



HOUSE OF KEYS OFFICIAL REPORT

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PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 26th May 2015

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Present:

The Speaker (Hon. S C Rodan) (Garff);
Mr D M Anderson (Glenfaba);
Mr L I Singer (Ramsey);
Mr P Karran, Mr Z Hall and Mr D J Quirk (Onchan);
Hon. R H Quayle (Middle);
Mr J R Houghton and Mr G R Peake (Douglas North);
Mrs K J Beecroft and Mr W M Malarkey (Douglas South);
Mr C R Robertshaw (Douglas East);
Mr G D Cregeen (Malew and Santon);
Hon. L D Skelly and Hon. P A Gawne (Rushen);
with Mr J D C King, Deputy Secretary of the House.

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House of Keys

The House met at 9.15 a.m.

[MR 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

The Chaplain of the House of Keys

Leave of absence granted

The Speaker: Hon. Members, I have given leave of absence to Mr Bell, Mr Cannan, Mrs Cannell, Mr Crookall, Mr Ronan, Mr Shimmin, Mr Teare, Mr Thomas and Mr Watterson.

10

1. Swearing-in of new Members

Swearing-in of the new Member for Douglas North, Mr George Ralph Peake

The Speaker: The first Item on our Order Paper this morning is the swearing in of the new Members of the House of Keys for Douglas North and Douglas South.

15 I call on the Deputy Secretary of the House to bring forward His Honour the First Deemster and Clerk of the Rolls and the Chief Registrar.

Members of the public please rise.

20 *The Deputy Secretary conducted the First Deemster and Clerk of the Rolls and the Chief Registrar into the Chamber.*

The Speaker: Members of the public, please be seated.

25 I now call upon the Deputy Secretary of the House to accompany the sponsors, the Hon. Member for Douglas North, Mr Houghton and the Hon. Member for Rushen, Mr Skelly, to bring forward the new Member of the House of Keys for Douglas North.

Mr Houghton: Mr Speaker, your Honour, I have great pleasure in introducing to you the new Member for Douglas North, Mr Peake.

30

Mr Peake was conducted to the Chief Registrar's desk.

The First Deemster (His Honour David Doyle): There are two oaths to deal with this morning: there is the Oath of Allegiance and then there is the Oath administered to elected Members of the House of Keys.

Are you content to take the Oath of Allegiance and to have the Oath administered to elected Members of the House of Keys administered to you?

Mr Peake: Yes, I am.

The First Deemster: If you could take the Testament in your hand and read the words on the card. It is 'I', your full name and then all the words on the card, please. Thank you.

Mr Peake took the Oath of Allegiance as follows:

I, George Ralph Peake, do swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her heirs and successors, so help me God.

The First Deemster: I am satisfied that the Oath of Allegiance has been duly taken.

We now turn to the Oath administered to elected Members of the House of Keys and I administer that Oath to you as follows:

Her Majesty's counsel, your fellows' and your own you shall not reveal. You shall use your best endeavours to maintain the ancient laws and customs of this Isle. You shall justly and truly deliver your opinion and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof, but in all things you shall deal uprightly and justly and do wrong to no man, so help you God and by the contents of that book.

I am satisfied that the Oath administered to elected Members of the House of Keys has been duly administered to Mr Peake.

In a moment I will invite Mr Peake to sign an entry in the *Liber Juramentorum*, the public records of this Island, and that entry reads as follows:

'At Douglas, 26th May 2015: On this day the Oath of Allegiance and the Oath of Elected Member of the House of Keys were administered to and taken by George Ralph Peake, a Member of the House of Keys, he having been elected on 21st May 2015 under the writ issued by His Excellency the Lieutenant-Governor on 9th April 2015.'

If you are content with that, could I ask you to sign on the right-hand side?

Mr Peake signed the Liber Juramentorum.

The First Deemster: I will just witness that signature.
Thank you very much, Mr Peake.

The Speaker: Mr Peake, welcome.
Please hand me your Certificate of Election.

Mr Peake handed his Certificate of Election to the Speaker.

The Speaker: Mr Peake, I now invite you to sign the Standing Orders of the House.

Mr Peake signed the record of Standing Orders.

75 **The Speaker:** Thank you very much.
I now present you with your own personal copy of the Standing Orders.
I now call on your sponsors to escort you back to your seat. Thank you.

Mr Peake was escorted to his seat.

**Swearing-in of the new Member for Douglas South,
Mr William Mackay Malarkey**

80 **The Speaker:** I now call upon the Deputy Secretary of the House to accompany the sponsors,
the Hon. Member for Malew and Santon, Mr Cregeen and the Hon. Member for Onchan,
Mr Quirk, to bring forward the new Member of the House of Keys for Douglas South.

Mr Malarkey was conducted to the Chief Registrar's desk.

85 **The First Deemster (His Honour David Doyle):** There are two oaths to deal with this morning:
there is the Oath of Allegiance and then there is the Oath administered to elected Members of
the House of Keys.

90 Are you content to take the Oath of Allegiance and to have the Oath administered to elected
Members of the House of Keys administered to you?

Mr Malarkey: Yes, I am.

95 **The First Deemster:** If you could take the book in your hand and read the words on the card.
It is 'I', your full name and then the words on the card, please. Thank you.

Mr Malarkey took the Oath of Allegiance as follows:

100 *I, William Mackay Malarkey, do swear by Almighty God that I will be faithful and bear true
allegiance to Her Majesty Queen Elizabeth II, Her heirs and successors, so help me God.*

The First Deemster: I am satisfied that the Oath of Allegiance has been duly taken.

We now turn to the Oath administered to elected Members of the House of Keys and I
administer that Oath to you as follows:

105 *Her Majesty's counsel, your fellows' and your own you shall not reveal. You shall use your best
endeavours to maintain the ancient laws and customs of this Isle. You shall justly and truly
deliver your opinion and do right in all matters which shall be put unto you, without favour or
affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof, but
in all things you shall deal uprightly and justly and do wrong to no man, so help you God and
by the contents of that book.*

I am satisfied that the Oath of Allegiance and the Oath administered to elected Members of
the House of Keys have been duly taken and administered.

110 I will in a moment invite Mr Malarkey to sign an entry in the *Liber Juramentorum*, the public
records of this Island, and that entry reads as follows:

'At Douglas, 26th May 2015: On this day the Oath of Allegiance and the Oath of Elected Member of the House of Keys were administered to and taken by William Mackay Malarkey, a Member of the House of Keys, he having been elected on 21st May 2015 under the writ issued by His Excellency the Lieutenant-Governor on 9th April 2015.'

Mr Malarkey, if you are content, can I invite you to sign that document, please?
Thank you very much.

115

Mr Malarkey signed the Liber Juramentorum.

The First Deemster: Thank you. I will just witness that signature.

120

Mr Quirk: Mr Speaker, I wish to present William Mackay Malarkey as the new Member for the constituency of Douglas South.

The Speaker: Mr Malarkey, welcome.
Please hand me your Certificate of Election.

125

Mr Malarkey handed his Certificate of Election to the Speaker.

The Speaker: Thank you.
I now invite you to sign the Standing Orders of the House.

130

Mr Malarkey signed the record of Standing Orders.

The Speaker: I present you with your copy of the Standing Orders. Thank you.
I call on your sponsors to escort you back to your seat. Thank you.

135

Mr Malarkey was escorted to his seat.

The Speaker: Mr Peake and Mr Malarkey, I welcome you to the House of Keys in your capacity as the new Hon. Members for Douglas North and Douglas South, and congratulate you on your election to this House by the people of your constituency. They have placed great confidence and faith in you to represent their interests, and indeed the interests of the Island as a whole, fairly, wholly and honourably.

140

I have no doubt that you will carry out your duties and responsibilities to your constituents and to this House to the highest standards of integrity and that you will ensure that the people of your constituencies and the Island as a whole are served to the best of your ability in a fair, open and honest manner.

145

The prime task of this House is to legislate on behalf of the people of the Isle of Man. Like the countless men and women who were here before us, we are in this place to persuade, to argue and debate the laws of the land by which we live. This will give you, in turn, great satisfaction, but also challenge, frustration and a degree of disappointment – of that I have no doubt (**Two Members:** Hear, hear.) – but you will bring, to the benefit of this forum, I am confident, your own particular experience of commercial and public life in the Isle of Man.

150

As elected representatives of the people, I guarantee you will face pressures like no other; strength of resolution will often be required to make the right and true decision. In the words of the historian, Macaulay, 'No man is fit to govern who hesitates about disobliging the few who have access to him for the sake of the many he will never see.'

155

I wish you well for the future as Hon. Members of the House of Keys. Therefore, on behalf of all Members of this House, I have great pleasure in welcoming you to this ancient institution, the House of Keys. Welcome. (**Several Members:** Hear, hear.)

160 And now, Hon Members, I would like, on your behalf, to thank His Honour the First
Deemster, Clerk of the Rolls and the Chief Registrar for their attendance this morning. I now ask
the Deputy Secretary of the House to escort His Honour and the Chief Registrar from the House.

165 *The Secretary escorted the First Deemster and Clerk of the Rolls and the Chief Registrar from
the House.*

The Speaker: Hon. Members, the sitting will now be suspended until 10 o'clock for the
normal business of the House.

Thank you, Hon. Members.

*The House adjourned at 9.33 a.m.
and resumed its sitting at 10.00 a.m.*

2. Questions for Oral Answer

HEALTH AND SOCIAL CARE

2.1. Mental Health Service – Impact of use of legal highs

The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Care:

*What impact the consumption of plant food and other legal substances has had on the use of
the Mental Health Service?*

170 **The Speaker:** Please be seated, Hon. Members.

Welcome again to Mr Malarkey and Mr Peake.

We turn to Item 2 on the Order Paper, Questions for Oral Answer, and I remind Hon.
Members it is now our practice to read out Questions for the benefit of those listening.

Question 1. I call on the Hon. Member for Onchan, Mr Karran.

175

Mr Karran: What impact has the consumption of plant food and other legal substances had
on the use of the Mental Health Service?

The Speaker: I call on the Minister for Health and Social Care, Mr Quayle, to reply.

180

The Minister for Health and Social Care (Mr Quayle): Thank you, Mr Speaker.

This is a difficult Question to answer for the Hon. Member, as many of the users of both legal
and illegal drugs are recreational users and therefore do not come into contact with our
specialist Drug and Alcohol team.

