity on those two questions at the next sitting.

**The President:** Thank you.

660 With that, I put clause 26. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 27.

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

665 Clause 27 places a duty on Manx Care to promote the involvement of service users, their carers and representatives in decisions relating to that person’s diagnosis and treatment.

I beg to move that clause 27 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

670 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

**The President:** I put clause 27. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

675 Clause 28.

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

Clause 28 provides Manx Care with flexibility in how it chooses to exercise its functions. This clause allows Manx Care to exercise its functions through its members and staff jointly with

680 another service provider or via a joint committee. Manx Care is also allowed to agree the terms and conditions on which it makes such arrangements.

I beg to move that clause 28 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

685

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 28. Those in favour, say aye; against, no. The ayes have it. The  
690 ayes have it.

Clause 29.

**Mrs Sharpe:** Clause 29 gives the Department power to make regulations for the purpose of conferring additional functions on Manx Care, as long as the additional function is connected to  
695 an existing Manx Care function. This provision is included to future-proof the legislation in case there is a specific function that needs to be placed on Manx Care which has not been considered at this time. Tynwald approval is required for regulations under this clause.

Mr President, I beg to move that clause 29 do stand part of the Bill.

700 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 29. Those in favour, say aye; against, no. The ayes have it. The  
705 ayes have it.

Clause 30.

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

710 Clause 30 gives the Department powers and a process for acting to ensure that issues are rectified in situations where the Department considers that Manx Care is failing or has failed to comply with its obligations. In such cases, the Department will direct Manx Care to take steps to rectify the failure and to prevent its reoccurrence, such as requiring Manx Care to engage experts to assist, or to provide periodic reports to the Department.

715 There is an escalation process outlined for cases where the Department believes that Manx Care has failed in some significant respect to comply with such a direction from the Department. Escalation would be to the Council of Ministers, and the Council of Ministers is given the power to direct Manx Care, similar to its power in relation to other Statutory Boards. If Manx Care fails to comply with a direction from the Council of Ministers, the last resort would be for the Council  
720 to require the Department to discharge the relevant function or to make arrangements for another provider to do so.

I beg to move that clause 30 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

725

**Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 30. Those in favour, say aye; against, no. The ayes have it. The  
730 ayes have it.

Clause 31.

735 **Mrs Sharpe:** Clause 31 requires Manx Care to publish an operating plan that sets out how Manx Care proposes to operate and to comply with the mandate in that particular financial year, and also set out a forward plan, in outline, of how it proposes to operate in the subsequent two financial years. The operating plan must be laid before Tynwald by the Department, along with the mandate, before the start of that financial year, from its third year of operation and every year thereafter.

740 The clause allows the operating plan to be revised mid-year and requires that any revisions are published and sent to the Department and to other appropriate persons. The clause also allows Manx Care to publish an overview document instead of a full operating plan for each of the first two years. As a new organisation, it would be very difficult for Manx Care to publish a meaningful operating plan from day one. This two-year grace period gives Manx Care the time to consider its medium-term approach and begin to gather the information required to be able to prepare an operating plan from its third year of operation.

745 I beg to move that clause 31 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

750 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

**The President:** I put clause 31. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 32.

755 **Mrs Sharpe:** Under clause 32, Manx Care is required to publish an annual report within six months of the end of each financial year, covering how it has discharged its functions under the mandate.

760 The Department is required then to provide a letter to Manx Care containing its assessment of Manx Care's performance over the year in question, to publish the letter of assessment and lay it before Tynwald, along with Manx Care's annual report.  
I beg to move that clause 32 do stand part of the Bill.

765 **The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

770 **The President:** I put clause 32 –

**The Attorney General:** Mr President, if I could move an amendment?

**The President:** Yes, learned Attorney.

775 **The Attorney General:** Thank you, Mr President, I beg to move an amendment to clause 32.  
During the clauses stage in the other place and the First Reading here in Council, Hon. Members expressed the desire to debate Manx Care's annual report. Clause 32 currently requires the annual report to be laid before Tynwald, but while there is nothing in the Bill that prevents a debate, neither is there anything to prompt an opportunity for one. This amendment  
780 will introduce wording into the Bill similar to section 4A of the Police Act 1993, which requires the Minister for Home Affairs to move a resolution that the Chief Constable's annual report is received by Tynwald. By making this amendment, the Minister for the Department of Health and

Social Care will be required to move a resolution that Manx Care's annual report is received by Tynwald, thus providing a prompt for Hon. Members to debate the report.

