



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 4th December 2012

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Present:

The Speaker (Hon. S C Rodan) (Garff);
The Chief Minister (Hon. A R Bell) (Ramsey);
Hon. D M Anderson (Glenfaba); Mr L I Singer (Ramsey);
Hon. W E Teare (Ayre); Hon. T M Crookall (Peel);
Hon. P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Mr R H Quayle (Middle); Mr J R Houghton and Mr R W Henderson (Douglas North);
Hon. D C Cretney and Mrs K J Beecroft (Douglas South);
Hon. C R Robertshaw and Mrs B J Cannell (Douglas East);
Hon. J P Shimmin and Mr C G Corkish MBE (Douglas West);
Mr R A Ronan (Castletown); Mr G D Cregeen (Malew and Santon);
Hon. J P Watterson, Mr L D Skelly and Hon. P A Gawne (Rushen);
with Mr R I S Phillips, Secretary of the House.

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The House adjourned at 11.58 a.m.

House of Keys

The House met at 10.00 a.m.

[THE SPEAKER *in the Chair*]

The Speaker: Moghrey mie. Good morning, Hon. Members.

5 **Members:** Good morning, Mr Speaker.

The Speaker: The Chaplain will lead us in prayer.

PRAYERS

10 *The Chaplain of the House of Keys*

Leave of absence granted

15 **The Speaker:** Hon. Members, I have granted leave of absence today to the Hon. Member for Michael, Mr Cannan, and for this afternoon to the Hon. Member for Onchan, Mr Hall.

You granted me leave of absence for this afternoon. If we are still sitting at 12.30, we will have a short suspension, after which the Deputy Speaker will take over.

20

Questions for Oral Answer

25

TREASURY

CinemaNX Ltd

Details of agreement with Treasury

30 1.1. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

Whether CinemaNX Ltd were entitled to receive the bank interest earned on the Media Development Fund under the agreement with Treasury; and, if so, how much bank interest was received by CinemaNX each year and part year of the contract?

35

The Speaker: Item 1, Questions for Oral Answer.

I call on the Hon. Member for Douglas South, Mrs Beecroft, for Question 1.

40 **Mrs Beecroft:** Thank you, Mr Speaker.

I ask the Question standing in my name.

The Speaker: I call on the Minister for the Treasury, the Hon. Member for Ayre, Mr Teare.

45 **The Minister for the Treasury (Mr Teare):** Thank you, Mr Speaker.

As explained in the Public Accounts Committee Report on the Media Development Fund and the Public Investment in the Film Industry 1995 to 2009, CinemaNX were entitled to use the income arising on the Media Development Fund balance as a management charge to cover its working capital requirements – page 10, point 3.14 of the Report.

50 Moving on, the Media Development Fund moneys, particularly working capital figures, are fully accounted for in detailed Government accounts which are published annually.

The Speaker: Mrs Beecroft, a supplementary.

Mrs Beecroft: Thank you, Mr Speaker.

55 My Question was actually whether it was still a good thing for the taxpayer, given that in the
five years when the Media Development Fund was under the management of CinemaNX it
actually made just about £2 million, I think the Minister confirmed in the briefing for Tynwald
Members, and that included all the National Insurance and everything else, and other taxes, but the
60 bank interest for the first period up to June 2008 was £2.2 million that went to CinemaNX for their
operating expenses. Would the Minister confirm that it actually was a good deal and what other
bank interest they received in other years?

The Minister: This was fully dealt with in the Public Accounts Committee Report, and if I
could refer the Hon. Member to her party's own website, 'The Skeet', which was published in
65 May 2011, dealt with this issue in depth.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

70 I do not intend to quote from anybody's website, Government's or the party's. I would still like
an answer to how much bank interest in each year was received, because it does not state that
anywhere.

The Speaker: Reply, sir.

75 **The Minister:** This is fully available. As I say, it has been dealt with in the PAC Report and
also the figures are contained within the Government's Light Blue Book.

The Speaker: Final supplementary.

80 **Mrs Beecroft:** Thank you, Mr Speaker.

Would the Minister not agree that it could not have been dealt with in the PAC Report, because
that did not go up to the end of the contract with CinemaNX?

85 **The Speaker:** Reply.

The Minister: The principle which the Hon. Member is alluding to was dealt with in the PAC
Report.

90 **Pinewood Film Advisors Ltd; Prosper Capital LLP**
FSA compliance; conflicts of interest

1.2. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

95 *What measures Pinewood Film Advisors Limited and Prosper Capital LLP have in place to
ensure compliance with the recently issued guidance by the FSA in managing conflicts of
interest?*

100 **The Speaker:** Question 2, Mrs Beecroft, please.

Mrs Beecroft: Thank you, Mr Speaker.
I ask the Question standing in my name.

105 **The Speaker:** Mr Teare.

The Minister for the Treasury (Mr Teare): Thank you, Mr Speaker.

I can confirm both Pinewood Film Advisors and Prosper Capital LLP are aware of the
guidance issued by the Financial Supervision Authority in relation to managing conflicts of
interest and, as with all regulated businesses, compliance is a matter for the companies themselves,
110 as it is with all our advisers.

The Speaker: Mrs Beecroft.

115 **Mrs Beecroft:** Thank you, Mr Speaker.

Could the Minister confirm what measures he has taken, given the recent strongly worded letter sent out by the FSA which makes particular reference to voiding a conflict with regard to the... several bits, but the two main ones are 'make a financial gain or avoid a financial loss at the expense of the client' or 'have an interest in the outcome of a service or transaction'?

120 **The Speaker:** Minister.

125 **The Minister:** There are two issues here, if I might respectfully mention, Mr Speaker. The first is what is the difference between Pinewood and our other advisers? We have advisers who advise the Government and manage our very substantial investment funds, so what is the difference here? I just put that marker down. The Hon. Member has quoted from the guidance notes. If I could just take it on one stage further, in point 1.4 in the FSA-issued guidance notes, it says:

'We have also concluded that the seriousness of the issues identified requires *us*...'

130 – and that stress is my own, 'requires *us*' –

'... to take action to ensure firms comply.'

135 So, in other words, it is the FSA who ensure compliance.

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

140 Could the Treasury Minister confirm then – when Pinewood Film Advisors are a subsidiary of Pinewood Shepperton, Pinewood Film Advisors are the investment managers and will be advising on film investments, but Pinewood Shepperton will want films produced in their studios – how can the Treasury be sure that they are getting the best advice on film investment, given that the parent of the company giving that advice stands to gain from films produced there, even if they are a flop?

145

The Speaker: Reply, sir.

150 **The Minister:** With respect to the Hon. Member, I think she is confusing two separate issues. (Mrs Beecroft: No.) The final gatekeeper here is with the Treasury, who would opine and give a decision on the individual investment in an individual film. That is the final decision and that is the way that we can actually control it.

The Speaker: Mrs Beecroft.

155 **Mrs Beecroft:** Thank you, Mr Speaker.

I think people would maybe gain some comfort if they knew who in Treasury had the experience to know when their advisers were possibly advising them wrongly then, because I did not realise that anybody in Treasury had relevant film-producing experience.

160 **The Minister:** The same people who have been doing it for over 15 years.

Mr Watterson and another Member: Hear, hear.

165

**Pinewood Film Advisors Ltd
Performance targets**

170 1.3. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

Whether there is a performance management framework with clear performance targets in place with Pinewood Film Advisors Ltd?

The Speaker: Question 3, Mrs Beecroft.

175 **Mrs Beecroft:** Thank you, Mr Speaker.
I ask the Question standing in my name.

The Speaker: Minister for the Treasury.

180 **The Minister for the Treasury (Mr Teare):** Thank you, Mr Speaker.
I am pleased to advise we do have a clear performance management framework with Pinewood Film Advisors, which is set out in our investment management agreement.

185 Hon. Members will recall that on page 13 of the Strategy for the Future of the Isle of Man Film Industry, under the heading 'Overview of Film Fund Expectations and Key Performance Indicators', it was stated that it would be important for both Treasury and Pinewood Shepperton plc to be clear about the expectations it has as regards the Media Development Fund and investment position over the next five years.

190 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.
Would the Treasury Minister confirm if he is going to allow this framework and performance management and the targets and everything else to be published? The Public Accounts Chair, when they produced their Report, stated in the debate, 'We are therefore saying in recommendations 4, 5 and 6 that we should have a published performance target and performance management framework.'

The Speaker: Minister.

200 **The Minister:** The details and the criteria under which the film performance fund was going to be assessed was set out in the actual strategy document which was presented and agreed by another place, sir.

205 **The Speaker:** Mrs Cannell, you have a supplementary?

Mrs Cannell: Thank you, Mr Speaker.
Can I invite the Treasury Minister to assure the House that in fact these details will be published in the interests of openness and transparency, particularly in view of the fact that there is a great deal of public money being invested here?

210 **The Speaker:** Minister.

The Minister: As I said, the criteria are already set out in the document which was approved by another place, sir.

215 **The Speaker:** Mr Karran.

220 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh Tashtee not agree that it might be of interest to both the people in this House and the taxpayers outside this House if he could actually quote the relevant section as far as that document is concerned, allowing for the fact that for most sensible people outside this House, it seems very woolly as far as the issue is concerned?

The Speaker: Minister.

225 **The Minister:** The issue is not woolly. It is quite clear what the performance is that is expected from the film advisers. I do think it is somewhat ironic that we are now being criticised for steps, in effect, to diversify the economy.

230 If I could refer the Hon. Member back his own party's eight-page manifesto, and only half a page was devoted to how we can expand and improve the Isle of Man's economy. I think that gives a good illustration of where their priorities lie: it is certainly not with the economy.

The Speaker: I am not going to have this widened out.

235 **Mrs Cannell:** Hear, hear.

Mrs Beecroft: Thank you, Mr Speaker.

The Speaker: Mr Karran.

240 **Mr Karran:** Vainstyr Loayreyder, does the Hon. Member not agree that by the way he is trying to avoid answering sensible questions clearly in this House... It might be alright with the block vote in this House, but outside this Hon. House people smell something fishy about this whole affair. Would he not agree, if he has got the information in front of him as far as what he is quoting from – the woolly Report that we got on the situation – will he inform this Hon. House
245 what he is seeing as far as that issue is concerned, so that people can have clarity over what we see as being woolly and what he sees as being clear?

The Speaker: Minister.

250 **The Minister:** Thank you, Mr Speaker.

I would just like to ask the Hon. Member again... It would be interesting to know who are their advisers and what the advisers' qualifications are.

I am quite satisfied that the information is in the public domain. It formed part of the information which was distributed to Hon. Members before the debate which took place in another
255 place.

The Speaker: Chief Minister.

260 **The Chief Minister (Mr Bell):** Thank you, Mr Speaker.

Just following on that final answer, would the Treasury Minister welcome an approach from the individual that the Liberal Vannin Members represent direct to Treasury, so they can bottom these issues out once and for all and the Department then can move on from this?

265 **Several Members:** Hear, hear. (*Interjections*)

The Speaker: Minister to reply.

270 **The Minister:** I would be delighted. That offer has been on the table for months and months, and I have been deafened by the silence in response.

The Speaker: Two final supplementaries. First of all, Mr Karran.

275 **Mr Karran:** Vainstyr Loayreyder, would the Minister not agree that many people outside this House actually appreciate the strong bone and the political balls in this House (*Interjections*) of the Hon. Member for South Douglas, who has (*Interjections*) –

A Member: Disgraceful language!

280 **The Speaker:** Hon. Member, if there any more outbursts and language of that sort, I shall suspend the sitting. Resume your seat.
A final supplementary, Mrs Beecroft.

Mr Karran: You are talking to the researcher now.

285 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

290 Would the Treasury Minister acknowledge that the last time that I mentioned one of his advisers in Tynwald, I was reprimanded for doing so? So I think it is hardly fair of him to call on me to name mine, particularly when he is looking at them. (**Mr Karran:** Absolutely.) I do my own research (**Mr Karran:** Absolutely –) and can I ask the Treasury Minister –

The Speaker: A question, please.

295 **Mrs Beecroft:** Could I ask the Treasury Minister, has he not heard of Google alerts? Because if he sets them he will find all the information there – it is readily available.

Going back to the original Question, Mr Speaker, if I may, could I ask the Treasury Minister to clarify where these performance targets are stated, what they are, what has been set and where is the performance management framework, because that is not specific in the document that he refers to?

The Speaker: Reply, sir.

305 **The Minister:** As I say, I am pleased that the overall performance objectives have been set out.

I am delighted that the Hon. Member mentioned the Google alerts and I am sure that she will join me in congratulating Pinewood in the excellent results which they announced last week.

Two Members: Hear, hear.

310

SOCIAL CARE

315

Incapacity Benefit

Personal capacity assessment; assessor's qualifications

1.4. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Social Care:

320 *What qualifications a person in an organisation such as ATOS Healthcare requires to conduct personal capacity assessments in relation to incapacity benefits?*

The Speaker: Question 4, Mrs Beecroft.

325 **Mrs Beecroft:** Thank you, Mr Speaker.
I ask the Question standing in my name.

The Speaker: I call the Minister for Social Care, Mr Robertshaw.

330 **The Minister for Social Care (Mr Robertshaw):** Thank you, Mr Speaker.