185

In relation to the reference to plant food, he will be aware it is now an illegal substance and, I
am informed, not as popular as drugs that can be freely sourced, purchased and delivered to a
home address with no legal sanction. As a consequence, there are a number of so-called 'legal
highs' being consumed on a regular basis on the Island by young people – those under 18 years
old – and young adults, such as synthetic cannabis, stimulant-type drugs such as party pills, and
synthetic hallucinogens that mimic LSD.

190

In terms of impact on the Mental Health Drug and Alcohol Service, we have received a
number of referrals directly related to the misuse of legal highs, particularly synthetic cannabis.

The DAT young persons' specialist worker currently has 12 such cases on his caseload, with significant overlap with the more traditional alcohol, cannabis and MDMA.

195 In order to gain meaningful data on this problem we would require a population survey to determine prevalence and rates of use of different drugs.

The Speaker: Supplementary question, Mr Karran.

200 **Mr Karran:** Vainstyr Loayreyder, what issues have been done by the Department now that you have got the responsibility, as far as drugs are concerned, as far as trying to get the message over to parents about the seriousness and the implications as far as these legal highs are concerned?

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

The Minister: Thank you, Mr Speaker.

As the Hon. Member for Onchan rightly points out, this has only just been transferred over to my Department, this responsibility, but I am delighted to announce to this Hon. House that we have appointed an interim Director of Public Health, Angela Murray, and... [*Inaudible*] in mental health and public health, and we were having a full review of our Drug and Alcohol Strategy, which has only happened in the last number of weeks, and therefore I am having a meeting, as it happens, this week to discuss the Strategy and will be appointing a political Member of the Department to this position in the near future.

215

The Speaker: Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

I find it quite ironic that the first Question of the new sitting is regarding legal highs – something I was very much involved with in my last term.

220 Would the Minister like to expand on what other legal highs or drugs that are readily available he was talking about in his opening remarks?

Can I ask the Minister also, with regard to admissions to A&E, are we any further with information on people being admitted to the Hospital with suspected legal highs or drugs, that information being passed on to DAT and other authorities, like the Police, to deal with it? (*Interjection by Mr Houghton*)

225 **The Speaker:** I do not want the Question widened out beyond that which is on the Order Paper, which refers to *Mental Health Services*; but Minister, you may have the information.

230

The Minister: Thank you, Mr Speaker, and thank you to the Hon. Member for giving me the privilege of his very first question back in the House.

I will take it backwards, if that is acceptable, Mr Speaker. Sadly, regarding hospital attendance, there have been a number of attendances at A&E in Noble's Hospital in relation to the misuse of these substances, but we do not have those numbers. Hon. Members in the Court of Tynwald approved an upgrade to our Medway system and once that is implemented then the data and record collection, which I have gone on about time and time again as being really important, will be able to keep these figures, but at the moment we have no record of the number of people attending A&E.

235 The various drugs – I am afraid that there are numerous ones. I have not got a full list with me, Mr Speaker, other than the ones that I read out – synthetic cannabis, synthetic hallucinations that... a variety of LSD and the stimulant-type drugs – but I am more than happy to furnish the Hon. Member with a copy.

240

245 **The Speaker:** Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh maybe go back to his Department about the issue of the effects of these legal highs, or legal substances, as far as on mental health services, and actually get some sort of information out so that parents... the signs as far as what effects these products have?

250 Would the Shirveishagh also maybe look at the issue of getting more involved with DASH, who actually took the lead, as far as this issue is concerned, when I was a Member of the Home Affairs Department, in order to try and get a truer picture as far as the real reality as far as this issue is concerned?

255 Finally, Vainstyr Loayreyder, can the Shirveishagh tell this House how far does his blanket ban go? Is it as far as the Irish or the New South Wales legislation, or the legislation, I believe – which I am not *au fait* with – as far as Guernsey is concerned?

The Speaker: We are broadening out the Question somewhat. Minister.

260 **The Minister:** Thank you, Mr Speaker, and I thank the Hon. Member for Onchan for his questions.

I am obviously happy to discuss ways, with my new management team, of communicating with parents on the Isle of Man the problems with drugs, and we are having a total relook at the Strategy, now that it has come to our Department, to see if it is fit for purpose.

265 I am also attending a meeting in Dublin on this very topic across the whole of the United Kingdom and will be listening to see what the latest thinking is there too.

Regarding his other point, on the Misuse of Drugs Act, really on the Isle of Man the legislation restricts us to only banning substances that are being looked at in the United Kingdom. The problem is we can only ban something if it is banned in the UK, so what we have done... Our legislation allows us to ban something for a year whilst the United Kingdom is looking at the drug to see should it be banned; and then after that, if they do not ban it, it is entirely up to us whether we continue it forward for another year, or not.

275 **The Speaker:** Final supplementary, Mr Karran.

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh also look at the experience as far as the Irish Republic is concerned as far as this issue is concerned, as I believe they have got a much more effective way than we have as far as that is concerned, and also the UK?

280 **The Speaker:** Reply, sir.

The Minister: Thank you, Mr Speaker.

285 Yes, I bow to the Hon. Member for Onchan's greater knowledge on this topic, as he was responsible for this area for two years, and I will of course look at the Irish Republic.

2.2. Glenside – Attempts to find alternative use

The Hon. Member for Onchan (Mr Karran) to ask the Minister for Health and Social Care:

What efforts Government made to find another use for the Glenside building?

The Speaker: Question 2. Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, what efforts have Government made to find another use for the Glenside building? I so ask.

290 **The Speaker:** Minister for Health and Social Care, Mr Quayle.

The Minister for Health and Social Care (Mr Quayle): Thank you, Mr Speaker.

I am pleased to inform the Hon. Member that, in relation to the Glenside site, a full development options appraisal was commissioned by the Department and subsequently presented to Treasury for approval.

295 The appraisal included discussions with Planning, covering both strategic planning views and Department control issues. The appraisal highlighted a preference for new residential and extra-care housing to be provided on the site, for a high priority to be placed on development which respects the quality of the detached dwellings on associated sites and the prominent site location.

300 The Department concluded from the study and a subsequent review that the use of the Glenside site for the creation of a new 60-bedroom residential unit and an initial development of around 20 extra-care units with potential scope for further future development on adjoining land will meet the Department's needs going forward. This will, of course, be subject to planning approval, Treasury support and, consequently, Tynwald approval.

305 **The Speaker:** Mr Karran, supplementary.

Mr Karran: Vainstyr Loayreyder, can the Shirveishagh give us a timeline – and I would imagine he will not have that here today – and circulate it to Hon. Members... as far as the timeline is concerned, over these proposals that came out on 23rd February this year?

Can the Shirveishagh also explain, if there was a problem as far as the building at Glenside, the Reayrt ny Baie building... would actually be breaking the law if it was owned and operated by anybody else other than ourselves?

315 Does he not feel that the real reason why we have knocked down Glenside is more to do with the employment contracts and freeing up the way of providing this service in the future for the private sector?

The Speaker: Minister to reply.

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

In answering the Hon. Member's questions, I will start with his first point. I am delighted to announce that the development to replace the Glenside facility has been in the five-year capital budget in the Pink Book, approved in February 2015 Tynwald. The current programme assures construction will commence in two to three years' time, obviously subject to Tynwald approval.

325 Regarding his comments on the employment contract, I am afraid I have to totally disagree with him on that one. I think had any Hon. Member taken the time to visit the Glenside site and seen it they would have seen a 90-bed unit... Are Hon. Members aware of how many toilets were in that facility? I was shocked to find that there were eight for a 90-bed unit. If that is the sort of facility we want for our elderly people of the Island, then I am afraid I do not want any part of that. (**Two Members:** Hear, hear.)

330 It was a building that had passed its time. It was not even made up of... As someone with a little bit of development experience, it was not made up of block work in between the rooms so you could have developed it easier, it was pre-cast reinforced walling and, as a result of that, it would have cost a serious amount of money, and sometimes it is cheaper to flatten and start afresh than to try and convert.

335 So I am afraid, as far as I am concerned, it had absolutely nothing whatsoever to do with employment contracts; it was purely the state of the building.

The Speaker: Hon. Member, Mr Malarkey.

340

Mr Malarkey: Thank you, Mr Speaker.

While welcoming the 60-bed unit for the site, can the Minister tell me during their plans at any time did they consider that this is a prime site on the TT course and that part of the site could have been sold to the private sector to offset some of the building costs of building the new unit on the rest of the site?

345

The Speaker: Minister.

The Minister: Thank you, Mr Speaker.

350

That had been looked at. There are, in fact, 10 separate options that we had for the site. It is too lengthy to read every one out now to Members of the Hon. House, but yes, a number of opportunities had been considered and we had also offered it to the Department of Education to see if it had been suitable for them, but on viewing they decided it was not appropriate for their needs.

355

The Speaker: Mr Karran, supplementary.

Mr Karran: Vainstyr Loayreyder, so as far as the timeline is concerned, you closed it before you had any plans – would he not agree?

360

Would he also not agree that the fact is a large part of the development was the issue of two rooms having to share one bathroom, as far as Glenside was concerned?

Would the Shirveishagh not also explain that whilst we have got massive problems about respite care, I believe that finally the impasse as far as the halfway house is concerned for getting prisoners out of prison and relocated back into society and the lack of other things... that that was seen as not a worthy –

365

The Speaker: Put the question, Mr Karran.
Reply, sir.

370

The Minister: Thank you, Mr Speaker.

I am at pains to understand where the Hon. Member is coming from. The building did not comply with current standards. His mathematics do not seem to stack up. I have just announced that there were 90 bedrooms and only eight bathrooms, and he is saying that two bedrooms shared one bathroom; I would have thought we would have had to have 45 bathrooms to comply. So it was not compliant.

375

We have cleared the site to allow development to proceed. So (a) the building was not up to standard and I have already mentioned why, and (b) it is in the capital Pink Book that we are going to look at construction in two to three years' time, so it is logical to flatten the site in readiness to make a start.

INFRASTRUCTURE

2.3. Douglas Promenade Scheme – Business case; agreement with Douglas Corporation

The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Infrastructure:

Whether he has a copy of the business case for the Douglas Promenade Scheme; and what related agreement his Department has with Douglas Corporation?

380 **The Speaker:** Question3. Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

385 Can I ask the Minister for Infrastructure whether he has a copy of the business case for the Douglas Promenade Scheme, and what related agreement his Department has with Douglas Corporation?