785 Mr President, I now beg to move the amendment standing in my name:

*Amendment to clause 32*

*3. Page 24, after line 36 insert —*

*'(6) The Minister for the Department shall, as soon as may be, move a resolution that the report be received by Tynwald.'*

**The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

I beg to second.

790

**The President:** Hon. Members, I put first the amendment to clause 32. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 32 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

795

Clause 33.

**Mrs Sharpe:** Clause 33 gives the Department power to require Manx Care to provide it with information relevant to the Department's functions, and it requires Manx Care to provide that information by the date requested, or provide an explanation for not being able to do so.

800

I beg to move that clause 33 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

805

I beg to second.

**The President:** I put clause 33. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 34.

810

**Mrs Sharpe:** Clause 34 brings in the duty to share information, specifically recommended by Sir Jonathan Michael. It requires the Department, Manx Care, and any service provider with whom Manx Care has entered into arrangements, to share information about a service user where the disclosure of information is necessary for the provision of health or social care services to that service user and is in their best interests.

815

When implementing this requirement, the organisations must have regard to the wishes of the service user as well as data protection principles and the duty of care or confidence that are established in law.

I beg to move that clause 34 do stand part of the Bill.

820

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

825

I beg to second.

**The President:** I put clause 34. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

830 **Mrs Sharpe:** Mr President, with your permission, I propose to take clause 35 and Schedules 3 and 4 together.

**The President:** Is that agreed? (**Members:** Agreed.)  
Mrs Sharpe.

835

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

Clause 35 gives effect to Schedules 3 and 4. Schedule 3 makes provision for the Department to make a scheme to transfer interests, rights and any liabilities of or pertaining to the Department, over to Manx Care. This is so that the varied responsibilities that currently lie with the Department, and the interests, rights and liabilities that come along with those responsibilities, may be retained or otherwise assigned, as appropriate, to Manx Care, to fit in with the functions of the new body.

840 Schedule 4 makes provision for the Department to make a scheme to transfer staff to Manx Care. The Department currently directly employs many of its frontline staff, and these staff will be formally transferred to Manx Care by such a scheme.

845 I beg to move that clause 35 and Schedules 3 and 4 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

850 **Mrs Lord-Brennan:** Thank you, Mr President.  
I beg to second.

**The President:** I put the question that clause 35 and Schedules 3 and 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

855 Clause 36.

**Mrs Sharpe:** Mr President, with your permission, sir, I propose to take clauses 36, 37 and 38 together, along with Schedule 5, all of which make provision for existing legislation to apply to Manx Care, where appropriate.

860

**The President:** Is that agreed, Hon. Members?

**Members:** Agreed.

865 **Mrs Sharpe:** Thank you, Mr President.

Clause 36 allows references to the Department of Health and Social Care and its officers in written documents, including legislation, to be read as references to Manx Care and its officers, or to a service provider that has entered into arrangements with Manx Care, as the context requires.

870 Clause 37 amends the Statutory Boards Act 1987 to insert Manx Care as a Statutory Board, with the effect that the Act applies to it.

Clause 38 gives effect to Schedule 5, which makes several other consequential amendments to existing legislation to allow Manx Care to assume the responsibilities of the Department, where it is required to do so under the mandate.

875 Mr President, I beg to move that clauses 36, 37 and 38, along with Schedule 5, do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

880 **Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put the question that clauses 36, 37 and 38 and Schedule 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

885 Clause 39.

**Mrs Sharpe:** Clause 39 allows the Department, with Tynwald approval, to make regulations which make supplementary, consequential and other provision that is necessary for giving full effect to any part of the Act. This includes the ability to modify, repeal or revoke other enactments that were passed, or made earlier or at the same time as this Act.

890

I beg to move that clause 39 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

895 **Mrs Lord-Brennan:** Thank you, Mr President.

I beg to second.

**The President:** I put clause 39. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

900

Finally, clause 40.

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

Clause 40 requires directions made by the Department under the Act to be in writing, and sets out what those directions may contain.

905

I beg to move that Clause 40 do stand part of the Bill.

**The President:** Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

910

I beg to second.

**The President:** Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

915

Just a small question on this: is it the intention that directions made under this clause would be published?

Thank you, Mr President.

**The President:** Mrs Sharpe.

920

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

That is a very good question from the Hon. Member. Off the top of my head, I cannot give a direct answer, but I will come back to the Hon. Member, at the next sitting, on that.

925

**The President:** Thank you. With that, I put the question that clause 40 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members. That completes the clauses stage of the Manx Care Bill.