Under the existing Social Security legislation only a healthcare professional can conduct personal capability assessments in relation to incapacity benefits. A healthcare professional is defined in the legislation as a registered medical practitioner, a registered nurse, or a registered occupational therapist, or a registered physiotherapist. All ATOS Healthcare doctors, nurses and physiotherapists have at least three years' post-qualification experience and are registered with their respective medical body. Furthermore, they are specially trained in carrying out work capability assessments and are approved for that purpose by the UK Department of Work and Pensions Chief Medical Adviser.

335
340 At my Department's request, ATOS Healthcare has provided us with two registered medical practitioners to perform personal capability assessments on the Island for the duration of the six-month trial. Both of these doctors are highly qualified and have extensive experience in conducting work capability assessments for the DWP. Both hold a diploma in disability assessment medicine and are mental function champions with ATOS Healthcare.

Thank you.

345

The Speaker: Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

350 I thank the Minister for his response and clarification, but could he clarify how long it takes to get this additional – was it a diploma he referred to – in capability assessment? Is there anybody on the Island showing interest in achieving that, so that they could be in a position to make a tender for this when it goes out to tender, if it does, sir?

The Speaker: Minister.

355

The Minister: Thank you, Mr Speaker.

That particular qualification is not available on the Island, but could I invite the Hon. Member to join us for the presentation tomorrow, where in fact she will be able to question the doctor herself with regard to his qualifications.

360

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Can I ask the Minister once again, what is the real need for taking on this organisation to do the job that his Department should be capable of doing in the first place? (**A Member:** Hear, hear.) Why do they need to go to the expenditure? Why deal with an outfit that has a reputation that is known throughout the UK? Why is he continuing with this action?

365

The Speaker: Minister.

370

The Minister: There are two separate questions there, Mr Speaker.

The first one is why are we doing it and I will try to do my very best to capture that in the social policy debate, which will take place in another place next Tuesday. That is quite an extended and important issue.

375

With regard to why ATOS, I think again that the questions will be dealt with tomorrow if he joins us at the presentation. We simply do not have that qualification available to us on the Island at this present time.

The Speaker: Mrs Beecroft.

380

Mrs Beecroft: Thank you, Mr Speaker.

Would the Minister acknowledge that I have already given my apologies that I cannot make the meeting tomorrow, which I am sorry about, genuinely, because I would have liked to be there?

385

Could the Minister in the meantime tell me, in the six-month trial, how many assessments are they planning on actually doing? Is it going to cover everybody who is on incapacity benefits and if it is not, what percentage of that?

The Speaker: Minister.

390

The Minister: Thank you, Mr Speaker and I thank the hon. lady for her apologies, (**Mrs Cannell:** Member.) but she will be much missed tomorrow. (**Mrs Beecroft:** Member.) Member. What did I say? (**Mrs Cannell and Mrs Beecroft:** Lady.) Hon. Member – both!

We have done about 140 so far in the trial. We will get up somewhere beyond that by the end of it in December. There are 1,600 in total. This is a very slow process, but you cannot rush this sort of thing. Bringing people back from incapacity into more worthwhile and more beneficial work experience is a slow, gentle and careful process and cannot be rushed.

395

The Speaker: Mr Karran.

400

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh, allowing for the fact that the Hon. Member for South Douglas is on Government work when the presentation is on, but can the Hon. Minister give an answer to the Hon. Member, or is this the new Government policy of trying to avoid actually answering straight questions with straight replies?

The Minister: I am sorry, Mr Speaker, I thought I had answered the question.

405

The Speaker: You had answered it and it is entirely up to you how you answer.
Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

410

Can I just express disappointment that there were not more Members yesterday from the House of Keys sitting in listening to oral evidence and cross examination of this particular Minister on this issue, yesterday in the Legislative Council Chamber? (*Interjections*) Many of your answers may well have been answered.

415

Can I ask the Minister, following this private presentation to Members behind closed doors of all the details in respect of the contractor who is doing the scheme for a pilot period of six months,

whether all of those details would then be published, so that the public can feel reassured as to the Minister's clearly impressive response as to the performance of ATOS?

420 **The Speaker:** Minister.

The Minister: I am more than happy to respond in a positive fashion and I absolutely agree with the Hon. Member. As a consequence I have arranged for the Press to meet both the doctor and the adjudicator involved in this process, who will have an ample opportunity to interrogate me and the doctor and the officer to thoroughly understand exactly what it is that we are doing, in order that I get into a position where I can provide more confidence to the general public.

430 **ATOS Healthcare assessment
Appeals procedure**

1.5. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for Social Care:

435 *What appeals process is available to a person who disagrees with an ATOS Healthcare assessment?*

The Speaker: Question 5, Mrs Beecroft.

440 **Mrs Beecroft:** Thank you, Mr Speaker.
I ask the Question standing in my name.

The Speaker: Again, Mr Robertshaw.

445 **The Minister for Social Care (Mr Robertshaw):** Thank you, Mr Speaker.

It is for an adjudication officer appointed by my Department to decide, in accordance with the relevant legislation, whether or not a person is capable for work following a personal capability assessment. In reaching their decision, the adjudication officer takes into account the claimant's own assessment of their ability to carry out prescribed activities, any information provided by their GP or other specialist practitioner, the findings of the face-to-face assessment conducted by the healthcare professional engaged by the Department, and any other evidence the adjudication officer considers is relevant. A claimant cannot appeal directly against the findings of a face-to-face assessment, as this is simply part of the information-gathering process. However, they may challenge those findings if they are ultimately dissatisfied with the adjudication officer's decision on their capability for work.

455 Mr Speaker, no appeals against decisions relating to claimants' capability for work have been made since the Department embarked upon the six-month trial with ATOS Healthcare in July of this year.

460 **The Speaker:** Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I wonder if the Minister could confirm if this is what the standard letter says, bearing in mind that I have seen several letters and they all have this same paragraph in them? With regard to the appeals, it says:

'If you think our decision is wrong and you want us to look at it again'

470 That is the heading, and it goes on to say:

'If you are not satisfied with our decision, you can ask us to look at it again. If you think there may be something you did not tell us about before that could affect the decision, please tell us about it when you contact us. You should get in touch with us within one month of the date at the top of this letter or we may not be able to consider any dispute. If the decision can be changed, we will send you a new decision. If we cannot change the decision, we will tell you why and advise you of your appeal rights.'

475 Then, in bold, underneath that, it says:

480 'Please bear in mind that asking us to look at the decision again or going to appeal with the intention of increasing the level or length of your award could possibly result in your reward being reduced or disallowed.'

Would the Minister not agree with me that that is a very strong letter to be sending out and it could be construed as bullying? (A Member: No.) It certainly has that tone to me. Why would something be reduced or disallowed when a health professional has already decided? Why would it be going down again just because somebody appeals against it?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

490 I think the answer to the lady's question lies within the question itself. There are two levels here: there is the review, and then there is the appeal. We have had nobody go to appeal. We have had seven reviews, one of which was turned in favour of the person requesting the review. I think it is appropriate, not bullying, to have that information in there, because not to give that advice would be improper and inappropriate. It is there because if it is a genuine process the decision can go in firm favour of the person requesting the review, but also on review it is possible for it to go the other way. I think that stands as common sense.

The Speaker: Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

500 Will the Hon. Minister confirm that, as a consequence of the United Kingdom engaging with ATOS since 2008, there have been no less than 44,000 appeals upheld in the United Kingdom just in the last two years, and that we do not want to see that type of situation developed here in the Island?

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

510 This comes out of a question the Hon. Member placed before me yesterday, and I do think, Mr Speaker, that the Hon. Member is in danger of getting confused with two jurisdictions. What we do in the Isle of Man is decided by us, how we do it is decided by us, how we contract is decided by us, and whom we employ is decided by us. What the UK does is a matter for them.

The Speaker: Mrs Beecroft, a final supplementary.

Mrs Beecroft: Thank you, Mr Speaker.

515 Could the Minister confirm who actually drafted this standard letter, whether it is ATOS or whether it is the Department? Would he not agree that that last paragraph that I highlighted could be frightening to some people, particularly those who are not mentally as strong as some other people? If they think they have already had their benefit reduced and that, by actually appealing against it, it could be reduced further, does he not admit that that could be frightening to some people?

The Speaker: Reply, sir.

525 **The Minister:** Mr Speaker, no. I consider it to be good advice, and anything that comes out from my Department is my responsibility and comes from my Department.
Thank you.

The Speaker: Mr Karran.

530 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not also agree, in the Isle of Man, it is different in the fact we do not have any welfare rights charities on the Island, and the fact that we have a situation where these people are generally the people who are the most vulnerable in our society; and with such a letter saying that they are going to actually go even further down, you are actually intimidating the recipients into not going to the appeal system?

535 Would he not agree that anyone outside this Hon. House would be supporting that viewpoint, even if he managed to get everyone in this House, apart from a few of us, to agree the other way?

540 **The Speaker:** Minister.

The Minister: I think knowledge in this area is important. It is *very* easy to portray things inaccurately and perhaps create a sense of fear unnecessarily. The facts are different. We have had seven reviews: one went in favour of the person requesting the review and the remainder stayed exactly the same.

I do look forward to the Hon. Member attending the presentation tomorrow. I am sure he will learn an awful lot from it.

550

CHIEF MINISTER

**Public sector workers
Industrial injuries; establishment of tribunal**

555

1.6. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

If he will establish a tribunal for awarding damages to public sector workers in cases of industrial injury; and if he will make a statement?

560

The Speaker: Moving to Question 6, Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I ask the Question standing in my name.

565

The Speaker: Chief Minister, Mr Bell.

The Chief Minister (Mr Bell): Mr Speaker, the Employers' Liability (Compulsory Insurance) Act 1976 obliges every employer carrying on a business in the Isle of Man to have insurance against liability for bodily injury or disease sustained by employees arising out of and in the course of their employment in the Isle of Man. This requirement provides protection for all workers in the Island, irrespective of whether they are employed in the public, private or third sectors, and ensures that resources are available for compensation even in circumstances in which an employer may become insolvent.

570

I appreciate that in some cases where there is a disagreement a person may have to seek redress through the courts system where negligence is disputed or the level of compensation offered by the employer or the insurer is considered inappropriate. Introducing a specific tribunal to consider such cases is unlikely to remove the need for legal representation or present a person, the insurer or the employer incurring legal costs.

575

Therefore, in my view, Mr Speaker, it is neither necessary or desirable in the current circumstances to introduce such a tribunal.

580

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Ard-shirveishagh not agree that, if we are paying out damages to specific cases that I have been given of £5,000, spending £12,000 in legal costs without the court costs... Would he not agree that this might be one step towards saving the taxpayer's money to take pressure off as far as the taxpayer is concerned?

585

Would he also not agree that this is a golden opportunity where we can have a tribunal to get away from the courts scenario, where we can follow examples like the Irish Republic have done under a number of issues to get it out of the court, allowing a Government employee to actually go to court but knowing that it will affect his opportunities – if he fails to win, then he will have to pay the costs of both sides?

590

The Speaker: Chief Minister.

595

The Chief Minister: Mr Speaker, I am not aware of the details of the Irish situation, but if the Hon. Member has any specific examples of the nature he has just quoted, I would be very happy to hear them.

600

The Speaker: Mr Karran.

Mr Karran: Vainstyr Loayreyder, would the Ard-shirveishagh also agree that the fact is that it might be the insurance company that is paying for it? Maybe he would like to clarify how much of that is actually self-insurance.

605 Would he not agree that, at the end of the day, Government is paying for it, and if we can get more of these things out of court and into tribunal, the Government could actually save an awful lot of money on the present costs at the present time as far as legal costs, which will have an effect on the civil Legal Aid vote as well?

610 **The Speaker:** Chief Minister.

The Chief Minister: Mr Speaker, as I said in my Answer, even if such a case was taken out of the courts, there would still be a likely requirement for legal representation and therefore the overall cost to the individual in pursuing either route would be very similar.

615 Once again, Mr Speaker, I would simply suggest to the Hon. Member if he has a particular example that he is concerned about, I would be very happy to hear from him.

620 **Business development
Support and assistance to companies**

1.7. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

625 *Other than via the standard business development packages managed by the Department of Economic Development, whether his Government has since taking office provided support or given special treatment to any business in the Isle of Man in a monetary or other form; and, if this is the case, if he will inform the House of the name or names of the business or businesses, the value and nature of the support and the terms and conditions associated with the support?*

630 **The Speaker:** Question 7, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I ask the Question standing in my name.

635 **The Speaker:** Chief Minister to reply.

The Chief Minister (Mr Bell): Mr Speaker, Government has provided support to a wide range of existing and new businesses and will continue to do so with the intent of helping to grow the economy which is, obviously, one of my three declared priorities, but I believe it would be inappropriate to name individual businesses, which may be in need of such specific support at this time. Naming any such business would most likely be damaging to it, achieving a loss of confidence, particularly in respect of its customers, its suppliers and its own workforce.

645 **The Speaker:** Mr Karran?

**Gambling Supervision Commission
Details of staffing levels**

650 1.8. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

655 *If he will provide this House with details of the number of people now employed by the Gambling Supervision Commission, his expectation of how that number might grow in the next 18 months and will he also provide details of the salary scales for the various employment grades in the GSC?*

The Speaker: Question 8, Mr Karran.

660 **Mr Karran:** Vainstyr Loayreyder, I ask the Question standing in my name.