The Speaker: I call on the Minister for Infrastructure, Mr Gawne.

The Minister for Infrastructure (Mr Gawne): Gura mie eu, Loayreyder.

390 A revised business case for the whole of the Douglas promenade project has been prepared and is being reviewed by the design team prior to submission to Treasury. This takes account of the latest plans for shared space and a single-track horse tramway. I expect to approve this revised document in the next few days.

395 Douglas Borough Council supports the proposed promenade design and the relocation of the horse tram tracks. Hon. Members will be aware from the recent presentation to Tynwald Members that the Department is in discussions with Douglas Borough Council about the ownership of the new tracks. Hon. Members will also be aware that the Department's preferred option is for shared ownership. I believe that this will be acceptable to Douglas Borough Council.

400 A legal agreement has been drafted and is being discussed by both parties. Additionally, I hope that as a consequence of these discussions the Department will be able to repeal the Douglas Bay Tramway Act 1876.

The Speaker: Supplementary, Mr Quirk.

405 **Mr Quirk:** Thank you, Mr Speaker, and I thank the Minister for his Answer.

410 Can I ask the Minister then if he is only building this particular case together and only going to be approving it in the next few days... can I ask is the gift with him or his Department Members, or will he be consulting with his Department Members; and, if he is only putting this together in the next few days, how has he got Douglas Corporation's approval when he has not built the case together?

The Speaker: Minister to reply.

The Minister: Gura mie eu, Loayreyder.

415 I think the subtle distinction there is what I was asked by the Hon. Member was do we have a business case for the Douglas Promenade Scheme. I am assuming by a 'business case' you mean a formally approved, formally completed business case. That does not mean to say we have not got a very strong case for what we are trying to do. Of course we have. Just because we have not got it written down on a piece of paper with everybody's sign-off does not mean to say that the Department has not spent a huge amount of time coming up with some really good ideas and reasons why this is the right thing to do.

420 As the Hon. Member will recall from his time in the Department, I like to be very inclusive with Members in my Department and all the Members will obviously have an active engagement and involvement in the development of any of the policies that we have in the Department.

425

The Speaker: Hon Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

430 Would the Minister not think it advisable to get a commitment from Douglas Corporation to continue to run the horse trams? Because, as Government found with the Bowl when they pulled out at the last moment and Government had to fund the Bowl refurbishment, you could

end up with a scheme to put the horse trams in and then the Corporation pulls out and you are left with tracks and nobody running the trams.

435 **The Speaker:** Reply, sir.

The Minister: Gura mie eu, Loayreyder.

I think perhaps in the past there has been a frosty relationship between central Government and Douglas Borough Council, but certainly at the meeting I had with the Council on Friday I was talking about breaking ice and, almost to a man, the Council have said, 'There is no need to think of breaking ice. We have a good working relationship with your Department.'

440 So we are working very closely with the Council. We have very strong commitment from Douglas Borough Council already that they are going to continue running the horse trams; added to which, of course, the track is not just for horse trams – it is future-proofing the Scheme so that, if we choose, we will be able to run a modern tram service into the heart of Douglas.

The Speaker: Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

450 Can the Hon. Minister tell me who actually has put together this new business case? Is it the Department? Is it the consultants; and, if so, which consultants?

As he talks about Douglas Corporation and their commitment – we know that Douglas Corporation are losing a quarter of a million pounds a year now – whilst this Council has committed itself to support, there is an election next year and can the Minister tell me is that support tied down so that whoever is on the Council after next year will be committed to that support as well?

The Speaker: Reply, sir.

460 **The Minister:** Gura mie eu, Loayreyder.

I think by way of who is writing the business case, well obviously the Department is writing the business case: it is a Department policy, (*Interjection by Mr Singer*) it is a Department scheme, and we are writing the business case.

465 As far as commitment from Douglas Borough Council, I think the commitment is clear from the significant investment they are about to undertake, assuming that we get approval for this Scheme, in relation to their stable block. It is very clear that they are going to invest a substantial amount of their ratepayers' money.

470 The other thing, which I think is important to remember, is that the people who actually operate the tram believe that the chances are that the losses that the horse trams currently incur could be substantially reduced, because there will be more opportunities for passing trade than there are having the horse trams – which is a heritage attraction – running in the middle of a main highway. If it is actually on the walkway, or close to the walkway, there is a far better chance that passing trade will be using the trams in the future.

475 **The Speaker:** The Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

480 Would the Minister, for point of clarification, agree with me that although DoI owns the promenade and DoI owns the walkway, Douglas Town Council and the ratepayers of Douglas own the tramlines, and without co-operation from Douglas Town Council this project could not even be contemplated going forward without a change in legislation? So, obviously the Department has to talk to Douglas Council because we own the tracks and have done, and do –

485 **A Member:** We.

Two Members: You are not 'we' any more.

490 **Mr Malarkey:** – and the ratepayer, and we do, and would the Minister confirm that for me?
(Laughter)

The Speaker: Minister.

The Minister: Gura mie eu, Loayreyder

495 Yes, I will confirm that. I think it is, in any case, important that we work closely with the key partner, which is Douglas Borough Council. I think it is important that we recognise that Douglas Borough Council has as much right to have a say over Douglas as perhaps we do – and in fact probably more of a right to have a say over what goes on in Douglas.

500 So I am very keen to work with Douglas Borough Council and come up with solutions that work for the people of Douglas, but also for the people of the Isle of Man. And I did give the short answer – the short answer is yes, Douglas Borough Council owns the tram track.

The Speaker: Hon. Member, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

505 Can I ask the Minister then, the new business case – I will call it that – will he be sharing that with Members in advance of a planning application, please?

The Speaker: Minister.

510 **The Minister:** Gura mie eu, Loayreyder.

515 The Hon. Member will know that the business case... If we were to start sharing every single business case that Government produces, then we would have to write the business cases in a different way, because they tend to contain sensitive commercial information. If we release one business case then there will be a strong charge to say actually we should be releasing all business cases. I think there is actually not an unreasonable suggestion that maybe we should be thinking about doing that in the future; but, quite frankly, at the moment the convention we operate to is that we do not release business cases because they tend to involve so much detail and commercial information.

520 **The Speaker:** Supplementary, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

525 Is the Minister serious when he is considering running the MER along the promenade? Is that really a serious suggestion that this could happen in the future? Would that be in the business case?

The Speaker: Minister.

The Minister: Gura mie eu, Loayreyder.

530 I am always serious, me, never a smile on *my* face! Yes, absolutely, I think it is an entirely reasonable thing to future-proof the design. Clearly this was always the plan, way back when the Douglas horse trams were first established – it seems to make a lot of sense. And yes, it is serious.

535 **The Speaker:** Mr Karran, supplementary.

Mr Karran: Vainstyr Loayreyder, would the Shirveishagh maybe want to consider the issue of the Douglas Council in the 1930s having a real vision as far as the future is concerned?

540 What assurances have we got that we have got something that we are going to develop as far as a business plan that we can say will be relevant for the next 80 years as far as this new proposal is concerned, allowing for issues like rising sea levels and other issues, and maybe developing other possibilities to develop other sporting events, as far as the Island is concerned?

The Speaker: I do not want this broadened out in that way. Minister.

545 **The Minister:** Gura mie eu, Loayreyder.

The simple answer, and perhaps an answer that I could have reasonably given to the Hon. Member for Onchan, Mr Quirk, is that just because we cannot release the detailed business case does not mean we are not going to be releasing as much possible information as we can to explain why we believe, in the Department, that this is a good Scheme.

550 We certainly will be doing that, but what we know from the information that has already been released to Members is that we will, as a result of this, have more free movement of both traffic and pedestrians on the promenade, which in itself will hopefully reduce tensions between pedestrians and motorists and allow for a much safer and pleasant experience for both. But we also know that where the shared space initiatives have been introduced elsewhere across Europe the value of property in the area has increased quite significantly.

555 I think there are a lot of really positive things about the way in which we are trying to design the Promenade Scheme. That said, I do recognise that there are people who disagree with what we are trying to do – and I am meeting some of them, actually, at one o'clock today to hopefully find ways in which we can accommodate their concerns.

560 **The Speaker:** Final supplementary to Mr Singer.

Mr Singer: Thank you, if I may just pick up what the Minister answered in my last question. Would he not agree with me that there have always been possible plans to run the MER along the promenade – and in fact I was involved in that 20 years ago – but along the promenade road or at the side of the promenade, *never* on the walkway? So is he really serious that he would consider at some time putting the MER on the actual walkway?

570 **The Speaker:** Similar question to the last one, Mr Gawne.

Mr Singer: No, it's not.

The Minister: It should be easy to answer. I said before I am always serious, and I am serious about this.

575 I am absolutely amazed that the Hon. Member – bearing in mind he is not long out of the Department and it was absolutely clear when he left the Department that this was a proposal – seems to be blissfully unaware of it.

580 **Mr Singer:** Point of personal explanation, if I may –

The Speaker: Personal explanation.

585 **Mr Singer:** – in that when I was in the Department the plan was to run the trams along the road. (*Interjection by the Minister*) It was never meant, even indicated, (**A Member:** Hear, hear.) that they would run on the promenade when I was in that Department. (*Interjection*)

The Minister: Sorry?

The Speaker: Final supplementary question, Mr Quirk.

590 **Mr Quirk:** Thank you, Mr Speaker.

Would the Minister not confer with me, or support me, that when I was in your Department and also in the Water and Sewerage Authority under Mr Houghton, actually there was a memo from the Water Authority that there was provision *not* to use the walkway for the electric cars because of the weight, because of IRIS?

595 The second part of the question would be: when he gets an agreement with Douglas Corporation, will he share that with Members?

The Speaker: Mr Gawne.

600 **The Minister:** Gura mie eu, Loayreyder.

I am still a bit bemused about this personal explanation and how that exists in Standing Orders. (*Interjection by Mr Singer*) Do I get an opportunity to respond to the personal explanation?

605 **The Speaker:** No, we are dealing with Mr Quirk's final supplementary. I have no doubt this debate will go on. I am going to allow Mr Quirk's supplementary to be answered, then we move on. (*Interjections*)

The Minister: Am I allowed a personal explanation after I have given the answer?

610

The Speaker: No, sir, you are answering Mr Quirk's supplementary.

The Minister: Well, I find that extraordinary.

615 Okay, in relation to Mr Quirk, the Hon. Member for Onchan, I understand that that was the case, that there had been discussion in the past that the IRIS tanks were believed to be too weak to be able to take the weight of the horse trams. I questioned that when I rejoined the Department, because there was an overwhelming amount of opposition to what we were trying to do, which was going to significantly reduce the numbers of parking spaces available for cars. Having challenged that, it was then shown that this was more of a whim than an absolute
620 detailed engineering issue, and in fact, as far as the engineers are concerned, there is absolutely no reason at all why we should not operate the trams in that way.

Unfortunately, as a result of being totally wrong-footed by the personal explanation, I have forgotten the second part.

625 **The Speaker:** Well, you... I will allow –

Mr Quirk: If you would like me to help, Mr Speaker –

The Speaker: One moment.

630 Hon. Member, you may answer the question any way you wish. (*Interjection*) Mr Quirk, would you kindly –

Mr Quirk: Mr Speaker, I am grateful for that.

635 Just to clarify for the Minister, it was to do with Douglas Corporation: would he share any agreement with them prior to Members making the decision – memorandum of understanding or agreement?

The Minister: Gura mie eu, Loayreyder.

640 Yes, of course we would be sharing the agreement, because I think the agreement will have to come to Tynwald anyway as part of any element of fairness.

**2.4. Local authorities –
Delivery of services**

The Hon. Member for Onchan (Mr Quirk) to ask the Minister for Infrastructure:

How many local authorities are delivering local services at local level; what the formal agreements contain; and how value for money is monitored?

The Speaker: We turn to Question 4. Hon. Member for Onchan, Mr Quirk.

Mr Quirk: Thank you, Mr Speaker.

645 Could I ask the Minister for Infrastructure how many local authorities are delivering local services at local level, what do the formal agreements contain and how value for money is monitored?

The Speaker: I call on the Minister for Infrastructure, Mr Gawne.

650 **The Minister for Infrastructure (Mr Gawne):** Gura mie eu, Loayreyder.

The basic principle that Government is trying to deliver is that local services should be provided by local authorities at a local level as part of the modernisation of the relationship between central and local government. This means that local people will have a far greater say in how their community looks and how well it is maintained.

655 The Department's approach has been well received, with 19 local authorities signing a formal agreement to date. I expect this number to increase as all 24 local authorities have agreed to the principle of taking on responsibility for local service delivery and many have already started the process.

660 The formal agreements delegate to local authorities, under section 2(1) of the Highways Act 1996, a range of highway maintenance functions, including street sweeping, gully emptying, removal of weeds and verge cutting. The agreement also defines the standards to which delegated functions should be carried out; insurance and indemnification arrangements; compliance with applicable statutes, regulations and orders; and arrangements in the event of any disputes. The agreement excludes emergency call-outs as the Department will attend to those. The Department has also given consent to local authorities to carry out activities provided for in section 51 of the Highways Act 1986, dealing with vegetation overgrowing the highway.

665 Local authorities will be responsible to their ratepayers in terms of value for money for the services they deliver. How value for money is assessed will be for the local authorities to determine.

670 **The Speaker:** Mr Quirk, a supplementary.

Mr Quirk: Thank you, Mr Speaker.

675 I thank the Minister for his response. He mentioned, if I have picked it up right, an agreement for disputes. I am just wondering what sort of mechanism that would be.

Reference to monitoring value for money: what will his Department do, monitoring that value for money?

680 **The Speaker:** Minister.

The Minister: Gura mie eu, Loayreyder.

I think, as far as the latter part of the Question is concerned, we are engaged now in a fairly extensive exercise, working with local authorities to try and develop a new working relationship

685 between central and local government. It is fair to say that the relationship has at best been patchy and it is also fair to say that there is a significant amount of mistrust – or at least there certainly has been a significant amount of mistrust between central and local government in the past.

690 What is clear to me though is that if we give functions to a local authority it really must be for that local authority to be responsible for its actions. It does seem a bit bizarre – and I think this has been a problem in the past – that people seem to think that my Department should intervene and interfere with the running of a democratically elected body. In my view, if we believe that the local authorities should be delivering a function, then it is for the ratepayers to hold to account the local authority members – the commissioners or the councillors – to ensure that value for money is given. What I would say though is that as part of the discussions I am
695 having with local authorities at the moment I think it would be really helpful for us to develop a reporting mechanism so that all local authorities can feed in to some kind of website, or whatever it might be, their actual costs for delivering certain services, so that ratepayers can actually get comparisons and understand how their local authority is doing compared with others.

700 As far as arrangements in the event of any disputes, I think we are basically looking to ensure that we have an arrangement in place so that if a local authority disagrees with the Department on a particular issue, if we feel that the local authority has not complied with the agreement that we have, there is an arrangement to actually deal with that dispute. I can, on this one, release the agreement that we have with the local authorities, because there is no commercially
705 sensitive information in that agreement.

The Speaker: Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

710 The Hon. Minister said that at the moment he has 19 of the 24 authorities signed up and he is hoping to get more. What will the Minister be doing to any local authorities which do not sign up? Does that mean the Department will carry on doing the work, or that this can be forced upon the authorities to do it?

715 The Minister also said that there are standards in the agreement. Who will be monitoring these standards to make sure that they are appropriate and upheld; and if they are not, what authority or powers will the Department have regarding this?

The Speaker: Minister.

720 **The Minister:** Gura mie eu, Loayreyder.

No reason to believe that any of the local authorities who have not yet signed up will not sign up. In fact, I have got very strong reason to believe in the next week or so we will have the remaining five signed up. So, at this stage, talk of forcing local authorities to comply, when they have already agreed that they are going to do it, seems a bit premature.

725 As far as monitoring the actual agreement, quite clearly my officers will be doing that. Under the Department's responsibilities under the Highway Act we will have to ensure that the highways are adequately maintained.

730 Primarily I think this is being developed on a trust basis, but we do have in place a legally binding agreement. Ideally, we will not need to resort to the law because local authorities actually see this as a benefit to them and their communities.

I am convinced that this is the right thing to do, and it is being broadly welcomed by local authorities.

The Speaker: Supplementary, Mr Quirk.

735

Mr Quirk: Thank you, Mr Speaker.

740 Could I ask the Minister – and he did say that local authorities should be responsible for what they do – how can taxpayers have confidence in your Department, and what sort of mechanism is your Department going to be using to make sure those local authorities are accountable for these agreements?

Finally, could I just ask – and I think you have already said it, but just for the record anyway – can members of the public have access to these particular documents? As you say, they are not controversial in this particular case.

745 **The Speaker:** Reply, sir.

The Minister: Gura mie eu.

More than happy to confirm that the agreements can be made public. I have got no problem with that. I think it is reasonably straightforward.

750 As far as the taxpayer... and I think this is the crucial point here. The taxpayer and the taxpayer's representative, which in this case is me, will certainly be ensuring that the agreement is adhered to appropriately; but more important are the ratepayers and the ratepayers' representatives. This is really for the ratepayers to ensure that their representatives are delivering the service that they believe is appropriate for their community, and I think that is the great step forward that we have with the agreements that we have reached.

755

The Speaker: Mr Karran, supplementary.

760 **Mr Karran:** Vainstyr Loayreyder, can the Shirveishagh just tell us how he intends to make it public, allowing for the long list of local authorities' crazy spending policies as far as things like £8,000 on kitchens in Spring Valley that are not worth £3,000? You had the situation over the installation of the Willaston houses, which has wrecked many of the houses. Can he tell us how he is going to actually make public the spending of this?

765 Would he not also agree, the fact that you have got something like 60% to 80% of local authority houses not on voters lists... do you feel that there is an apathy or just a resentment that they cannot do anything as far as making representation on this issue?

The Speaker: Minister.

770 **The Minister:** Gura mie eu, Loayreyder.

I think across the western world there seems to be a view that people are becoming disconnected from what they describe as party politics, but in our case we could say established politics or establishment politics.

775 One of the ways in which people believe that we can re-engage communities is by doing exactly what we are trying to do here, which is giving or putting powers back to a more local level, to allow people to actually feel as though they are able to influence policies and influence decisions which directly affect their communities and their lives. So that is what we are about here, that is what this whole exercise is.

780 Obviously, what I would like to develop in terms of local authorities is a reporting framework which allows the public to understand what their local authorities are doing and how they compare in relation to other local authorities. That is something that I would like to develop and I have begun discussions with local authorities on that and a range of other topics.

The Speaker: Final supplementary, Mr Malarkey.

785

Mr Malarkey: Thank you, Mr Speaker.

790 Would the Minister just like to confirm that the likes of the spend on new kitchens etc by local authorities actually comes from Government and not from local authorities, and it is local authorities and actually his own Department now, which is in charge of housing, who would make such decisions as to what was spent or whether we are doing new back doors, new kitchens, and that that decision is not left to each individual local authority?

The Speaker: Minister.

795 **The Minister:** Gura mie eu, Loayreyder.

I have to confess that I am not absolutely completely on top of the housing brief at this stage, but certainly at the moment, in my view, central Government interferes far too much (**Mr Malarkey:** Hear, hear.) in the affairs of local authorities.

800 We have to decide are we serious about local authorities being grown-up politicians – and I believe that they are; and if that is the case, then they should be allowed to either succeed or fail – and if they fail, that is then down to their local people, the local electorate, to hold them to account.

If democracy is to mean anything we have to have accountability for actions. At the moment, the whole way in which central and local government's relationship works, almost like a magnet
805 going into iron filings it spreads accountability out from the real decision makers, making it all but impossible for anybody really to understand who is responsible for anything.

So I think what we need to do is simplify this arrangement and we need to be able to believe in and trust in our local authorities to actually deliver some good services.

2.5. Promenade design schemes – Cost; horse tram replacement materials

The Hon. Member for Malew and Santon (Mr Cregeen) to ask the Minister for Infrastructure:

What the total cost is of each promenade design scheme over the last five years; and whether any materials for the horse tram replacement have been ordered or purchased?

810 **The Speaker:** Question 5. Hon. Member for Malew and Santon, Mr Cregeen.

Mr Cregeen: Thank you, Mr Speaker.

815 I wish to ask the Minister for Infrastructure what the total cost is of each of the promenade design schemes over the last five years and whether any materials for the horse tram replacement have been ordered or purchased.

The Speaker: Mr Gawne to reply.

The Minister for Infrastructure (Mr Gawne): Gura mie eu, Loayreyder.