The Speaker: Chief Minister to reply.

665 **The Chief Minister (Mr Bell):** Mr Speaker, the Gambling Supervision Commission employs 10 people, eight of whom are full time and two are part time. Given the economic growth potential of the e-gaming sector and the importance of ensuring a robust and effective regulatory system, it is vital that the Gambling Supervision Commission's regulatory regime is flexible and responsive to growth in the sector with the economic benefits that brings.

670 The e-gaming sector is growing. Economic growth enables us to fund services and provides additional job opportunities and therefore we must ensure that continues. To do so, we need to be prepared to ensure that adequate regulatory resources, which includes staff, are provided to match that growth.

675 In that context and depending on the scale of growth, we anticipate that, in the next 18 months the staffing may increase by one and possibly two full-time equivalent posts. In terms of salary scales, they are broadly in line with the Civil Service scales for equivalent posts and compared to competitive jurisdictions, they offer excellent value for money.

The Speaker: Mr Karran.

680 **Mr Karran:** Could the Ard-shirveishagh clarify the levels of salaries of these posts and if he has not got the information, will he circulate that to Hon. Members?

685 Would the Ard-shirveishagh not agree that the issue of the employment status of the Gambling Supervision Commission, will it be on the basis of Civil Service, or will it be on the basis of being outside the Civil Service, so that the employment basis is on the basis of what is the market need and can go up as well as go down easily enough, without leaving us with massive liabilities, if there is a change in the market?

The Speaker: Chief Minister.

690 **The Chief Minister:** It is interesting, Mr Speaker, no matter what this Government tries to do to help the economy to help the Isle of Man, it is always couched in terms of a crisis by the Hon. Member. The e-gaming business, whether you support it or not, currently generates over 8% of the Island's GDP and employs over 700 people. It provides £16 million or £17 million of tax income to the Island, it is a vitally important and growing sector of our economy and it is equally important that this Government gives its whole-hearted support to a sector which, in these extremely difficult times, has actually genuinely generated growth and expansion and employment opportunities for our people.

695 If the Hon. Member wants the range of salaries, I can give him that the secretarial grades range from £20,058 to £26,722; the inspector grades from £26,722 to £33,792; technical and senior management grades £42,657 to £53,874; and the Chief Executive is between £70,774 and £87,419.

700 **The Speaker:** Mr Karran.

705 **Mr Karran:** Vainstyr Loayreyder, would the Ard-shirveishagh not agree it is not about knocking or trying to undermine; it is about actually finding out that we actually learn from the mistakes and seeing whether we could be more flexible about the employment of these people, allowing for this market can go up and it can go down, that we do not end up hostage to fortune, like we have done with a number of other issues?

710 **The Chief Minister:** I would be very grateful if the Hon. Member could identify the mistakes which have been made in the Gambling Supervision Commission.

The Speaker: Mr Teare.

715 **Mr Teare:** Does the Hon. Chief Minister not agree with me that the Gambling Supervision Commission has been a major driver for growth in this very important sector and has been regarded as a positive influence on the growth of e-gaming in the Island?

The Speaker: Chief Minister.

720 **The Chief Minister:** I would agree whole-heartedly, Mr Speaker and I would also add that the template which has been developed around the structure of the Gambling Supervision Commission has been a subject of research and replication by a number of jurisdictions across Europe, as they moved towards regulating e-gaming business.

**Acting Attorney General
Legality of proposed role**

725

1.9. The Hon. Member for Onchan (Mr Karran) to ask the Chief Minister:

What the legal basis is for the proposed role of Acting Attorney General?

730

The Speaker: Question 9. Mr Karran.

Mr Karran: Vainstyr Loayreyder, I ask the Question standing in my name.

735

The Speaker: Chief Minister to reply.

The Chief Minister (Mr Bell): Mr Speaker, Crown appointments are a matter of Royal prerogative and so no legal basis is required for the role of Acting Attorney General.

740

In this instance, Her Majesty was asked to consider a proposal from the Isle of Man that a suitable person should be appointed on a temporary short-term basis to act in place of Her Attorney General during his absence from office. Having given due consideration to the proposal, Her Majesty has signified that she is content for an Acting Attorney General to be appointed to act in place of Her Attorney General for a period of 12 months to address the issue of the latter's absence.

745

ECONOMIC DEVELOPMENT

**Oil and gas exploration
Participation; funds available**

750

1.10. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Economic Development:

755

Whether his Department intends to participate in the Republic of Ireland's strategic project with the Italian energy company ENI to conduct a comprehensive seismic survey in 2013 to progress oil and gas exploration contracts and what budget has been allocated or would be available to such core research in the financial years 2012-13, 2013-14 and 2014-15?

760

The Speaker: Question 10, Mr Houghton, Hon. Member for Douglas North.

Mr Houghton: Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name.

765

The Speaker: Minister for Economic Development to reply, Mr Shimmin.

The Minister for Economic Development (Mr Shimmin): Thank you, Mr Speaker.

770

While the Republic of Ireland has made important oil discoveries and is undertaking further exploration, these discoveries lie over 200 kilometres outside of the Isle of Man's territorial waters and my Department is not aware of any exploration in waters adjacent to ours. Exploration within our waters did take place in the 1990s, but was not successful.

My Department is not currently participating in the study and we have not budgeted to do so; however, we are always open to approaches by the private sector who may wish to conduct further exploration in Isle of Man waters.

775

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

780

When the Minister states that he is open to approaches by the private sector, may I ask if the Minister would turn the attention around from waiting for somebody to come to his door? Would he now start making haste to see whether or not the Department make the appropriate approaches to the appropriate people, to see whether there can be any involvement in the research to find out whether there is oil within our territorial waters?

785 It is quite an important matter, this; so important that it would put us back on a financial footing, should the oil be there. I am quite sure that it is the belief of many on this Island that there is oil within our territorial waters, so why doesn't his Department take the lead, take the example that has been done off the Irish shores by the Republic of Ireland, and do the same here?

790 **The Speaker:** Minister.

The Minister: Thank you, Mr Speaker.

Without going into too much detail, I am more than content with the current level of interest that is being expressed to us by the private sector with regard to carbon deposits on and around the Isle of Man's territorial waters. Therefore, we are actively talking to those in the private sector.

795 Lots of people have an expectation and a belief that there is oil or coal or other carbon deposits around the Island. It is looking at the economic extraction of those deposits. I do not doubt for one second that there are deposits around our shores, and at some stage some of those will become economically commercial to extract.

800 What we, as a Government, are doing is looking at seeing whether we actually directly fund this out of taxpayers' money, the investigations, or encourage others in the private sector to do so. If we invest taxpayers' money, then we would get a greater return should there be a successful outcome. However, at a time of difficult financial situation, it may be better for the private sector to take that initial investment, and they would then obviously benefit from a greater level of the potential benefit.

805

**Business incubator scheme
Withdrawal of support**

810

1.11. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Economic Development:

815 *Why his Department no longer supports the business incubator scheme?*

The Speaker: Question 11, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

820 I beg leave to ask the Question standing in my name, sir.

The Speaker: Again, the Minister for Economic Development.

825 **The Minister for Economic Development (Mr Shimmin):** Mr Speaker, my Department is fully committed to supporting new business growth, whether by existing businesses expanding, assisting local entrepreneurs with innovative ideas, or through new inward investment. I can assure Hon. Members that we are striving to put in place packages of support that are relevant and appropriate to businesses' needs, while giving best value for money to the taxpayer.

830 Earlier this year, my Department undertook a formal tender process to provide incubation services. Two companies submitted a formal tender; however, one was then excluded from the process, and the remaining tender significantly exceeded the available budget. This was at a time when the Department needed to identify substantial budget savings for the next financial year.

835 In light of this, the Department reviewed the situation and took the decision to provide incubation services in a different way, utilising a combination of existing Department schemes, practical help from a dedicated in-house Business Development Manager, and through linking with private sector providers of professional and incubation services, including some with available accommodation. The Department is actively monitoring the situation to ensure any demand for incubation services is adequately met.

840 In summary, Mr Speaker, I believe this approach means my Department is offering business incubation services that offer better value for money than if we had accepted the tender.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

845 Can the Minister therefore advise how many applicants are on this business incubation scheme? How many are actually going through the process at this present time?

The Speaker: Minister.

850 **The Minister:** Just desperately trying to look through the paperwork here, Mr Speaker. Clients at the end of the contract: on 23rd May 2012, there were six local clients, which was the Get Going Programme, and there were 31 in the Soft Landing Zone clients, which were the two mechanisms of where the BIC had its functions.

855 However, we are now picking up all of these through either our Small Business Start-Up Scheme, through our Business Support Scheme or utilising our Financial Assistance Scheme. Therefore, I share the Hon. Member's concern that this area is fundamental to the economic success of the Island and we are active and successfully employing people to make sure that our entrepreneurs and business people get the start to create further jobs in the future.

860 If anybody looks at our small business start-up scheme statistics, it is phenomenal how many of those businesses continue successfully into growth over a number of years, compared to anywhere else in the British Islands.

The Speaker: Mr Karran.

865 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that, whilst we all appreciate the excellent work that in particular one of my constituents does on the Business Start-Up Scheme... but would he not agree that there is land and there were options talked about when a Member of the Council of Ministers with redundant property... as far as trying to develop a certain property for business start-up or such as the Enterprise Scheme? Would he not agree that if there are opportunities where there is land available for smaller units for business, we should be freeing up that land for it to be developed, which was one of the proposals when I was a Member of the Council of Ministers?

The Speaker: Minister.

875 **The Minister:** I am not sure anybody is disagreeing that any opportunity for economic growth... and I am delighted the Hon. Member for Onchan recalls his time in the Council Ministers. He did talk about issues such as this, and if there is any opportunity we are not adopting, then please bring that to us. We do not have all the solutions but we do have the same common aim, and I believe what we provide is already significantly successful. It can get better. 880 Therefore, if he believes we are missing a trick, then please come and talk to us.

The Speaker: Mr Houghton.

885 **Mr Houghton:** Thank you, Mr Speaker. The Minister mentioned in an answer to a previous supplementary about 33 applicants on a Soft Landing Zone scheme. Can he explain what that is?

The Speaker: Minister.

890 **The Minister:** The BIC had two main functions when it was in operation. One was the Get Going Programme, which provided a flexible and supportive environment in which to develop and launch innovative ideas. However, the other part was the Isle of Man Soft Landing Zone, which supports off-Island businesses wanting to establish themselves on the Island.

895 This, in many ways, is the harder prospect of ensuring that those persons choose the Isle of Man as a destination as opposed to other places. So the Business Incubator Scheme and our current mechanisms are designed to try and help locals expand and innovate; however, we also wish to attract and bring inward investment from people. They would have been on the Soft Landing Zone. They are now currently picked up in a variety of ways by my Department, and I could identify the 20-odd areas that my Department currently provides practical assistance in, 900 funded by Government, to make it attractive for those businesses to come to our Island. This is something that happens on a weekly basis and is a major strength in our proposition for people looking at destinations for their business.

905

HEALTH

Eye tests

Intention to abolish free tests

910

1.12. The Hon. Member for Douglas North (Mr Houghton) to ask the Minister for Health:

Whether his Department intends to abolish free eye tests?

915

The Speaker: Question 12, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.
I beg leave to ask the Question standing in my name, sir.

920

The Speaker: Mr Anderson, Minister for Health.

The Minister for Health (Mr Anderson): Thank you, Mr Speaker.

To answer the Hon. Member's Question I can confirm that my Department does intend to abolish... does not intend to abolish free eyesight tests. *(Laughter)* I am glad you are concentrating!

925

However, as indicated in my response to a Question from the Hon. Member at the sitting of the House of Keys on 8th May 2012, I can confirm that my Department has been considering a range of options in relation to the future provision of ophthalmic services in the community, including the continued availability of free NHS eye tests for all. This consideration has involved ongoing discussions with the Isle of Man Association of Optometrists and meetings have taken place between representatives of the Association and Department officials on 20th February, 30th April and 2nd July to discuss the matter.

930

Turning specifically to the question of universal free eyesight tests, I am sure that Members will appreciate that, in the present climate more than ever, we need to concentrate our limited resources on where they are most needed and where they will have the most effect. The policy of eyesight tests free to all, regardless of needs, or ability to pay, is not seen as being sustainable and is preventing the Department from developing services in other areas of patient need, such as screening for glaucoma and diabetic retinopathy.

935

The Department is appreciative of the advice provided by the Association in relation to the categories of people who it is felt should continue to receive free NHS eyesight tests, should the Department decide to limit availability. The views of the Association in this area have been taken fully into account and will be incorporated into the paper which the Department intends to present to the Council of Ministers for consideration.

940

The review of the current eyesight testing policy is not a savings measure, nor is it an attack on good healthcare. On the contrary the Department is focusing on making the best use of limited resources so as to provide an opportunity to improve ophthalmic services in specific areas of patient need.

945

The Speaker: Mr Houghton.

950

Mr Houghton: Mr Speaker, the Minister attended the presentation given by the Ophthalmic Association. In the presentation, it was made quite clear the consequences of what would happen if the Minister withdrew universal free eyesight tests. As the Minister has alluded to today, he does intend to make amendments to that, which will have serious and dire consequences if he gets this matter completely wrong.

955

Can the Minister explain how he is going to maintain the service that is being provided so well and so highly professionally today by optometrists, where the outcome of certain examinations given to members of the public is that they have to go to onward treatment in order to put an end to *early* prognosis of serious consequences?

960

Can the Minister explain to the House today how he intends to operate the service, which is very cost effective, that is operated to this day?

The Speaker: Minister.

965

The Minister: The Hon. Member is correct, I did attend the presentation by the Association, which made their bid on continuing universal free eyesight tests for all unlimited. However, we

have to acknowledge that certain areas to do with ophthalmics that we do not actually cover, we should do at the moment and the Department is looking to target these areas of the most vulnerable. In doing so, the Department has spoken to the Association to identify groups that are likely to be more vulnerable and should have eyesight tests continuing.

970 Therefore, we have listened to the Association's concerns, but I am afraid the option of having universal free eyesight tests is not sustainable, because we want to put the resources into the other areas, looking at glaucoma and retinopathy, as I have already mentioned to the Hon. Member, which we would see as a priority in developing those services further.

975 **The Speaker:** Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

980 I think it might be helpful if the Hon. Minister could attach some simple clarity to the original Question asked. The Minister says he does not intend to abolish free eye tests. He then went on to say the Council of Ministers paper may be looking at limited availability. Will the Minister confirm today that what he is seeking in the future – and if he can indicate when that future might arrive – a debate on whether to means test these sorts of provisions in health and when that debate is likely to take place?

985 Does he acknowledge that we would need to have that debate before any attention is given in terms of withdrawing on a universal basis that which is presently being received free by members of the public? Bearing in mind that he has been, or his officers have been consulting with the Association right up until July 2012, would it not be prudent for them to continue to consult with the experts in this particular field, so that if he is going to make any changes, he gets them right first time?

990 **The Speaker:** Mr Anderson.

The Minister: Thank you and I thank the Hon. Member for her supplementaries.

995 In relation to her plea for us to continue to consult with the Association, we have had dialogue with the Association; we are very well aware of the Association's views that we should continue with free universal eyesight tests, as I said in my original Answer. Unfortunately that is not sustainable. We want to develop services in ophthalmics that we are not providing at present, and we believe we can do that by limiting it to certain vulnerable areas.

1000 In relation to confirming what the position is in the Department, I did make it quite clear in my initial Answer that the Department does not intend to abolish free eyesight tests for all. What it intends to do is to limit certain categories where we think the more vulnerable and the elderly actually sit. That is a debate that has taken place with the Association, who have made known their views on this area and if we were going to not allow universal free eyesight tests, they have given us a list of categories that they think should fall outside of that and we have taken that on board and that will be in the paper that goes to Council of Ministers.

The Speaker: Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

1010 Mr Speaker, the Minister says that his Department has spoken, up to a recent date, with the Association of Optometrists. Will he take back to the Department that that is not the case, that they have *not* been properly consulted on this, certainly of many, many recent months?

1015 When the Minister also states that of course they want to look more into the area of glaucoma and retinopathy, does the Minister not agree that it was made clear at the presentation and it is known to all that both of those very, very serious ailments are what are located and identified in the first instance by optometrists, and if optometrists can find glaucoma at a very early stage, then that will save the Health Service many, many hundreds of thousands of pounds of treatment of a number of patients into the future following that?

1020 So it is a misnomer, Mr Speaker, does the Minister not agree, and would he put his *honest* hat on now and tell us *honestly* that that early recognition and diagnosis of these illnesses with people found by optometrists is the way forward?

1025 And one final point, Mr Speaker, if I may ask, can the Minister confirm whether any changes, *serious* changes which his Department is considering with free eye tests and universal eye tests, have to be approved by Tynwald? Can he confirm that? If he does not know that, can he take it away and find out?

The Speaker: Minister.

1030 **The Minister:** Dealing with the last point first, any proposed changes will actually go to the Council of Ministers and it will be the Council of Ministers' decision whether it should come to Tynwald. So that has dealt with that one.

1035 The Hon. Member asked me to go back and ask my officers to continue to have dialogue with the Association. Following the comprehensive presentation by the Association that was given to Tynwald Members, I actually asked for their presentation pack to take back to the Department and my officers are looking through that pack and identifying anything that was not brought out in the previous meetings.

The Speaker: Mrs Beecroft.

1040 **Mrs Beecroft:** Thank you, Mr Speaker.

I just wonder if the Minister could clarify a couple points for me because I am a little bit confused on this.

1045 He stated that it was not for budgetary reasons that this was being considered, but for... was it 'best clinical practice'? I think that was the term. I am not quite sure of the term, but if the Association are saying it is best practice for this to continue, how can he not be continuing it, or thinking of not continuing it on the grounds of best practice? (*Interjection*)

1050 Would he not agree that free eye tests actually save an awful lot of money in the long run, never mind the suffering to people and all the rest of it that it causes to them personally? But if it is for budgetary constraints, does he not consider that he is actually going to be very penny wise and pound foolish if he goes ahead with this?

Mr Houghton: Hear, hear.

1055 **The Speaker:** Minister to reply.

The Minister: I thank the Hon. Member for her question.

1060 Obviously, if we thought it was going to be detrimental, we would not be doing it and that is why we have had the dialogue and that is why we have been talking to the Association about budgets, because we have not... what the Association actually want us to do from that presentation is to actually increase our budget, because they are saying there are lots of areas at the moment that we are naturally compensating them for. We have not got extra budget in this area. We have identified areas of concern in this area that we do not actually cover at the moment. In order to target the areas more appropriately, we have to make sure that the eyesight tests compensate for that extra money that is being spent within that area and that does not take into account the extra claims that the Association would like us to take into account, because they say we are not paying it... covering those costs now.

The Speaker: Mrs Cannell.

1070 **Mrs Cannell:** Thank you, Mr Speaker.

1075 Will the Minister acknowledge that during that presentation, it was clearly outlined that other jurisdictions within the British Isles which have brought in a range of charges for varying tests on the eye, it has in fact been a fool's errand undertaken by the British Isles, because a far larger proportion of those people are deemed in the United Kingdom to be eligible for free eyesight tests? Surely then, does he not agree with me that any change here has to be proportionate and this is disproportionate, when looking at examples elsewhere? Can he confirm that he is not looking at the United Kingdom for a lead in this area, in terms of the mess they have made of this?

1080 Finally, can he advise the House whether he is looking at introducing means testing here, in terms of what a person is entitled to free of charge and what is expected to be paid for and if he is, does he not appreciate he will have to bring that to Tynwald, because that is going to be a huge change of policy?

The Speaker: Minister to reply.

1085 **The Minister:** Yes, I thank the Hon. Member for her question.

I acknowledge that the claims by the Association in comparing us with the UK and what has happened in the UK, were quite scary in one way, but I would say we are not trying to replicate

1090 exactly what has happened in the UK. What we want to do is put in place in the Isle of Man what is appropriate to put in place in the Isle of Man and a large amount of the community will continue to get free eyesight tests.

The Speaker: Mr Karran, Hon. Member.

1095 **Mr Karran:** Vainstyr Loayreyder, could the Shirveishagh Slaynt, the Minister for Health, inform this House what assurances can he give that we do not end up with the same scenario we had when we did the same fiasco with the dental care where we took it away from the general dental care practice and we ended up having to pay five times as much for a directly employed service and get half the value, as far as that was concerned?

1100 What assurances can he give that we will not end up in the same boat as we did when the then Minister Christian did this proposal and we ended up scoring an own goal, not just to our people, but actually to the taxpayers in general?

The Speaker: Minister to reply.

1105 **The Minister:** The Hon. Member's memory on this issue is quite different from my own, Mr Speaker.

The Speaker: Final supplementary, Mr Houghton. (*Interjections*)

1110 **Mr Houghton:** Thank you, Mr Speaker.

1115 Going back to the Minister's answers where he states that there are areas of concern not properly being attended to at this point in time by his Department, which are glaucoma and retinopathy, both of which are chronic illnesses, when, of course, they get to such a late stage in their detection, does he not agree that it is foolhardy that optometrists in the future will not be able, or not be likely to be able to detect such serious conditions by the fact that the universal eye test arrangement will have been withdrawn?

1120 Therefore, does he not agree that he will want even more money to deal with the back end, the late stages of this, simply because patients have not been found early enough? It makes clear sense to head serious and chronic conditions like this off at an early stage, not allow it to go to a late stage by withdrawing or modifying, or whatever the Minister is intending to do in the future, but certainly diluting the process in place now, that is most effective and will be seriously damaged, should he withdraw the universal eyesight test in the future? Can the Minister not agree with that?

1125 **The Speaker:** Minister.

The Minister: No, sir.

1130 **Suspension of Standing Order 3.5.1(2) to take remaining Oral Questions**
Motion lost
Questions 1.13 to 1.27 to be answered in writing

1135 **The Speaker:** Hon. Members, that brings us to the end of Question Time.
Mr Henderson.

Mr Henderson: Vainstyr Loayreyder, I beg, sir, to move that the relevant Standing Order be suspended to allow the remaining Questions on the Order Paper to be put at this sitting.

1140 **Mr Quirk:** I beg to second, sir.

The Speaker: I shall go straight to a vote. Sixteen votes are required to suspend Standing Orders.

1145 *Electronic voting resulted as follows:*

FOR

Mr Quirk
Mr Hall
Mr Karran
Mr Crookall
Mr Anderson
Mr Singer
Mr Quayle
Mr Cregeen
Mr Houghton
Mr Henderson
Mrs Beecroft
Mrs Cannell
Mr Skelly
The Speaker

AGAINST

Mr Robertshaw
Mr Shimmin
Mr Corkish
Mr Watterson

The Speaker: With 14 votes for and 4 votes against, the motion therefore fails to carry. The remaining Questions on the Order Paper will be answered in writing tomorrow.

1150 I now move to Item 2, Questions for Written Answer. Four Questions for Written Answer, and those replies will be distributed in a moment.

1155

Questions for Written Answer

HEALTH AND SOCIAL CARE

1160

Chiropractic services Regulation; standards; qualifications; registration with BCA

1.13. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Health:

1165

If he will confirm that there is a clause to regulate chiropractors in the Isle of Man in forthcoming health service legislation; which Bill that will be in; and when such legislation is anticipated to come before the Keys?

1170

1.15-17. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Social Care:

1.15 If he will confirm that currently anyone can set up on the Isle of Man as a chiropractor even though they may not be qualified or fully qualified and can call themselves by that name?

1175

1.16 If he is aware that there may be businesses operating on the Island purporting to offer chiropractic services; and that such businesses may be offering extended treatment plans beyond what is normally recognised by registered chiropractic professionals; and that such businesses are advising if a patient cannot afford such an extended treatment plan that there are 'financial services' which they could avail themselves of?

1180

1.17 Whether his Department, as the care regulator for the Island, is willing to measure the standards and treatment plans offered by –

(a) individuals who are practising chiropractors registered with the British Chiropractic Association; and

1185

(b) individuals who are offering chiropractic services registered elsewhere or not as the case may be;

and if he is aware of anyone offering chiropractic services who are not registered with the BAC and does not hold the training qualifications recognised by the BAC?

1190

Answer: I am grateful to you for agreeing that I can respond to this and the other three Questions in relation to chiropractors, which the Hon. Member has posed to myself and my hon. colleague, the Minister for Social Care, and that I may do so in a single composite Answer.

1195 In summary, Mr Speaker, myself and officers of my Department are well aware that individuals can present themselves as chiropractors here on the Isle of Man, even though they are not qualified to do so, are not registered with the UK General Chiropractic Council and are not members of the British Chiropractors' Association. In addition, we are aware that there are businesses purporting to be chiropractors who are offering extended treatment plans beyond what is normally recognised by UK registered chiropractors.

1200 I can further advise that because all chiropractic care on the Isle of Man is provided by non-NHS healthcare providers there are currently no powers available to me to regulate the provision of chiropractic treatment. The reason for this is that when the United Kingdom introduced its Chiropractors Act in 1994 to establish the General Chiropractic Council as the regulatory body for chiropractors, the decision was taken not to introduce equivalent or applying legislation for the Isle of Man.

1205 As the Hon. Member is aware from recent informal correspondence with officers of my Department, I intend to remedy this difficulty through legislation, and Department of Health officers are in the process of drawing up proposals for legislation which would regulate chiropractors practising in the Isle of Man, as well as other non-NHS healthcare providers.

1210 It is anticipated that this legislation will form part of a new Health Services Bill, which will replace the National Health Service Act 2001, and include elements, such as the regulation of non-NHS health professionals, which have previously been considered to be outwith the responsibilities of the Department.

1215 Papers are in preparation with a view to the Department's proposals for the new legislation being submitted to the Council of Ministers in December this year. If the proposals are approved, and permission is given for the Bill to be drafted as a priority in the Government's legislative programme, and subject to the consultation process, the Bill could be ready for entry into the branches as early as May 2013.

1220 In respect to the Hon. Member's Question concerning the advice to patients on financial services, I am not aware of any financial arrangements which these businesses may have in place to assist patients to fund chiropractic treatments. I would suggest that if the Hon. Member has concerns that any such arrangements are improper or illegal, then he should refer the matter to the relevant financial regulatory body or office, which I am advised is the Office of Fair Trading.