820 The design fee for phase 1 of the Douglas promenade project, Victoria Street to Peveril Square, was £65,655.

The design fee for phase 2 of the Douglas promenade project, Sea Terminal to Regent Street, was £52,620. The tram tracks were to be located at the side of the road as part of this design. As Hon. Members may be aware, phase 2 of the project did not go ahead, at my request.

825 Following further consultation, a layout has been designed for the whole of the promenade – something that had not been done before – and perhaps this is my opportunity to respond to

the point of personal clarification: there was no plan beyond phase 2. The cost of that design was £127,986.

830 Rail for the project has not been purchased; however, the Public Transport division of the Department of Infrastructure has purchased rail for its use through an auction of surplus stock in the UK. Some of this rail is reserved for use on the promenade *if* Tynwald approval is given. If the scheme does not proceed, the rail will remain in stock and be used in the MER replacement programme.

835 **The Speaker:** Mr Cregeen, supplementary.

Mr Cregeen: Thank you, Mr Speaker.

840 Can the Minister, when he replies, give us an idea on... When we were told £21 million for the total cost of the scheme and, I think, £3½ million for the horse tram replacement, what effect, using the track that the MER purchased, will be on the price of that scheme? My understanding is that in their display they showed pictures of horse trams, or trams, being used in a pedestrian environment in Disneyland. Doesn't this look like it is a Mickey Mouse scheme that you are going ahead with?

845 **The Speaker:** A comment rather than a question; but Minister, I am sure you will reply.

The Minister: Gura mie eu, Loayreyder.

I see the Hon. Member for Douglas East is smiling, because I predicted this very response: that it would be described as a Mickey Mouse scheme.

850 Basically, the potential saving in terms of the rail, *if* we go ahead with this scheme as designed currently, will be in the hundreds of thousands of pounds. It was quite a substantial saving because there was some rail going reasonably cheap in an auction somewhere in the north west of England. It was suggested that we purchase this rail, both for MER purposes but also for the Promenade Scheme if we get approval.

855

The Speaker: Mr Cregeen.

Mr Cregeen: Can the Minister give a date when this track was purchased?

860 **The Speaker:** Minister.

The Minister: I cannot give an absolute, accurate date as in 'on such and such a day at such and such a time', but it is certainly in the last month or so.

865 **The Speaker:** Mr Quirk, supplementary.

Mr Quirk: Thank you, Mr Speaker.

870 Could I ask the Minister – I am sure it is not the case, but I am sure that the Department, if it had any surpluses, would not have ordered this rail in advance because any purchase from Treasury, under the Treasury rules anyway, says that the material has to be on the Island before a purchase can be counted in that particular year. I wonder whether the Minister could comment on that.

875 Also can I ask, regarding the phase 2 of the project, which cost us £52,620 to design, in my opinion, or the plans that I have seen, it actually went past Broadway and went on to the Crescent and on towards Summerland and I believe that is the one that Douglas Town Council had seen and gave a tentative approval to at the time. Would the Minister not agree with those statements?

The Speaker: Minister.

880

The Minister: Gura mie eu, Loayreyder.

I can only go on what the designers tell me, and the designers tell me that they had produced indicative drawings but they had not designed the scheme past phase 2, which was Regent Street. Beyond phase 2 the engineers and the designers of the scheme tell me that there were no specific designs or clear drawings as to how they were going to actually deliver. There was an indicative drawing to which the engineers say they always believed that part of the horse tram track was going to be on the promenade walkway. That is what the engineers tell me. (Mr Singer: That's rubbish!) I see from the exasperated... and comments of 'Rubbish!' from the person who you allowed this extraordinary intervention earlier, that he does not agree with that, (*Interjection by Mr Singer*) but it is easy for politicians to come up with this sort of nonsense. They should be holding officers to account, they should know what is going on under their watch; and, quite frankly, I think it is disgraceful that the scheme was ever allowed to progress to phase 2 without a proper full design, so that everybody knew what they were talking about.

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890

**Procedural –
Question 6 deferred to next sitting**

The Speaker: Hon. Members, Question 6 will be withdrawn and answered at the next sitting.

895

OFFICE OF FAIR TRADING

**2.7. Gas consumers' discount –
Removal for non-direct debit payments**

The Hon. Member for Onchan (Mr Karran) to ask the Chairman of the Office of Fair Trading:

What his policy is on the removal of gas consumers' discount for those who do not pay by direct debit; and if he will make a statement?

The Speaker: Question 7. The Hon. Member for Onchan, Mr Karran.

Mr Karran: Eaghtyrane: what his policy is on the removal of gas consumers' discount for those who do not pay by direct debit, and if he will be making a statement on this. I so ask you.

900

The Speaker: I call on the Chairman of the Office of Fair Trading.

The Chairman of the Office of Fair Trading (Mr Quirk): Thank you, Mr Speaker.

905

Manx Gas has recently written to its customers advising from 1st July 2015 its prompt payment discount of 2½% will only be available to those paying by direct debit. The removal of the prompt payment discount for non-direct debit customers is a commercial decision to encourage the use of direct debits and to reduce the company's administration costs.

910

When the OFT was made aware of the changes it was concerned about the impact for the worst-off in society. Most of the customers now will have been written to, with an option to change their payment method to receive the discount. But some who can only pay by cash,

915 because they do not have a bank account, do not have an option. At the request of the OFT Manx Gas has agreed to identify any customers who may genuinely be disadvantaged by this change and to consider how these customers can be accommodated. Any customer who cannot pay by direct debit because they do not have a bank account should contact Manx Gas as soon as possible.

The Speaker: Supplementary question, Mr Karran.

920 **Mr Karran:** Vainstyr Loayreyder, would the Shirveishagh not agree that this is an appalling reply as far as the Office of Fair Trading is concerned – the fact that we are paying over £750,000 a year for an Office of Fair Trading that is unwilling to stand up to this abusive monopoly?

925 Will the Shirveishagh also inform Hon. Members what is the profit margin as far as Manx Gas is concerned on this Island, and what is the justification for this to be acceptable to who is supposed to be there to defend the consumers?

Three Members: Hear, hear.

The Speaker: Mr Quirk to reply.

930 **The Chairman:** Thank you, Mr Speaker.

I am quite appalled, really, at my colleague from Onchan regarding that. This is a commercial decision made by this particular company, which has been made by other companies in the UK and other jurisdictions; and in fact one day the MEA itself would probably use this to reduce its administration costs. I feel as though the company itself has done more to contact its consumers... it has contacted all its consumers and is working this problem out for those who may be disadvantaged, Mr Speaker.

935 Could I ask Members too, if they have any concerns and they want to know the profit of the particular company, why don't they go and see them?

940 **The Speaker:** The Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

I can hardly believe my ears this morning at that response – it is quite appalling! (**A Member:** Hear, hear.)

945 Does the Chairman of the Office of Fair Trading not agree that this is going to hit the most vulnerable in our society? We do not have a definition of fuel poverty. There are people now who are choosing between heating and eating. And does he not agree that his statement about it being 'this is what they do in the UK' is absolutely irrelevant because they do not have a monopoly situation in the UK and people can move somewhere else? (*Interjection*)

950 Is he not ashamed of his actions this morning and his statements, and will he not reconsider the position?

The Speaker: Mr Quirk to reply.

955 **The Chairman:** Mr Speaker, I am quite amazed at some of the Members! I wonder what some Members think the Office of Fair Trading can do. It is *Fair Trading*. (*Interjections*)

Mr Robertshaw: Nothing, apparently!

960 **The Chairman:** Can I say that the particular company wrote to all its customers, if those Members were aware... if they had any complaints, each of their customers would have had a

letter from the particular company and would have had another letter asking them to come in and discuss the particular issue. That is a caring company.

965 **The Speaker:** The Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr Speaker.

Does the Chair of OFT not agree with me that this decision has hit an awful lot of the very people it should not be hitting – having just done six weeks of door-knocking around areas of Douglas, Onchan and Pulrose – and that the PR that Manx Gas has now put out regarding this is totally wrong?

970 Can I ask him has he checked out the legal issue as to whether they can do it? I suppose it is a commercial issue. I do not think morally it is the right thing to be doing, but is there a legal clarification whether they can do this?

975 Would he be prepared to go back and talk to Manx Gas and have them reconsider this position? Certainly, of the people I have spoken to on the doorstep in the last six weeks, some of them are *really* upset about it. Also, Mr Speaker, I am glad to hear that they are going to consider giving people who do not have bank accounts that; but many people have bank accounts with no money in, so these standing orders are absolutely no use to them whatsoever.

980 I would ask the Chair to go back and talk to Manx Gas and ask them to reconsider this decision.

The Chairman: Mr Quirk to reply.

The Chairman: Thank you, Mr Speaker.

985 Can I say to the Hon. Member for South Douglas who has just been elected that the officers are actually discussing it all the time with Manx Gas.

I would say to any members of the public that, if they are having difficulty, their first stop is to talk to Manx Gas itself; the second stop, if they are really having difficulty with Manx Gas, is to discuss it with ourselves. And I can say, before Members start bellyaching a little bit, this is a private and confidential service and it will be treated that way.

990

The Speaker: Hon. Member for Ramsey, Mr Singer.

Mr Singer: Thank you, Mr Speaker.

995 I do not think that the Chairman of the Office of Fair Trading will have this figure, but perhaps he could find out what Manx Gas anticipate will be the annual savings by taking this action?

Does he also realise that if all the utilities take this action there are further actions that are going to work against, say, the Post Office and the sub-post offices where it is going to reduce transactions, reduce the viability of post offices (**A Member:** Hear, hear.) in different areas – and people may well lose their post offices if all the companies take this kind of action?

1000

The Speaker: Mr Quirk to reply.

The Chairman: Thank you, Mr Speaker.

1005 To the Hon. Member, I do not have those particular figures.

But can I say that is a particular avenue where we could actually have discussions with Manx Gas and the OFT regarding the Post Office. We may be able to come to some agreement with the Chairman's support.

1010 **The Speaker:** Mr Karran.

Mr Karran: Vainstyr Loayreyder, does the Chairman of the Office of Fair Trading not think it is important, with a monopoly, that it should know what the profit margin is?

1015 Would the Office of Fair Trading not consider that this is an abusive monopoly, abusing its monopoly as far as this issue is concerned?

Would he not also agree with the fact that the issue of the Office of Fair Trading is there about developing the atmosphere for fair trading in the Island?

1020 If he does not think that, then can he tell me is he intending to change the name of the Office of Fair Trading? And can he also tell us does it serve any other purpose other than as an opportunity for the Council of Ministers to use this as yet another enhancement for people who are part of the present party system in this House?

The Speaker: The last comment is completely irrelevant and you may disregard it, Mr Quirk.

1025 **The Chairman:** All I can say to my hon. colleague from Onchan, really, is if he is so concerned – and I know in the past he has written to Manx Gas – should he not take the opportunity to go and see them? (*Interjection from Mr Karran*)

The Speaker: Hon. Member for Douglas South, Mrs Beecroft.

1030

Mrs Beecroft: Thank you, Mr Speaker.

Would the Chairman not confirm that actually it is his place to be checking these things; it is our place to be questioning him and challenging him?

1035 Could he actually clarify what role his Office has in these type of things? Is he just there to repeat what they say – that they are going to consider things, that they are looking at this, that this is what happens in the UK – or does his Office actually have a more valuable role?

He questioned the idea of other areas being value for money in a previous Question. I would like to ask him does he consider his Office of Fair Trading value for money now?

1040 **The Speaker:** Chairman to reply.

The Chairman: Yes, I do. Can I say to the Hon. Member that the Office of Fair Trading does a vast amount of work, debt counselling, all sorts of activities the Office of Fair Trading does – it even receives complaints from members of the public and receives complaints from Members of this particular House. Some of them, from Hon. Members from this particular House, have no substance to those complaints.

1045

The Speaker: The Hon. Member for Malew and Santon, Mr Cregeen.

1050 **Mr Cregeen:** Thank you, Mr Speaker.

Is the Chairman aware that Douglas Corporation's intention to convert the rest of their properties over to gas may actually exacerbate the issue (**A Member:** Hear, hear.) because a number of those people are currently on oil and then they will be going on to gas, and having the direct debit may affect them then? (*Interjection by Mrs Beecroft*)

1055

The Speaker: Chairman to reply.

Mr Quirk: Mr Speaker, that is a decision that is made by Council itself in conjunction with DoI, who will actually probably fund the possible change.

1060 Any concerns that the OFT would have have not been brought to our attention. It may be bigger, I do not know. It is an issue that, if it is highlighted to us, we could actually look at.

The Speaker: Final supplementary question, Mr Karran.

1065 **Mr Karran:** Vainstyr Loayreyder, would the Caairliagh, the Chairman of the Office of Fair Trading, not agree that his replies as far as this important subject, allowing for the void of no definition of fuel poverty on the Island, just bring the whole Office of Fair Trading into the light of being seen as not worth the paper that it is written on?

1070 Would he also not agree that the fact that the agreement that was signed with the Office of Fair Trading, the Treasury and Manx Gas on 24th April just shows, once again, that we have a Government that has a 'let it rip' policy? It does not matter if you are part of the club as far as what happens as far as protecting the ordinary people of the Isle of Man.

1075 **The Speaker:** Hon. Member, that was a statement; please confine it to a supplementary question. Have you finished your question?

1080 **Mr Karran:** And would the Office of Fair Trading Chairman circulate the agreement of 24th April with the Office of Fair Trading and Manx Gas Ltd to Hon. Members to see if we have got another example of a useless piece of paper which will be used to abuse the consumers, just like the User Agreement has as far as freight charges on this Island?

The Speaker: A matter of opinion. Chairman to reply.

1085 **The Chairman:** I thank the Member for his question. The voluntary regulation scheme, which was done by the Office of Fair Trading, DED and Treasury, is actually online. It is available for Members to pick up now and was in the particular statement at least a month ago, so I am shocked, Members, if you have not seen that. *(Interjection by Mr Karran)* If you are having difficulty getting into the web, I am sure our officers could actually send it to you; we will do it electronically.

1090 Regarding this particular issue, regarding the discount period not being available to those who cannot be on direct debit, this does not affect Manx Gas's return on capital, which is capped, when you look at the agreement, at 9.99%.

1095 **The Speaker:** Hon. Members, that brings us to the end of Questions for Oral Answer. There are four Questions for Written Answer. The replies will be distributed.

3. Questions for Written Answer

CHIEF MINISTER

3.1. Public appointments – Pre-approval police checks

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

Whether all public appointments, including Crown appointments, are only approved after police checks?

1100 **The Chief Minister (Mr Bell):** Schedule 1 of the Rehabilitation of Offenders Act 2001 (Exceptions) Order 2001 sets out the professions, offices and employments as well as regulated occupations, which by their nature are excepted from the Act in relation to spent convictions, and for which a disclosure and barring check (DBS), also known as a Police check, must therefore be carried out. The Schedule is reproduced at Appendix A. Such posts are generally those which require substantial unsupervised access to vulnerable children or adults, or access to information concerning such individuals.

1105 There are three types of check that can be undertaken. These are enhanced, standard and basic checks. A police check may be sought for posts in addition to those outlined above. For example, some recruiting managers, stipulate a basic check for posts other than those listed in Appendix A, such as some cash handling positions, senior financial positions or where the candidate has supervised access to the public. Such decisions are made where justified and in consideration of the provisions of the Rehabilitation of Offenders Act 2001.

1110 If a post requires a police check, the normal procedure is to have confirmation of satisfactory police check prior to the person being confirmed in post. However, if a police check is pending, the recruiting manager has discretion to conditionally confirm a person in post, subject to a satisfactory police check being obtained and only where a risk assessment is carried out. The risk assessment requires confirmation that a disclosure and barring check (DBS) is being conducted, and that pending the outcome the individual will be appropriately supervised

1115 In such circumstance, the appointee would be given what is termed a 'conditional appointment' which makes clear that continuing employment is subject to a satisfactory police check being received and that where this is not the case, their employment would be terminated.

1120

Appendix A

SCHEDULE 1
EXCEPTED PROFESSIONS, OFFICES, EMPLOYMENTS, WORK AND OCCUPATIONS
PART I

Professions

1. Medical practitioner.
2. Advocate.
3. Accountant.
4. Dentist, dental hygienist, dental auxiliary.
5. Veterinary surgeon.
6. Nurse, midwife.
7. Ophthalmic optician, dispensing optician.
8. Pharmaceutical chemist.
9. Teacher.
10. Any profession to which the Professions Supplementary to Medicine Act 1960 (an Act of Parliament) applies and which is undertaken following registration under that Act.

PART II
Offices and employments

1. Judicial appointments.
2. The Attorney General and any employment in his office.
3. Constables, persons appointed as police cadets to undergo training with a view to becoming constables and persons employed for the purposes of, or to assist the constables of, a police force established under any enactment; naval, military and air force police.
4. Any employment which is concerned with the administration of, or is otherwise normally carried out wholly or partly within the precincts of, a prison, remand centre, detention centre, Borstal institution or young offenders institution, and members of boards of visitors appointed under section 18 of the Custody Act 1995
5. Traffic wardens appointed under section 33 of the Road Traffic Regulation Act 1985.
6. Probation officers appointed under section 27 of the Criminal Justice Act 1963.
7. Any employment as teacher in a school or establishment for further education and any other employment which is carried out wholly or partly within the precincts of a school or establishment for further education, being employment which is of such a kind as to enable the holder to have access to persons in attendance at the school or establishment for further education in the course of his normal duties.

101995 c.1 111985 .c 20 121963 .XIX p. 975 5

8. Proprietors of independent schools.
9. Any employment by the Department of Health and Social Services in connection with the provision of social services or by any other body in connection with the provision by it of similar services, being employment which is of such a kind as to enable the holder to have access to any of the following classes of person in the course of his normal duties, namely-
 - (a) persons suffering from serious illness or mental disorder of any description;
 - (b) persons addicted to alcohol or drugs;
 - (c) persons who are blind, deaf or dumb;
 - (d) other persons who are substantially and permanently handicapped by illness, injury or congenital deformity.
10. Any employment which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of his normal duties.
11. Any office or employment concerned with the provision to person aged under 18 of accommodation, care, leisure and recreational facilities, schooling, social services, supervision or training, school crossing patrol being an office or employment of such a kind as to enable the holder to have access in the course of his normal duties to such persons, and any other office or employment the normal duties of which are carried out wholly or partly on the premises where such provision takes place.

PART III
Regulated occupations

1. Firearms dealer.
2. Any occupation in respect of which an application to the Gaming Control Commission for a licence, certificate or registration is required by or under any enactment.
3. Director, controller or manager of an insurance company
4. Dealer in securities.
5. Manager or trustee of a collective investment scheme within the meaning of section 30 of the Financial Supervision Act 1988.
6. Any occupation which is concerned with the management or carrying on a home in respect of which registration is required by section 2 of the Nursing and Residential Homes Act 1988.
7. Any occupation in respect of which the holder, as occupier of premises on which explosives are kept, is required by an Order made under section 4 of the Dangerous Goods Act 1928 to obtain from the police or a court of summary jurisdiction a certificate as to his fitness to keep the explosives.
8. Any occupation in respect of which an application to the Financial Supervision Commission or the Insurance and Pensions Authority for a licence, permit, authorisation, certificate or registration or any other permission is required by or under any enactment.
9. Any employment where an application is made for a public service vehicle licence to the Road Traffic Commissioners.
10. Any employment where an application is made to a Local Authority for a Hackney Carriage Drivers Licence.
11. Any employment where an application is made to the Department of Transport for registration as an Approved Driving Instructor.