1225 **SOCIAL CARE**

Regulation of Care Bill
New clause to regulate chiropractors

1230 1.14. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Social Care:

1235 *If he will explain why, after his Department had signified its agreement to the inclusion in the Regulation of Care Bill of a clause to regulate chiropractors, this clause was struck out; and why he chose not to inform me of this move?*

Answer: The Department has been made aware through correspondence with the Hon. Member that an agreement to include the regulation of chiropractors was made under the former Department of Health and Social Security before the functions of Health and Social Care split.

1240 The Department of Social Care welcomed the request to insert a section within the Regulation of Care Bill to enable chiropractors to be regulated and has worked closely with the Department of Health on this issue.

1245 However, it became clear as the Bill developed and consultation with stakeholders took place that the best way forward for the regulation of healthcare professionals, such as chiropractors, was to recognise the regulatory powers of the various professional bodies as the most appropriate form of regulation for this group. This is different to the provisions of the Regulation of Care Bill, which are about the full registration and inspection by the Department of Social Care and focus on regulation of the care service rather than individual professionals.

1250 The Department of Health, as lead Department, therefore felt that rather than continuing to use the Regulation of Care Bill as a legislative vehicle for introducing regulation of chiropractors, it was more appropriate for chiropractors to come under legislation that they are bringing forward which will include provisions to regulate a wide range of healthcare professionals using existing professional bodies.

Local Authority homes in Willaston
Structural issues; buildings maintenance plan

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1.18. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Social Care:

If he will confirm –

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(a) that Mr Houghton and I have conducted meetings with officers of the former Department of Local Government and the Environment, his Department, and Douglas Corporation about the serious structural issues affecting the housing stock in Willaston, and that Mr Houghton and I have sent many documents to both his Department and the Corporation in relation to this issue;

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(b) that, as a result of these continuous representations, a ‘pilot scheme’ for the Willaston Estate has been agreed, in order to establish the fullest picture of these serious structural issues with a view to using the information obtained to work up a strategic building/maintenance plan for Willaston which would address these serious structural issues; and

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(c) that as a result of that agreement Mr Houghton and I have organised and now chair a joint steering committee, involving representatives of his Department and Douglas Corporation, which is overseeing this project?

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Answer: I am more than happy to recognise the efforts of both Hon. Members in securing the best interests of the residents of the Willaston housing estate. The Members have made representations to Douglas Borough Council and my Department on many occasions regarding the care and maintenance of these public sector dwellings.

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As I explained in this House last month, when answering a Question about the Willaston Pilot Scheme, my Department recognises the need for major capital investment in Willaston to restore the external fabric of the houses to a weather-tight condition. I can confirm that there has been close and constructive involvement from both Hon. Members in the ongoing process of establishing a pilot scheme. I am please to advise that my Department has approved a petition from Douglas Borough Council for capital borrowing of just over £330,000 to carry out the pilot scheme and that construction work will start early January.

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I note reference in item (c) of the Question to a joint steering committee which the Hon. Members chair to ‘oversee this project’. I have attended one of these meetings on 25th May this year and also visited the estate with the Hon. Member. This was helpful and provided me with a good understanding of the problems with some of the houses at Willaston.

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However, for the purposes of clarity, I would like to explain that as Douglas Borough Council owns, manages and maintains their stock of public sector houses, it is the Borough Council’s responsibility to manage and oversee the project. The procedure for managing the project is set out in the Procedure Notes for Management of Construction projects as issued by Treasury (under section 3 of the Treasury Act 1985).

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As I have stated on many previous occasions, I am fully supportive of the need for major capital investment in Willaston estate. My Department will continue to work closely with the Borough Council and provide whatever support is required as they undertake the pilot scheme and develop their proposals for Willaston estate.

I look forward to remaining in close touch with both Hon. Members in this important matter and value their involvement and input.

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HOME AFFAIRS

1305

Sarah’s Law
Applying principles

1.19. The Hon. Member for Douglas North (Mr Henderson) to ask the Minister for Home Affairs:

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If he will confirm that I have for some years pushed for the introduction of Sarah’s Law for the Isle of Man, talked to former Ministers of his Department on the matter and importantly met with Mr Malarkey, and Professor Briggs a specialist in sex offenders, with a view to applying the principles of Sarah’s Law to the Isle of Man in a modified way to suit our community; and

if he will also confirm that I have met with senior officials of his probation service on the same matter, to negotiate an acceptable way forward on the introduction of such principles?

1315

Answer: I am happy to acknowledge the Hon. Member for Douglas North interest in this matter and his contribution prior to the establishment of a Working Group by the Department.

I do not have specific details of the Hon. Member's discussions on the matter but can confirm that he met officials of the Department on this topic. I thank him for his interest.

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I would like to take this opportunity to again thank all members of the Child Protection Working Group, which was initially chaired by Bill Malarkey, particularly members of the public, Margaret Marley and Alison Kennish, along with Paula Gelling of Victim Support, who participated so constructively in producing the recommendations that were presented to me.

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This Working Group, as stated in my Answer to a previous Question in November, successfully formulated an Isle of Man solution, which is now being introduced. It should be made quite clear that this is not Sarah's Law. It is a unique package of initiatives that, in my view, and that of Working Group, far outweighs any benefits Sarah's Law could have introduced.

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To recap, the Island initiatives provide revised processes for multi-agency public protection arrangements to include a decision on disclosure in each case, new reporting requirements for sex offenders coming to the Island, identical vetting and barring schemes as in the UK providing greater access to offenders history, a co-ordinated approach in schools to raising awareness of the issue of sexual abuse and the development of a sexual abuse strategy through the Protecting Children Board.

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The most important point here is that, as a result of the Working Group's recommendations being implemented, it will make children safer on the Island.

EDUCATION AND CHILDREN

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Students studying off-Island Department's priorities

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1.20. The Hon. Member for Rushen (Mr Skelly) to ask the Minister for Education and Children:

If he will make a statement on his Department's priorities for further and higher education of Manx students studying off-Island?

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Answer: With regard to Further Education, my Department's priority is to make such provision on the Island through the Isle of Man College. As a result of the range and quality of that provision, only a small number of students need to study off the Island for a further education qualification. Where that is the case, because there is not a suitable course available at Isle of Man College, then the relevant regulation allows the student to be funded in the normal way.

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The situation is in many ways reversed for higher education. A relatively small number of higher education courses are available through Isle of Man College, although our intention is to continue to grow that provision over the coming years. For instance, the Department has been working on broadening the range of higher education on Island and is currently exploring the possibilities for providing alternative undergraduate courses which would involve part of the course being completed on Island and the other part in the validating university

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However, we would always anticipate that the majority of students will need to travel off the Island to access higher education.

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Given that situation, my Department's priority is to ensure that, even in a difficult economic climate, Manx students continue to be able to access that opportunity if they meet the necessary academic criteria. The Hon. Member is well aware that the issues relating to funding for students will be the subject of debate in another place during December and it would not be appropriate for me to pre-empt that by making any further comment relating to student awards.

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COMMUNITY, CULTURE AND LEISURE

Bus Vannin

Quality and performance of new buses

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1.21. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Community, Culture and Leisure:

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How much has been spent on the purchase of new buses in each of the last three years; and whether he is satisfied with the quality and performance of the new buses?

Answer: The amounts spent are as follows:

In 2010-11: £1,345,567.00

(One million, three hundred and forty-five thousand, five hundred and sixty-seven pounds)

In 2011-12: £1,196,176.71

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(One million, one hundred and ninety-six thousand, one hundred and seventy-six pounds and seventy-one pence).

In 2012-13: £1,879,214.40

(One million, eight hundred and seventy-nine thousand, two hundred and fourteen pounds and forty pence).

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The quality and performance of the silver Mercedes delivered in 2011 and 2012 has been excellent. The quality and performance of the six Wright's StreetLites delivered in 2010 has been satisfactory. Teething troubles with this new design of vehicle have been addressed by the manufacturer and their performance has improved to be equivalent to other Wright's products in the fleet delivered previously. No other bus types have been bought in this period.

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**Manx Electric Railway
Replacement track; reasons**

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1.22. The Hon. Member for Onchan (Mr Karran) to ask the Minister for Community, Culture and Leisure:

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What the reason is for the replacement of track on the Manx Electric Railway?

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Answer: The section of track currently being replaced in Groudle is beyond its safe working life. Railway track, like any infrastructure element, eventually wears out and requires renewal. On the site currently being renewed the track ballast has broken down and is clogged with fine material and debris. This eventually obstructs the drainage and the retained water rots the sleepers. Sleepers on this section now have very limited integrity and strength. The rail top surface is badly worn away to the point where the tram wheel flanges are striking the top of the fish plates, which join the rails together.

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These conditions are not unique to this location and a programme of works is ongoing to improve the tracks on the MER, Snaefell Mountain Railway and Isle of Man Steam Railway.

I would remind Members that the heritage railways contribute £11 million a year to the Island's economy and are vital to the tourist offering on the Island. The direct effect of this is perhaps most readily seen in the tour brochures advertising increasing numbers of specialist tours to the Island's railways and the presence of coaches on the Island much later in the season, both of which I know are appreciated by the private sector providers in the Island's visitor economy.

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I would like to advise Members that despite the Department's budget pressures, I have agreed that we should continue to distribute the number of operational days we can afford on the railways across the longest possible season, so maximising the benefits of our operations to the Island's economy. Of course, there are also less direct effects of railway operations, such as to the overall visitor offering, which would be very much lessened if the Island did not operate its heritage railways, and to the local businesses that benefit from our spending on wages, engineering and infrastructure.

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I am happy to make it clear that the work on the Manx Electric Railway is being carried out by local contractors supported by our employees.

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WATER AND SEWERAGE AUTHORITY

**Meary Veg
Volume of sewage processed**

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1.23. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Water and Sewerage Authority:

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What volume of sewage passed through Meary Veg treatment works in 2011?

Answer: Meary Veg treated 10,336,148 cubic meters of sewage in 2011.

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**Sewage treatment at St John's
Proposed system**

1.24. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Water and Sewerage Authority:

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If sewage treatment at Peel is to be separate from sewage treatment at St John's; and what sewage treatment system (i.e. activated sludge or integrated rotating biological contactor) will be used at St John's?

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Answer: The feasibility study and outline design for the St John's sewage treatment plant falls within phase 2 of the Regional Sewage Treatment Strategy and is yet to be undertaken. As such, the sewage treatment process has yet to be formally defined; however, based on the fact that the population is of a similar size to Kirk Michael, it would be fair to assume at this stage that IRBC technology would be used.

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**Sewage treatment at St John's
Proposed system**

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1.25. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Water and Sewerage Authority:

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What system will be used to treat sewage at St John's?

Answer: This Question was answered in my response to the previous Question from Mr Karran.

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**Effluent from St John's
Discharge location**

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1.26. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Water and Sewerage Authority:

Where the effluent from St John's will be discharged?

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Answer: Treated effluent from the St John's sewage treatment works will continue to be discharged into the Foxdale River, being a tributary of the River Neb; however, any new treatment facility will have to produce an effluent that conforms to a new and more stringent effluent discharge consent as determined and set by the Environmental Protection Unit of DEFA.

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**Peel, St John's and Kirk Michael
Proposed sewage treatment works; details**

1495 1.27. The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Water and Sewerage Authority:

What the projected cost and outline specification is of the proposed sewage treatment works at (a) Peel; (b) St John's; and (c) Kirk Michael?

1500 **Answer:** As already outlined in Answers to previous Questions from the Hon. Member for Onchan, Mr Karran, the outline cost and specifications for the sewage treatment works at Peel and St John's will be determined following completion of the feasibility studies into treating sewage from these two catchments.

1505 In answer to part (c) of the Question, I can confirm that the Authority is to commence construction of the Kirk Michael sewage treatment works in January 2013. The current estimated outturn cost for the scheme is £1,501,272. The scheme involves constructing two rotating biological contactor sewage treatment plants on the existing site off Glen Balleira Road, Kirk Michael.

1510 If the Hon. Member would like any further detailed information on the plant specifications, then I would suggest that he contacts my officers at the Authority.

TREASURY

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**Government bonds issued
Details**

1520 2.1. The Hon. Member for Onchan (Mr Karran) to ask the Minister for the Treasury:

1525 *If he will provide a schedule of all forms of bond or other similar instrument issued by the Isle of Man Government or any other Manx public body (of any kind) which have not yet been redeemed; that schedule to show the issuer, value outstanding, security offered, terms associated with and expected redemption date of the bond or similar instrument; and if he will also provide the House with the total of interest paid in respect of any such bonds or similar instruments in the three financial years to 31st March 2012?*

Answer: The following bonds have been issued by Isle of Man Government:

Issuer	Value Outstanding	Security Offered	Terms associated with and expected redemption date	Interest paid during three years to 31st March 2012
Treasury (in respect of the Isle of Man Water and Sewerage Authority)	£75,000,000	None.	Repayable on 29 March 2030.	2009-10: £4,218,750 2010-11: £4,218,750 2011-12: £4,218,750
Treasury (in respect of the Manx Electricity Authority)	£185,000,000	None.	Repayable on 14 August 2034.	2009-10: £9,943,750 2010-11: £9,943,750 2011-12: £9,943,750

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Further details of the bonds listed above, and details of other borrowings of Government bodies, are set out in the Isle of Man Government Accounts for the Year Ended 31st March 2012 (GD 0035/12).