PART IV

In this Schedule –

Childminding means a person who is required to register under section 1 of the Nurseries and Child Minders Regulation Act 1974;

“dealer in securities” means a person dealing in securities within the meaning of section 4 of the Insider Dealing Act 1998;

“firearms dealer” has the meaning assigned to that expression by section 32 of the Firearms Act 194717;

“further education” has the meaning assigned to that expression by section 71 of the Isle of Man Education Act 194918;

“health services” means services provided under the National Health Service (Isle of Man) Acts 194819 to 197920 and similar services provided otherwise than under the National Health Service;

“Independent School” has the meaning assigned by section 165 of the Isle of Man Education Act 1949 as amended by Schedule 2 of the Treasury Act 198521;

In relation to an insurance company, “controller” and “insurance manager” shall be construed in accordance with section 34 of the Insurance Act 1986;

“judicial appointment” means an appointment to any office by virtue of which the holder has power (whether alone or with others) under any enactment or rule of law to determine any question affecting the rights, privileges, obligations or liabilities of any person;

“proprietor” and “independent school” have the meanings assigned to those expressions by section 165 of the Isle of Man Education Act 1949;

“school” has the meaning assigned to that expression by section 165 of the Isle of Man Education Act 1949;

“social services”, in relation to the services provided by the Department of Health and Social Security in discharging its social services functions within the meaning of National Assistance (Isle of Man) Act 195122;

“teacher” includes a warden of a community centre, leader or a youth club or similar institution, youth worker;

TREASURY

3.2. £500 jackpot prize machines – Number outside casino; legal basis for operation

The Hon. Member for Douglas West (Mr Thomas) to ask the Minister for the Treasury:

How many prize machines offering £500 jackpot prizes are being operated in premises outside the casino under the Gaming (Amendment) Act 1984; what the legal basis is for their operation; and when and how this legal basis was established?

The Minister for the Treasury (Mr Teare): There are no prize machines offering £500 jackpot prizes being operated in premises outside the casino under the Gaming (Amendment) Act 1984.

1125 There are, however, machines offering £500 jackpot prizes in premises outside the casino but which are not regulated under the Gaming (Amendment) Act 1984. The legal basis for the operation of such machines was established on 16th October 1984 when the by Gaming (Amendment) Act 1984 was enacted by Tynwald. The Act contains a specific clause allowing the Gaming Board (now known as the Gambling Supervision Commission) to prescribe, by Order, the description of any machine, along with conditions setting out its operation and location, for the purpose of exempting these machines from the Act. The Controlled Machines (Exemption) Order 1130 2008 sets out the current description and conditions for exempt machines.

**3.3. Pinewood Film Advisors Ltd –
FSA and FCA approval to give advice**

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

When Pinewood Film Advisors Ltd were approved by the FSA and FCA to give advice; what the company's reference numbers with the FCA and FSA have been; and in what jurisdiction the advice is given and to whom?

The Minister for the Treasury (Mr Teare): Hon. Members may recall that in the House of Keys on 23rd October 2012 I confirmed that the stock exchange had announced that Pinewood Film Advisors Limited had received FSA authorisation and that our agreement with them to advise on our Media Development Fund investments would be completed.

1135 I provided further clarification about Pinewood Film Advisors' FSA authorisation in Answer to a Question in another place in November 2012. I confirmed that the FSA licence, at that time, was held by Prosper Capital LLP and that Pinewood Film Advisors Limited were appointed representatives of that company. I further confirmed that this arrangement satisfied the FSA requirements which enabled Pinewood Film Advisors to act as our Media Development Fund
1140 advisors until such a time that they were granted an FSA licence in their own right.

Information relating to Pinewood Film Advisors Limited's FSA/FCA licence is publicly available via the Financial Services Register: <http://www.fca.org.uk/firms/systems-reporting/register>. A search of the register confirms:

1145 Pinewood Film Advisors Limited were the appointed representative of Prosper Capital LLP as set out below:

Appointed representatives / Tied agents: Previously attached to:					
453007 - Prosper Capital LLP					
Name	IMD	TA	Firm reference number	Effective From	To
Pinewood Film Advisors Limited			589472	09/10/2012	25/09/2013

Pinewood Film Advisors Limited have held their own licences as set out below:

Regulators for:
587631 - Pinewood Film Advisors Limited

Where this firm carries on regulated activities in the United Kingdom, it will be subject to regulation by the FCA. Where it carries on regulated activities in other EEA States, it may be subject to regulation by the FCA, a local EEA State regulator or both, depending on the activity undertaken.

Regulator Name	Firm reference number	Effective From	To
Financial Conduct Authority	587631	23/08/2013	
Financial Services Authority	587631	23/01/2013	31/03/2013

The advisory services provided by Pinewood Film Advisors Limited are from England and the Investment Agreement between the Treasury (A Department of the Isle of Man Government) and Pinewood Film Advisors Limited is under English law.

1150

EDUCATION AND CHILDREN

**3.4. Education time in primary schools –
Number of hours; legislation protecting**

The Hon. Member for Onchan (Mr Hall) to ask the Minister for Education and Children:

How many hours in the school week are defined as education time in primary schools; whether there is a legal requirement that requires children to be taught by qualified teachers for at least 25 hours per week in a normal school week; whether current legislation protects against education hours being cut; and if he will make a statement?

The Minister for Education and Children (Mr Crookall): There is no minimum amount of teaching hours, set in law, for pupils in primary schools in the Island. It is for individual schools to decide how their day is structured and the Articles of Governance for all schools indicates that:

'The times of sessions at the school shall be determined by the governing body, after consulting the head teacher and subject to compliance with any minimum requirements as to teaching time specified by the Department.'

1155 The IOM Department of Education and Children, in line with previous guidance from the Department for Education, in England, advises that pupils in Key Stage One are taught for 21 hours and those on Key Stage Two are taught for 23.5 hours. This guidance excludes:

- breaks between lessons or other types of interruptions;
- time dedicated to optional lessons;
- non-compulsory time outside the school day;
- time dedicated to homework activities;
- individual tutoring or private study.

Overwhelmingly, pupils on the Island are taught by qualified teachers. On occasion, pupils in primary schools will be taught by student teachers, as part of their training placements.

Order of the Day

4. BILLS FOR FIRST READING

Audit (Amendment) Bill 2015 **War Memorials Bill 2015**

1160 **The Speaker:** We turn to Item 4 on our Order Paper, Bills for First Reading.
I call on the Deputy Secretary of the House.

The Deputy Secretary: Thank you, Mr Speaker.
The Bills for First Reading are the Audit (Amendment) Bill 2015 in the name of Mr Teare, and
1165 the War Memorials Bill 2015 in the name of Mr Watterson.

5. BILL FOR THIRD READING

Public Health (Tobacco) (Amendment) Bill 2015

The Speaker: Item 5, Bill for Third Reading: the Public Health (Tobacco) (Amendment) Bill.
I call on the mover, the Hon. Member for Middle, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.
1170 Hon. Members, I am pleased to be able to move the Third Reading of the Public Health (Tobacco) (Amendment) Bill for the Department of Health and Social Care and thank Members for their contributions through the previous stages of the Bill.

The main aim of the Bill is to extend the provisions of part 1 of the Public Health (Tobacco) Act 2006 by extending the bans on tobacco advertising, severely restricting the display of
1175 tobacco products and by banning the sale of tobacco products from vending machines.

In line with the Isle of Man Tobacco Strategy, the Department of Health and Social Care is keen to reduce the burden of ill-health caused by tobacco use and is committed to providing a public health incentive to existing consumers to reduce their consumption. The Department also wants to do everything possible to shield people, and particularly young people, from the
1180 influence of tobacco product advertisements and displays and easy access to cigarettes. Additional controls have already been established in the United Kingdom and two public consultations have shown that the majority of people support similar controls for the Isle of Man.

The Department has also identified a need to do more to protect people from second-hand smoke, so in conjunction with the Department of Home Affairs and the Department of
1185 Environment, Food and Agriculture, and with the support of the Council of Ministers, amendments have also been included in the Bill to provide for fixed penalties to be imposed for smoking-related offences as an alternative to court action.

Mr Speaker, it was pleasing to note that during the previous readings of this Bill the Members
1190 of this House were supportive of the proposals contained within it, so I do not intend to spend much time going over old ground. However, some questions were asked by my hon. colleagues and I would like to take the opportunity to summarise some of the issues contained within the now 26 clauses and the schedule of the Bill.

1195 Clause 2 allows for sections of the Act to be brought into operation using Appointed Day
Orders. It is the Department's intention to make an Appointed Day Order at the earliest possible
1200 juncture after Royal Assent is announced, so that new regulations, which contain the detail
about how the new controls will be enforced, can be made as soon as possible thereafter.
Discussions which are planned with local tobacco retailers about the regulations will also include
1205 further discussions about the proposed six-month grace period which the Department is
intending to give to allow retailers to install the necessary displays etc.

Clauses 6 to 9 contain the first of numerous amendments which update the 2006 Act to bring
the Isle of Man into line with European Union directives relating to information society services
in these clauses. This means amending section 1 of the Act and adding a new section 2A to ban
1205 tobacco advertising on the internet by an Island-based service provider. It is recognised that
offences relating to advertising on the internet will be difficult to enforce, as the Island simply
does not have the expert technical and legal resources to do so. However, it is anticipated that
most reputable service providers will adhere to the law, whereas they might be less inclined to
abide by a voluntary code of practice, so the potential for abuse in this area is considerably
1210 reduced.

Clauses 8 and 9 add further exclusions and defences to sections 3 and 4 of the Act in respect
of advertising offences as a consequence of the new information society services legislation.

During the clauses stage of this Bill the Member for Onchan suggested that there should be
an option for the Department to introduce regulations to add further exceptions in this section
and in other sections. However, as the UK equivalent legislation does not include such options
1215 and it is difficult to see what other exceptions there might be, it was felt that this would simply
be a case of providing for the making of regulations just for the sake of it, without having any
intention of actually making any.

Clause 8 also gives effect to a new schedule relating to the liability of information society
service providers in respect of conduits of access to a communication network and the
1220 transmission of catching – that is the storage of information prior to onward transmission – and
hosting.

Clauses 10 and 11 replace the existing section 5 with four new sections dealing with tobacco
displays and tobacco prices.

The new section 4A creates the offences of displaying tobacco products in the course of
1225 business on the Island.

The new section 4B creates exclusions and defences with regard to the offence of displaying
tobacco products. These mostly relate to displays within the tobacco trade and displays to
under-18-year-olds. Section 4B also allows the Department of Health and Social Care to make
1230 regulations to provide that no offence is committed if a display complies with specified
requirements.

The new section 4C allows the Department to make regulations to impose requirements in
relation to the display of prices and makes it an offence to breach these requirements.

Regulations are currently in train in respect of both sections 4C and 4B and will be the subject
of discussions with local tobacco retailers in due course.

1235 In response to a question from the Hon. Member for Ramsey, Mr Singer, during the clauses
stage of this Bill, I may have given the impression that price lists were being completely banned.
In actual fact, the intention is to bring in regulations to control the way in which tobacco price
lists are displayed, and this will obviously be discussed with the retailers.