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**CinemaNX; Pinewood Shepperton plc; Pinewood Film Advisors Ltd
Details of Treasury arrangement; authorisation**

1540 2.2. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

If he will confirm whether or not Treasury had the vires to enter into the former arrangement with CinemaNX Ltd and the current arrangement with Pinewood Shepperton plc and Pinewood Film Advisors Ltd without Tynwald approval and, if so, what was the applicable law or regulation?

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Answer: The agreement entered into with CinemaNX Ltd in August 2007 was executed on behalf of Government by the Minister for the Department of Trade and Industry and Director of Isle of Man Film Ltd together with the Treasury Minister.

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The agreement was executed pursuant to the powers of the Department of Trade and Industry under the Industry Board Act 1981. This Act was subsequently repealed by the Enterprise Act of 2008.

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The current agreement with Pinewood Shepperton plc and Pinewood Film Advisors Ltd entered into by the Treasury is pursuant to the powers contained within the Financial Provisions and Currency Act 2011.

**CinemaNX; Pinewood Shepperton plc; Pinewood Film Advisors Ltd
Treasury compliance with regulations**

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2.3. The Hon. Member for Douglas South (Mrs Beecroft) to ask the Minister for the Treasury:

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If he will confirm that the former arrangement with CinemaNX Ltd and the current arrangement with Pinewood Shepperton plc and Pinewood Film Advisors Ltd comply with the Treasury Act 1985 and the financial regulations and, if so, which financial regulation these arrangements come under?

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Answer: I confirm that the former agreement with CinemaNX Ltd and the current arrangement with Pinewood Shepperton plc and Pinewood Film Advisors Ltd comply with the provisions of the Treasury Act 1985 insofar as they are consistent with the duties and functions of the Treasury set out in section 3 of that Act.

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The engagement of CinemaNX Ltd to provide investment management services was approved by Treasury subject to the waiver provisions of Financial Regulations FD8 and the decision endorsed by the Council of Ministers as set out in the Public Accounts Committee Report into the Media Development Fund.

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HEALTH

**‘Never events’; patient safety incidents
Details**

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2.4. The Hon. Member for Onchan (Mr Hall) to ask the Minister for Health:

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How many ‘never events’, patient safety incidents, have been reported in each month in the previous two years and, in line with best practice, what was the total waived of costs directly linked to such events and how many root cause analysis recommendations were identified?

Answer: The United Kingdom (UK) Department of Health (DoH) and the National Patient Safety Agency (NPSA) define ‘never events’ as:

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‘serious, largely preventable, patient safety incidents that should not occur if the available preventative measures have been implemented by healthcare providers’.

To be a ‘never event’, an incident must fulfil the following criteria:

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- the incident has clear potential for or has caused severe harm/death;
- there is evidence of occurrence in the past (i.e. it is a known source of risk);
- there is existing national guidance and/or national safety recommendations on how the event can be prevented and support for implementation;

- the event is largely preventable if the guidance is implemented;
- occurrence can be easily defined, identified and continually measured.

1605 For reference, the current full UK Department of Health ‘never events’ list is:

1. wrong site surgery;
2. wrong implant/prosthesis;
3. retained foreign object post-operation;
- 1610 4. wrongly prepared high-risk injectable medication;
5. maladministration of potassium-containing solutions;
6. wrong route administration of chemotherapy;
7. wrong route administration of oral/enteral treatment;
8. intravenous administration of epidural medication;
- 1615 9. maladministration of Insulin;
10. overdose of midazolam during conscious sedation;
11. opioid overdose of an opioid-naïve patient;
12. inappropriate administration of daily oral methotrexate;
13. suicide using non-collapsible rails;
- 1620 14. escape of a transferred prisoner;
15. falls from unrestricted windows;
16. entrapment in bedrails;
17. transfusion of ABO-incompatible blood components;
18. transplantation of ABO-incompatible organs as a result of error;
- 1625 19. misplaced naso- or oro-gastric tubes;
20. wrong gas administered;
21. failure to monitor and respond to oxygen saturation;
22. air embolism;
23. misidentification of patients;
- 1630 24. severe scalding of patients;
25. maternal death due to post partum haemorrhage after elective Caesarean section.

Adverse incidents, near misses, security breaches etc at Noble’s Hospital are reported via the use of the ‘PRISM’ system – a computerised incident management system. Until recently, the PRISM system was not set up to record ‘never events’ as classified by the NPSA/UK DOH. The whole system was, however, upgraded in June 2012 and now classifies such events in line with the UK criteria. Since June 2012 there have been no ‘never events’ recorded.

The previous system did, however, record serious incidents, albeit under different definitions than those now classified as ‘never events’. These events were previously classified as ‘red’ or ‘critical’ incidents. The work to retrospectively identify those incidents which occurred during the last two years and which would have met the ‘never events’ would have to be undertaken manually and would be very onerous in terms of the diversion of clinicians’ time. All ‘red’ or ‘critical’ incidents were, however, properly investigated and appropriate action taken.

Regarding the waiver of costs related to ‘never events’, cost recovery is secondary to the process of reporting ‘never events’, learning from them via robust investigation, and implementation of that learning to prevent any future occurrence. That said, the National Health Service in the United Kingdom has also decided that it should not pay for care that is so substandard as to result in a ‘never event’. For this reason, within the United Kingdom, Commissioners of Healthcare should seek to withhold payment for the cost of the episode of care in which a ‘never event’ has occurred and any subsequent costs involved in treating the consequences of a ‘never event’.

United Kingdom Commissioners are able to decide to waive these contractual terms depending on individual circumstances, applying the principles of proportionality and taking into account previous performance and the provider’s response to the never event occurring. This decision should be taken in discussion with the provider, although the default should be to recover costs.

As the funding arrangements for Health Services in the Isle of Man are radically different and are not reliant on payments for individual treatments, the question of waiver of costs does not occur and no such waivers have been made.

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Orders of the Day

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BILLS FOR FIRST READING

Fisheries (Amendment) Bill 2012 Bribery Bill 2012

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The Speaker: Item 3, Bills for First Reading. I call upon the Secretary of the House.

The Secretary: Fisheries (Amendment) Bill 2012, Member in charge, Mr Gawne; Bribery Bill 2012, Member in charge, Mr Watterson.

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BILLS FOR SECOND READING

Regulation of Care Bill 2012 Second Reading approved

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4.1. Mr Robertshaw to move:

That the Regulation of Care Bill 2012 be read the second time.

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The Speaker: Item 4, Bills for Second Reading. First of all is the Regulation of Care Bill, and I call on the mover, Mr Robertshaw, to move the Second Reading.

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Mr Robertshaw: Thank you, Mr Speaker.

One of the three priorities of this Government is to protect the vulnerable. The Regulation of Care Bill seeks to support this by introducing a single comprehensive piece of legislation to deal with the regulation of social care and non-NHS care services on the Island which deliver care to many of the most vulnerable in our community.

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The current basis for the regulation and social care and non-NHS care services is the Nurses and Midwives Act 1947, the Nursing and Residential Homes Act 1988, and parts of the Children and Young Persons Act 2001. These Acts only cover the registration and regulation of a few social care and non-NHS care services and are largely out of date.

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This has resulted in a number of care services not being regulated at all – for example, Domiciliary Care, which is delivering care to large numbers of people across the Island. There is also no requirement in current legislation for the Department of Social Care's own services to be regulated. Therefore, the main purpose of the Bill is to widen the regulatory remit not only to include services that were not around at the time that the existing legislation was written, but also to ensure that regulation can keep up with the changing care service market, which this Bill does by allowing new care services to be added on via secondary legislation.

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Hon. Members will be only too aware of serious cases in other jurisdictions which highlight the need for robust regulation of services which are providing care for the most vulnerable in our community. Stakeholders demonstrated, through the consultation on the draft Bill, their support for regulation in this area with 100% of respondents agreeing that care services should be regulated to protect people using those services. This is because with the increase in private and third sector providers of care it is essential that service users and their families have complete confidence in the services being delivered.

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Whilst the public and stakeholders have been supportive of regulation in this area, we have been determined to ensure regulation is appropriate.

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The aim of this Bill is not to greatly increase the regulatory powers of my Department, but instead seeks to strengthen and modernise those already in place. The Bill creates an appropriate level of regulation by creating consistency in the regulation of social care and non-NHS care services, as previously adult services and children's services were dealt with under different pieces of legislation; introducing a new approach to the registration and inspection of services, one which concentrates on service improvement; creating more appropriate enforcement with a full spectrum of proportionate enforcement action; providing clear transitional arrangements, which avoids

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issues that other jurisdictions had in introducing similar legislation; creating more transparency, ensuring that all inspection reports are available to the public.

1725 The Bill is made up of 10 parts and a schedule: part 1 is the introduction and contains the key definitions; part 2 states the Department's functions in relation to the Bill; part 3 details the registration process; part 4 details the monitoring and enforcement powers; part 5 deals with the registration of social care workers; part 6 is about appeals; part 7 deals with offences; part 8, proceedings; part 9 contains the closing provisions; and part 10 details the amendments of other legislation; the schedule contains the full definitions.

1730 The Bill is unique to the Isle of Man and aims to create a comprehensive and transparent regulatory framework. Therefore, there is more information in the primary legislation, allowing for Members to fully debate the detail – for example, specifying the circumstances in which a person would be disqualified from registration.

1735 Hon. Members may note its length; however, I would highlight that in introducing this Bill, two Acts – the Nurses and Midwives Act and the Nursing and Residential Homes Act – will be repealed, alongside parts of the Children and Young Persons Act. Therefore, it exceeds Government's determination to ensure Acts are withdrawn from the statute rather than just adding more. Furthermore, its size will be reduced once amendments and transitional provisions drafted to ensure a smooth transition for currently regulated services expire, reducing its length from 105 to 79 pages. I believe this is fairly economical for such a far-ranging Bill.

1740 The Bill is slightly longer than comparable legislation in other jurisdictions, but significantly shorter when you take into account the myriad of regulations that sit under those pieces of legislation, especially in England, which have been born out of deficiencies in their primary legislation which we have sought to address in this Bill.

1745 The Bill has been the subject of a wide and extended public consultation, which included face-to-face engagement with stakeholders, and all comments received have been addressed.

Mr Speaker, I move the Regulation of Care Bill 2012 now be read for second time.

The Speaker: Hon. Member for Douglas North, Mr Henderson.

1750 **Mr Henderson:** Gura mie eu, Vainstyr Loayreyder.

I beg to second, sir, and in doing so I would like to obviously support the Minister in his endeavours for moving this, this morning, but I do have some questions which I hope he can clarify when he responds to the debate.

1755 It will come as little surprise that those questions that I pose to the Minister relate to my Questions that I could not ask previously in relation to chiropractors. What has this got to do with the Second Reading, Vainstyr Loayreyder? Quite simply, two to three years ago, I negotiated with the then Department of Health and Social Security, which encompassed Social Care, with the Minister of the day, with the heads of department of the section of Social Care – Mr Andrew Swithinbank and Mr David Gibson at that time – in a professional manner, where I raised serious concerns that were brought to me by chiropractic professionals who are registered with the British Council of Chiropractors and the General Chiropractic Council of Great Britain, or the United Kingdom I should say.

1760 The concerns were these, Vainstyr Loayreyder, and I need to outline them, really, because it is quite important for the public to realise some of these points, in that the Isle of Man has no legislation whatsoever to regulate somebody who decides to set themselves up, stick a notice outside their house, and call themselves a chiropractor. I could do that tonight outside my house and begin to offer what, in my opinion, could be chiropractic services, and there is nothing to stop me, as far as I am aware, from doing so.

1770 This was flagged up to me – and the reason for my concern, Vainstyr Loayreyder – because a constituent of mine, who was receiving chiropractic treatment from somebody who was not registered with the United Kingdom's recognised professional bodies and recognised by the United Kingdom government – they were partly registered somewhere else... administered 'chiropractic care' to this person and subsequently caused serious physical injury to that person. There was a subsequent court case and there was a subsequent payout, which is in the public records, and the individual who administered the chiropractic service has now left the Island. That is the result of no regulation here.

1775 The other serious point that I need to put on the public record, connected with this Bill – because I had it agreed that this clause would go in – is the fact that not only can somebody suddenly put a brass plate outside their front door, offering chiropractic services when they might not be recognised by the UK professional bodies or government in their Chiropractic Act, but if they have on their premises where they are doing this from... if they can afford to set it up, they

can also have X-ray facilities and perform ionising radiation there – X-rays – willy-nilly, at their own discretion.

1785 In some cases it has been reported to me – and it is also a concern of the radiology department in Noble’s Hospital, if anyone wishes to check – that we have a situation here where regular X-ray is being advertised, when in fact it is in breach of the United Kingdom professional radiographers’ guidelines and it is in breach of the United Kingdom professional chiropractic guidelines – and this is going on, as I speak, Vainstyr Loayreyder. It has been reported to me, this advertisement of various care programmes and care packages and what these include, and at the minute this is
1790 totally unregulated.

I may point out, Vainstyr Loayreyder, that in the past shoe shops used to do completely unregulated X-rays and that was stopped on the safety grounds that I am talking about. We now have a situation where this re-emerged, to the consternation of every proper, registered UK professional that I have just talked about.

1795 I raised this matter with the Department. It was negotiated, it was agreed, it was put into this particular Bill, and to my complete horror and consternation, and without anyone having the professional cordiality to lift the phone and say to me, ‘Mr Henderson, I am sorry, we are taking your clause out that you negotiated with the Department’s professionals and it is being moved elsewhere; we will not be moving this at this time within our care regulation Bill,’ even though I
1800 negotiated that with the professionals at the time in a proper manner and it was agreed with the Department of Social Care at that time, or the section of it, could keep an eye on things and stop what I have just illustrated happening, and for anybody else in the future, such as my constituent, receiving a serious injury from somebody possibly setting up, calling themselves something which they clearly are not, or not fit to practise.

1805 What I need to know from the Minister is why could somebody not have picked the phone up or spoken to me in the professional, cordial manner in which I addressed the original Department, explained to me what the reasons were, and then we could have moved forward.

I also want to know, as a matter of urgency, Vainstyr Loayreyder, in the Minister’s response – and I am sorry to labour the point, but it is important and the public need to be aware that this
1810 situation is going on at the minute – where that clause is now going and will it be coming back somewhere else and fairly rapidly? Otherwise, I can see I am going to have to introduce, as a matter of urgency, my own Private Member’s Bill to cover this because of the serious Health and Safety points on the radiography I am talking about, and that somebody could practise what they are terming therapeutic techniques on somebody when they are not qualified and somebody could be seriously injured.

I would point out to the folks who have expressed concerns to me in the past that the UK recognised these very points, and in 1992 passed their own complete legislation on chiropractic services as a standalone piece of legislation. That is how important and that is how serious this
1820 is... least of all the professionals who are qualified with the recognised UK qualification, who have been coming to me, expressing their deep concerns. So I will be interested to see the Minister’s response on these issues, Vainstyr Loayreyder.

Gura mie eu.

1825 **The Speaker:** Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

I also wish to endorse the sentiments made by the Member for North Douglas on that. There has been some time that these organisations have not been regulated and I just wanted to rise and support the Member on this particular issue and hope that if it is not too late, maybe some insertion
1830 could take place within the Bill. It is up to the Minister to progress the Bill at whatever speed he wants to take it through the House, but one would hope that the Minister would take on those views.

1835 **The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

I wonder if the Hon. Minister can advise the House on who participated in the consultation exercise, who was invited to consult, who submitted responses and where those responses in fact might be published, bearing in mind that it is primary legislation that we are considering this
1840 morning, which comes under the Chief Secretary’s code on matters of public consultation.

I just do not recall, Mr Speaker, having seen the outcome of that public consultation exercise, so I am just wondering if the Minister can offer some guidance on that.

1845 In view of what has been raised in the House this morning by the Hon. Member for North Douglas, would the Minister seriously consider accepting an amendment at clauses stage to insert the very clause with which Mr Henderson is referring, which I think the majority of us would agree is in fact very important and essential?

Thank you.

1850 **The Speaker:** Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, obviously any move that improves the services for the most vulnerable in our society, we should congratulate. I know when we brought in the original Nursing and Residential Homes, in 1988, that was a landmark improvement as far as the elderly were concerned.

1855 One of the things I am concerned about by the Minister is when it talks about the establishment of a tribunal, as far as the Bill is concerned. I am very concerned about making sure there is proper independent audit. My viewpoint has always been that in the likes of his Department there should have been a Social Services committee, which was independent with a totally different electoral college, as one of the checks and balances when we are given great power.

1860 I think a recent experience that I had in my own constituency is where we end up with a situation where his own... under this existing power, under existing legislation, if the staff break their own law and there is no recompense as far as that issue is concerned.

1865 When we look at the likes of the Children and Young Persons Act, that... I have not got it in front of me now, have I? Yes, the requirement as far as the younger aged... the Children and Young Persons Act, the situation is that they break their own laws so they are supposed to take into cognisance the issue as far as planning of this is concerned, but it is all 'Tally-ho! We are all friends together,' so we end up with a situation where the legitimate concerns of the neighbours, where they think that there is the planning restriction applied, and then I think – and don't quote me on the exact number – it is 75 that your Department has given them, when the fact is that part of the regulations under the Act they have to abide by planning law, but because it is Government and because it is the small individuals, there is little or no recall as far as that issue is concerned.

1870 People outside Government would be prosecuted for such breaches, but because it is inside Government we have this cosy arrangement where we do not prosecute people, which we thought we had beaten 20-odd years ago, with issues the likes of Litt's, when we had the policy changed.

1875 So one of the things I am concerned about is the deficit within this piece of legislation, that independence, and whilst it recognises the Human Rights Act, I just feel that that is one of the issues that needs to be addressed as far as accountability and about holding people to account as far the public servants are concerned. We have got all this power and not have the checks.

1880 One of the things that I feel that maybe we do need to be looking at is creating some sort of structure, when we are talking about the elderly, where we have some sort of buddy scheme that I tried to get them to do when I was on the DHSS, whenever it was... 15 years ago, where we had lay people who can actually hold the inspectorate to account as far as the homes are concerned, and that needs to be made up of the interested organisations that have an interest in the likes of the elderly.

1885 I am tempted to try and move some amendments on this point in this piece of legislation, but my concern is making sure that the powers that we give to our public officials are accountable and when we create legislation that I do not find a situation where they break their own care legislation under the Children and Young Persons Act by saying they have to enforce the planning law, but then they unilaterally give a higher level than the planning law and there is no accountability as far as the issue is concerned. So we are quietly meeting together and we just change the situation for that.

1890 So I think, Vainstyr Loayreyder, the Bill is a good thing. The Bill needs to be supported. What I am concerned about is its independent audit as far as that issue is concerned and I think that issues on the inspection, whilst it was revolutionary in 1988 – trying to bring in some sort of independent inspection into residential homes – you need something in there just to keep people on their toes when we are dealing with very vulnerable people.

1900 Obviously, I will be supporting the Second Reading of this Bill, but I do think there are glaring deficiencies as far as trying to hold people to account and not just keep the ever long march of creating more and more powerful officials with no accountability for those officials, even in this political structure here today as Members of Tynwald, and being a member of the Oltey y Chiare as Feed.

I do feel that the Minister needs to take it on board and, before he uses the block vote of the Government system, listen to what people have to say, if we decide it is worth our while even attempting to bring about that rebalance.

1905

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

Mr Robertshaw: Thank you, Mr Speaker, and may I thank the Member for North Douglas for seconding the motion. I am most grateful to him. I think it is very important to address his concerns with regard to the removal of elements, as he clearly outlined in his words.

1910

The Department has been made aware, through correspondence with the Hon. Member, that an agreement to include the regulation of chiropractors was made under the former Department of Health and Social Security, before the functions of Health and Social Security split.

The Department of Social Care welcomed the request to insert a section within the Regulation of Care Bill to enable chiropractors to be regulated and has worked closely with the Department on this issue. However, it became clear as the Bill developed and consultation with stakeholders took place that the best way forward for the regulation of healthcare professionals, such as chiropractors, was to recognise the regulatory powers of the various professional bodies as the most appropriate form of regulating this group. This is different to the provision of the Regulation of Care Bill, which is about the full registration and inspection by the Department of Social Care and focuses on the regulation of care services, rather than individual professions. I think it is a very important point to make.

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The Department of Health, as lead Department, therefore felt that rather than continuing to use the Regulation of Care Bill as a legislative vehicle for introducing regulation chiropractors, it was more appropriate for chiropractors to come under legislation that they are bringing forward, which will include provisions to regulate a wide range of healthcare professionals, not just chiropractors, using existing professional bodies.

1925

So before the Hon. Member feels he wishes to start moving amendments to return 'chiropractor' into this Bill, I would ask him to consider the Department of Health's position on this and that it would fundamentally change the nature of this Bill which is focused on issues of care, rather than governing professional bodies; but I do fully understand his sentiments and I hope I have gone some way to ameliorate his concerns.

1930

So he asked, and the second part of his commentary was, 'Where has it gone?' It is now with the Department of Health and they are maturing a Bill in their Department to ensure it covers the area in a holistic and detailed way on a variety of professional bodies which do not currently come under regulation.

1935

I thank the Member for Onchan, Mr Quirk, and recognise his concern and the concerns of all Members over this matter and I hope that he also is somewhat reassured by my words.

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Mr Henderson: Point of order, Vainstyr Loayreyder, and I am sorry to interrupt proceedings, but could the Minister answer why the sponsoring Member for the amendment was not informed? Does he know it was my query, if and when this Health Service legislation might hit the floor of the Keys?

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The Speaker: I am not treating that as a point of order. I am treating it as an intervention, which is possible under our Standing Orders.
Minister.

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Mr Robertshaw: Mr Speaker, I am happy to accept it as an intervention.
This Bill, which my Department has been working very hard on, over the last year, has – as he knows, I think – been around for a long time and first came into being, I think, in 2007, in its early formation. I would put it to him that his discussions were with, and agreements, effectively, were with the original Department.

1955

Mr Henderson: They *were* agreements.

Mr Robertshaw: Yes, agreements with the original Department. The Department has now split into two and his agreement, effectively, is now with the Department of Health.

1960

Mr Henderson: It is with the Social Care Minister.

Mr Robertshaw: It was with the Department of Health and Social Security. (*Interjection*) I think that is a fact.

1965 **The Speaker:** Keep the debate through the Chair, please, not to each other. (*Laughter*)

Mr Robertshaw: That is the answer to the intervention. If I can proceed, Mr Speaker? (**The Speaker:** Yes.) Thank you.

1970 With regard to Mrs Cannell's comment, she asks what the response to the consultations were. She again reiterates her concern about chiropractic issues.

I am pleased to advise the Hon. Member for Douglas East that every registered service provider was consulted during the process and all those who will come under registration were also consulted. The outcome was actually published in September and circulated to all Members and is available on the Department of Social Care website. I can reassure the Member that a considerable amount of extended consultation went on, on the part of my officers, to go out and to meet and discuss the proposals in great detail with those who will be affected.

1975 If I can turn now to the Hon. Member for Onchan, Mr Karran's comments, and he again has stood up today and reiterated his concerns about transparency and about openness and about accountability. I would ask the Member to – and I thank him for his support in his indication of voting in favour of the Second Reading – appreciate that the heart of this Bill is about openness and transparency. What we are actually doing in this Bill is taking the process that my Department goes through and putting it under registration inspection and then along with everyone in the private and third sector, who will also be covered, effectively producing public reports on those inspections. So this is a very, very major step forward. It provides and is a coherent move towards open and transparent Government. I think it is an important step forward and I hope he appreciates that that is the spirit of it.

1980 Mr Speaker, again, reiterating my thanks to the Member for Douglas North, Mr Henderson, for seconding the motion, and I beg to move.

1985 **The Speaker:** Hon. Members, the motion before the House is that the Regulation of Care Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

1995

**Children and Young Persons (Amendment) Bill 2012
Second Reading approved**

2000 4.2. Mr Crookall to move:

That the Children and Young Persons (Amendment) Bill 2012 be read the second time.

2005 **The Speaker:** We turn now to the Children and Young Persons (Amendment) Bill and I call on the mover, Mr Crookall.

Mr Crookall: Thank you, Mr Speaker.

2010 This is a Private Member's Bill introduced into the Legislative Council by the Member of Council, Mr Turner. It is the Children and Young Persons (Amendment) Bill 2012 and deals with the specific issue of parental responsibility. The Bill has completed its passage through the other place and received unanimous support. The Bill has been a year in the process to ensure a wide opportunity for input from the relevant professionals. The Hon. Member of Council carried out consultation with the key Government Departments and agencies involved in this area of legislation, namely the Department of Education and Children, the Department of Social Care and the family welfare officers at the courts. All have given their backing and support to this short but important Amendment Bill.

2015 What this Bill seeks to do is bring the Isle of Man into line with the provisions that are in the neighbouring jurisdictions in the UK and particularly in Scotland and Northern Ireland, where the provisions are broadly the same; they are just worded slightly differently. It is the issue of parental responsibility of unmarried fathers.

2020 Over the past few years, we have seen a raft of legislation designed to give people equal rights in society. We have dealt with a whole host of subjects on disability, same-sex couples, ensuring that women are given equal status to men in employment and a raft of other social legislation.

2025 In the Isle of Man there remains a provision that excludes men from having legal parental
responsibility for their children, unless they fit certain criteria. This is a hangover from way back,
but of course, in society more and more people choose not to marry for a variety of reasons, but do
choose to start a family. This is the same in other jurisdictions. Parental responsibility is the basic
responsibility a parent has for their child and it is to do with matters such as healthcare, education
2030 and other discipline and general upbringing and wellbeing of the child. If a man and woman have
a child and they are married, the marital status determines that both automatically hold the parental
responsibility and that the man does not cease to hold such status if the couple divorce. What this
Bill does is it alters the provisions so that when an unmarried man and a woman have a child and
go to the registry and register the birth, the father and the mother are named in that registration. It
is a process that will determine that both these individuals hold the parental responsibility for the
child. Currently, Mr Speaker, even if both parents are named on the registration birth certificate,
2035 the man, if not married, does not have any legal parental responsibility for that child and can have
no say in the child's life.

The only current options for the unmarried man would be to enter into a parental responsibility
agreement with the mother and lodge it within the courts, or if the mother refuses, the father could
2040 apply to the courts – usually the High Bailiff's Court – to have the Court grant parental
responsibility. This can be costly, upsetting, confrontational and of course is completely avoided if
the man was married. In the UK – Scotland, Northern Ireland and Wales and also England – that
provision has been changed and what this does is bring the Isle of Man into a similar procedure.

2045 There was some debate regarding the break-up of families, of course, we have to look at it in
two ways. A break-up of families can happen whether the couples are married or unmarried, but
they still both have the children, so why should the break-up of an unmarried couple be treated any
differently from the break-up of a married couple, when it comes to the caring of a child? There is
not really a link, in my view, that they are both the parents and they both should take responsibility
for the child.

2050 I have to stress that this is actually about responsibilities of the parents and not the rights of the
parents. Members may be aware that in the UK at the moment, they are looking to change the law
to give the child rights to have access to both parents, as opposed to the other way round. The
author of the Bill did consult with the Department of Education and Children, the Department of
Social Care and the courts and at a very early stage. The Department of Education stated:

2055 'As far as the DEC is concerned, we would welcome this Bill. We spend a lot of officer time dealing with these issues
over parental responsibility. This would reduce the number of queries we receive on a weekly basis from both schools
and parents. We would support this Bill.'

2060 Similarly, the Family Court Welfare on behalf of the Court Welfare Service said they are
happy with the contents and are content for the Bill to go forward. Bigger issues that we all read
about, the contentious issues of custody, of where a child resides, are all completely separate
matters, but there is an existing process for dealing with that. The process is overdue an overhaul,
but it is important that the issue before us is dealt with in isolation as a stand-alone issue.

2065 The key in this is that the consenting parents register the birth at the General Registry in
accordance with the Registry procedure and that determines the parental responsibility.

If I briefly go through the layout of the Bill, the substantive change is in clause 3(4) and
essentially means that the father of a non-marital child has a parental responsibility for the child, if
he is registered as the child's father under section 12(1) of the Civil Registration Act 1984, which
is the registration of a father of a non-marital child.

2070 After the new section 3(2A) of the Children and Young Persons Act 2001 comes into
operation, if it is passed, for ease of reference, 'marital child' had been given the meaning in
section 5 of the 2001 Act. The amendments in clause 3(2) and (3) and clause 4 are minor
amendments to tidy up the existing wording, when we have an amendments Act and there is also
2075 provision, which removes the Amendment Act, once the amendment has taken place, but the
provisions obviously continue in operation. It is designed to keep the statute books tidy.

Just to clarify again Mr Speaker, this is a Private Member's Bill and not brought forward by
the DEC. Mr Speaker, I hope Members will support this Bill and I beg to move the Bill be read for
a second time.

2080 **The Speaker:** I call the Hon. Member for Douglas East, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker and I am happy to rise to second the mover of the Bill,
to second the Bill for Second Reading.

2085 I have gone into this in some depth, together with the hon. mover a week ago, where we called upon the explanation from the Member of the Legislative Council who put the legislation together. I am fairly satisfied with the explanations that were given; it was a very useful meeting.

2090 I would say, for simplicity, this merely brings a common-law relationship vis-à-vis a couple who are not lawfully married, but are recognised under common law in every other respect in terms of property rights, assets etc. It brings them into parity with a matrimonial couple, in other words, a couple lawfully and legally married. So it really is to correct an anomaly in law, which I was quite surprised at being allowed to survive as long as it has, so it is a relatively simple Bill and I would ask Hon. Members to give it their support.

2095 **The Speaker:** Mr Karran, Hon. Member for Onchan.

Mr Karran: I believe that the Bill is a vehicle to help to iron out a few of the injustices that have taken place and I have no problems with the Bill as it stands. What I do feel is maybe the mover would be advised to try and take some of the information that the Fathers for Justice, if other amendments come to this Bill later on, to understand the rationale behind it.

2100 I find it absolutely incredible that there are an absolute barrage of inconsistencies as far as the status of fathers who are not in a position of being in wedlock, with their mothers. (*Laughter and interjections*) I feel that we have the situation with the likes of contact orders not being enforced, where they are part of any maintenance orders, they should be part of this Bill in my opinion.

2105 We will be looking at the possibility of moving some amendments, so that we do not have the ridiculous situation where the father can go to jail for the maintenance order, but he cannot enforce the contact orders, when we are talking that this Bill is to be promoted as far as parental responsibility. The absurdity is that we end up, which I had recently with a constituent, where the child had been adopted... was being forced to pay for maintenance for that child whilst it was being adopted, but there was no responsibility to inform that individual of the adoption allowing for the individual to spend tens of thousands of pounds on legal advice trying to get a contact order.

2110 I think the Hon. Member in the other place, Mr Turner, has done us a good deal as far as highlighting some of the inconsistencies in the present law, but I feel that maybe this Bill could be broadened out, even allowing for the long title of the Bill being very limited in its flexibility.'

2115 Yes, I would support the Bill, but I do feel that there may be opportunity to address some of the anomalies at the present time. Obviously, the attitude has changed from 30 years ago, where it was supposed to be it was the mother's prerogative, more than the father's prerogative, as far as the care of the child. I think it needs to be equally the prerogative of both, but I do feel these other issues might actually strengthen this piece of legislation in order that we will have justice, equal on the same basis, because at the present time, we find, if the mother is on Legal Aid, that the fathers have to say goodbye to their children having parental contact at the present time. I think that maybe this might be an opportunity for us to be able to look at this as a way forward.

2125 **The Speaker:** I call on the mover to reply, Mr Crookall.

Mr Crookall: Mr Speaker, I thank the Hon. Member for Douglas East for seconding and also for her support. It does help to bring into parity an anomaly.

2130 I also thank the Hon. Member for Onchan, Mr Karran, for his comments and I would be more than happy to sit down and have a discussion with him and Mr Turner before, if you want to have a look at any amendments. But I take on board the Member's comments and I beg to move.

The Speaker: I put the motion that the Children and Young Persons (Amendment) Bill be read the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2135

**Joint Committee on the Constitutional Principles Raised by the Electoral Reform Bill 2011
Report received and recommendation approved**

2140 5.1. The Hon. Member for Douglas East (Mrs Cannell) to move:

That the Report of the Joint Committee on the Constitutional Principles Raised by the Electoral Reform Bill 2011 [PP 0139/12] be received and that the following recommendation be approved –

2145 *That the Electoral Reform Bill 2011 should be returned to the Legislative Council for the continuation of the legislative process.*

The Speaker: We turn now to the final Item on our Order Paper, Report of the Joint Committee on the Constitutional Principles Raised by the Electoral Reform Bill 2011. I call on the
2150 Hon. Member for Douglas East, Mrs Cannell, to move.

Mrs Cannell: Thank you, Mr Speaker.

I apologise for the weight of this Report and I can assure Hon. Members I have no intention whatsoever to be going through the weight of this Report, page by page, but I will take it for
2155 granted that Members have in fact gone through it. (**A Member:** Hear, hear.)

It was resolved in the House of Keys on 22nd November last year that the Keys concurred with the proposal of the Legislative Council that a Committee of three Members be appointed to consider the constitutional principles raised by the Electoral Reform Bill 2011 in the Council; that the Committee be empowered to join with the Committee of the Council, under Standing Order
2160 4.7 of Tynwald Court; and that the Committee be given powers to take evidence and to summon the attendance of witnesses pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876.

Hon. Members may recall that the Hon. Member for Rushen, Mr Gawne, was elected to the Committee, together with the Hon. Member for Ramsey, Mr Singer, and myself to be your delegation from the House of Keys. We then sat and met with the Members of the Legislative Council, namely, Mr Braidwood, Mr Downie and Mr Callister, who is, in fact, the promoter of this particular Bill.
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When we did meet, they elected me to be their Chair. It has been an interesting experience, I have to say, Mr Speaker: not an easy subject matter, but an interesting subject to look at.

What I would like to just highlight is that we did in fact seek evidence. We also received
2170 evidence from members of the public – six members of the public. We sought evidence from all the local authorities, former Clerks of Tynwald and also the former President of Tynwald Court.

We took oral evidence on 19th March and 20th April this year from Mr Noel Cringle OBE and Mr Robert Quayle, who used to be Clerk of Tynwald; on 20th April from Mr Eddie Lowey, Member of the Legislative Council, who proposed the Joint Committee and also Mr Roger Tomlinson, who I understand at that time was Chairman of the Positive Action Group. We also sought written evidence from Mr Cornwell-Kelly, who was a former Clerk of Tynwald, and also from Professor David Kermode, who has a very keen eye and a great interest and expertise in the area of constitutional matters.
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Members will notice that there is all sorts of very useful information in here for future consideration and it will act as a good reference guide, in that enclosed at the back, in Annex 1, is a copy of the actual Bill, which has been the subject of discussion. In Annex 2, there is a summary timeline of the boundary reviews and Constitution Bills since 2003 for reference. Annex 3 talks about the composition of the Legislative Council and gives the historical view. Annex 4 gives a timeline since 1982 of legislative proposals relating to electoral reform and of Tynwald proceedings relating to boundary reviews, so it is a very useful exercise to have gone through, because now all of this is catalogued in one document, which will be useful in the future.
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I am afraid that the one matter we were asked to consider is whether there are any constitutional principles to be considered in respect of Mr David Callister's Bill. We could not agree that, in fact, there were any... could not agree as a unanimous view, as to whether it did propose any constitutional change that might be damaging to the Isle of Man and its future.
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The one thing we could agree on was that the Bill needed to proceed through its consideration of Second Reading. Members may not recall that, when Mr Callister took his Bill through the Legislative Council process for a Private Member's Bill, it was stalled at Second Reading when Mr Lowey moved that a joint committee of the Keys together with the Legislative Council be formed to consider the constitutional principles raised by Mr Callister's Bill, so has never ever completed its Second Reading and it has never been voted on. The one thing we were unanimous about as a Committee of both branches was that the Electoral Reform Bill 2011 should be returned to the Legislative Council for the continuation of the legislative process.
2195

I am reliably informed this morning, about an hour or so ago, that a similar motion that appears on our agenda today, appears, or did appear on the Legislative Council agenda and that the Legislative Council have agreed to accept the Report which I am moving today, after a very short debate, and they have agreed with the actual recommendation that Mr Callister's Bill should be allowed to complete its legislative passage.
2200

It remains to be seen, Hon. Members, whether the Legislative Council will vote to support the principle of his Bill. That has nothing to do with the House, I would respectfully suggest, nor has
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the subject matter of his Bill got anything to do with the House at this juncture. We were merely appointed by you to represent you to look at any constitutional implications and, as I have stated this morning, Mr Speaker, we have been unable to agree that point.

2210 So I move that the Report be received of your Committee and the recommendation that Mr Callister's Bill should continue its legislative process in the Legislative Council, where it is at present, and I beg to move.

The Speaker: Mr Singer.

2215 **Mr Singer:** Mr Speaker, I beg to second and reserve my remarks.

The Speaker: Hon. Member for Glenfaba, Mr Anderson.

2220 **Mr Anderson:** Yes, I would ask the hon. mover of this motion, the Chair of the Committee, what, really, the Committee have learnt through this process. It seems to be a very weighty document that does not really tell us very much.

2225 The other thing to say is why has it taken so long to come back to us? I understand from the documentation that the oral hearings that took place were back in April, so why has it taken so long to come back?

The Speaker: I call on the mover to reply, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker and I thank Mr Anderson for his enquiries.

2230 First of all dealing with the last matter first, I think we have to take into consideration a great deal of work has gone into the preparation and the drafting of the Report, not by one clerk, I might add, but by both Clerks: the Clerk who represents the House and Mr Speaker's Counsel and also the Clerk to the Legislative Council. So there were very large meetings and those Clerks were in attendance and both Clerks have had input into the preparation of the Report. So that has taken a good while to complete.

2235 There was the summer recess and on top of that, of course, there are not any sittings of any select committees and standing committees – or have not been – for a number of years during the month of August – not parliamentary committees. So we lost a month there. The actual delay has not been because of a consequence of either my members' attendance or my attendance, because we have been free and attended every meeting that has been convened. We have merely been waiting for the administration to put together the Report so that we could agree it.

A Member: Roger's fault!

2245 **Mrs Cannell:** I have to say, Mr Speaker, that we did... there was a process whereby we were – the majority of us – agreed through e-mail with the first draft report and we were happy with it, but there were one or two members that needed a meeting, wanted another meeting to sit round the table to go through it with a fine-tooth comb, which is unfortunate because it added further delay.

2250 What we have learned is that the majority of the Committee were in favour of a directly elected, publicly elected Legislative Council and a minority of Members in the Legislative Council disagreed with us.

2255 There is nothing new there to be learned; some might regard it as turkeys voting for Christmas, (*Interjections*) but what we learned is that there is no... there was not a unanimous view that, in fact, what Mr Callister's Bill was containing did not impact negatively on the constitution of the Isle of Man. So that is what we learned.

For me, it was the third or fourth time I have sat on a Committee that actually focused and looked at this subject, so I feel, like others in this Hon. House a bit of an authority, in terms of the Legislative Council and its history.

I beg to move.

2260 **The Speaker:** I put the motion that the recommendation set out at Item 5 on the Order Paper be approved. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

2265 Hon. Members, that concludes the business of the House today. The House will now stand adjourned until the next sitting, which will take place at 10.30 a.m. on 11th December in Tynwald Court.

The House adjourned at 11.58 a.m.