The new section 4D allows the Department to make regulations to impose requirements
1240 relating to displays on websites and makes it an offence to breach those requirements. Section
4D is in line with the UK government legislation. There are currently no regulations in the UK, so
there is no intention to have any here either.

Clauses 12 and 13 simply amend sections 6 and 8 of the Act, which deal with the prohibition
of free distributions and brand sharing in respect of information society services.

1245 Clause 14 creates the new offence of selling tobacco from a vending machine.

Clause 15 makes two wording changes in section 10 of the Act in respect of the production of evidence of authority by enforcement officers and to allow appeals to be heard by the High Bailiff or the Deputy High Bailiff under this section.

1250 Clause 17 simply updates the reference in section 12 to add the new defences in this Bill to those which may be satisfied if there is sufficient evidence to raise an issue.

Clause 18 makes necessary amendments to the interpretation of part 1 of the Act in section 13 as a consequence of the other amendments in this Bill and to tidy up certain wording abnormalities.

1255 At the clauses stage of this Bill, Mr Singer, Hon. Member for Ramsey, queried the use of the word 'or' as opposed to 'and' in the definition of 'EEA state' as 'a member State, Norway, Iceland or Liechtenstein'. Legal advice has now been received and I can confirm that the definition as printed and taken forward is correct as written.

Mr Singer: Pleased about that.

1260

Mr Quayle: Clause 19 simply amends the wording in section 18 of the Act, which deals with the powers of entry, so that part 2 of the Act is in line with a similar provision in section 10 of part 1 of the Act.

1265 Clause 20 of the Bill inserts new provisions to allow an authorised person to offer a person who they believe has committed an offence the option of accepting a fixed-penalty notice and paying a fixed penalty of £50 instead of going to court. This provision was included in the Bill at the request of the Department of Home Affairs and the Department of Environment, Food and Agriculture and with the support of the Council of Ministers. It will be for the Department of Environment, Food and Agriculture to make any regulations relating to fixed-penalty notices. In the meantime, all offences, including any new offences which DEFA might introduce, can continue to be dealt with through the courts.

1270 Clause 21 of the Bill repeals section 21 of the Act and relocates various penalties contained within it to relevant parts of the Act to which they refer. This is as a consequence of a request from DEFA for an amendment to require regulations which they are responsible for to acquire Tynwald approval.

Clause 22 corrects an omission for the original Act to clarify that offences relating to a corporate body apply to an officer of a body corporate as well, and to confirm that payment of a fixed penalty by an officer does not preclude prosecution of the body corporate and vice versa.

1280 Clause 23 also corrects an omission from the original Act by inserting a new provision to allow the Department of Health and Social Care to amend the Act by order as a consequence of developments in technology or for the purpose of making the Act correspond with the equivalent United Kingdom legislation. It would seem that this was a deliberate omission from the original Act, but after taking legal advice it was decided that it will now serve a useful purpose to help the Isle of Man to keep up to date with the United Kingdom, particularly in relation to the fast-moving developments in electronic technology.

1285 Clause 24 amends section 23 of the Act to require regulations made by DEFA under part 2 of the Act to be approved by Tynwald.

Clause 25 substitutes the existing section 25 with a new section which provides some new interpretation for the Act.

1290 Clause 26: this additional clause 26, introduced by my colleague, the Hon. Member for Onchan, Mr Quirk, during consideration of clauses, consisted entirely of amendments to the Children and Young Persons Act 1966 to remove references to vending machines as a consequence of the new offence in clause 14.

1295 Mr Speaker, I beg to move that the Public Health (Tobacco) (Amendment) Bill be read for the third time.

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

Mr Quirk: Thank you, Mr Speaker.

1300 I welcome this Bill coming forward and draw Members' attention to the initiatives too for... I am not a smoker and as far as I am concerned – it is my gambit to this particular Bill here... is really...

1305 There has been many a person who has died of smoking-related diseases and I have seen people suffer and I welcome the initiative that is put in this particular Bill too, where smoking will be banned in cars, fixed penalties will be given out there; because at the end of the day I want to see us having a healthy Island, those children having a healthy future. And those parents who do smoke in front of children in confined spaces... I have no sympathy with those parents at all. They are putting their children at risk and that is my personal take on this particular Bill but I welcome it coming forward.

1310

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

Mr Karran: Vainstyr Loayreyder, as a person who actually brought in, when it was against the advice of the Members responsible many years ago, raising the age of the selling of cigarettes to 18, I have to say that I can support part of this Bill.

1315

I can support the part of this Bill about the banning of machines... they are there. I can sympathise with issues such as stopping them being displayed in shops, especially... just like I fought for years to try to have a separate area with a separate till for the sale of alcohol and getting it away from where the shop till was, I can support that. I can totally support the issue that if there is a child in a car then as a responsible adult, never mind parent, you should not be smoking in a car. I have got no problem with that, but I find myself at odds with this Bill.

1320

1325 Before I go on to that, I do take it, just for *Hansard*... because if it goes to court the Member will be not telling us that we are going to have to rip down old vintage cigarette adverts, the likes of the ones out at Groudle Glen railway; they will be exempt from this legislation and they will be, fair enough, seen as something antiquated and not of relevance as far as any advertising is concerned or in a museum or wherever – there will be no issue as far as liability.

Vainstyr Loayreyder, one of things that I am concerned about is that I believe that maybe we are going too far as far, putting it into primary legislation. Primary legislation needs, through the royal prerogative, the British government's approval if we want to change that.

1330

I am disappointed that what we should have been looking for is secondary legislation on the issues as far as computers, as far as advertising is concerned and the likes, simply because then we would have had the opportunity, if we find ourselves in the opportunity that it might be in the interests of the Island to be more flexible on that subject with more dire situations.

1335

As one of the few Members in this House who has actually been in here when there has not been any money to be able to throw away, we are going to need to be looking at every aspect as far as that issue is concerned. My resolve has not changed from the time that I raised the age from 16 to 18 for shops to sell, but I believe... and I cannot believe that the Department of Economic Development is allowing itself to be put into such a straitjacket, as far as the obvious opportunities that could have taken place if there is a ban in Europe.

1340

1345 One of the things that this Island has had in the past is the fact that we have been that little bit different... has been where you are marketing many things as far as the Island is concerned. We have only got to look from our colonial past, Vainstyr Loayreyder. We have the TT, and the TT came about because they could not close the roads off in the UK without an Act of Parliament but they could do it here because he was basically a feudal lord and this House could do very little about it. I am concerned – I am talking about the Governor now – the way it was –

The Speaker: Could we come back to the subject matter, Hon. Member.

1350 **Mr Karran:** Vainstyr Loayreyder, I am talking about the economics of the opportunities that could have been there so that we could actually maybe be looking at other things as far as that is concerned. This House has been in the luxury for the last –

The Speaker: Hon. Member, we are not debating other things, we are debating specifically the Public Health (Tobacco) Bill. (**A Member:** Hear, hear.) Could we stick to that subject?

1355 **Mr Karran:** Vainstyr Loayreyder, I am giving the reasons why I am not going to be voting for this Bill and that is the reason why I am not going to be voting for this Bill; because I believe that on the issues of the machines, on the issues of children in cars, on the issues of having the displays in shops – I can agree with that because a person who is trying to get off cigarettes... I have no problem with that. I just feel that it should have been much more flexibly written out as far as the draft concerning this legislation is concerned, and I think that that is where we have gone wrong.

1360 I am as resolute as anyone else in this House as far as the fundamental issues of changes that are in this Bill, but I just feel that you are tying yourselves up where I do not think you might have the luxury in the future as far as the opportunities that could come to the Island as far as promotion, as far as sporting events and the thing outside the blanket ban in the United Kingdom and the EU.

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

1370 **Mr Anderson:** Thank you, Mr Speaker.

I rise to wholeheartedly support the legislation being introduced by the Minister here today and its intentions, and congratulate the Department in bringing it forward.

I am disappointed with the comments of the last speaker and I hope this House will unanimously support this Reading of this Bill.

1375

The Speaker: Hon. Member for Ramsey, Mr Singer.

1380 **Mr Singer:** I was not going to speak but I have never heard such a speech as that one from Mr Karran – that he supports it but he does not support it because he wants flexibility. What does he want flexibility...? Either you agree that cigarette sales, whilst they are not banned... but people should be protected and young people particularly should be protected. What is this flexibility for? He talks about sports events. Do we want sports events here that are going to allow the promotion of smoking? Of course we do not.

1385 Then he talks about separation from Europe... and different from Europe. If Europe support this and we support it then I support Europe on this particular thing. I do not think we should just make ourselves different for the sake of being different (**A Member:** Hear, hear.) and I think that there is no flexibility as far as I am concerned on this particular matter.

1390 I think I congratulate the Department for going ahead with this. I would have liked to see them go ahead with it earlier, but I congratulate the Minister. The Minister has in the last 12 months brought various items to this House which have been very important. He promised to bring them to help the health of the people of this Island and he is doing that and I congratulate the Department, and I hope that Members will reject this ridiculous Liberal Vannin policy of saying let's have more flexibility. There is no flexibility.

1395 **The Speaker:** Hon. Member for Douglas South, Mrs Beecroft.

Mrs Beecroft: Thank you, Mr Speaker.

Just to clarify it actually is not a Liberal Vannin policy at all. It is Mr Karran speaking his personal view, so I do not know where you got the idea it was Liberal Vannin policy (*Interjection by Mr Singer*) because it is not printed anywhere, it has never been discussed or said it was.

1400

Mr Singer: You don't work together then?

Mrs Beecroft: We usually do agree, Mr Karran and I, but on this occasion we do not. I agree that there should not be the flexibility that our principles should be compromised in the future should our economic circumstances warrant it. I do not think principles should be put to one side because we need the money. I can understand where Mr Karran is coming from and I can see his point of view, but I do not agree with it. I gave my support to the Bill at the beginning and I will continue to support it.

1405

1410

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

Mr Quayle: Thank you, Mr Speaker, and may I thank my seconder, the Hon. Member for Onchan, Mr Quirk, and all the officers who have been working on this Bill.

Firstly, moving on to Mr Karran's comments, he was mainly supportive of the Bill but again was at odds with the Bill, and I think it boiled down to the potential of missed capital from the advertising of products. I suppose that is something that my Department cannot support – his viewpoint. We have discussed this in the Council of Ministers. We are fully supportive of this legislation and, yes, it may cost the Island some advertising – is his viewpoint – but I think the whole world is totally against the advertising of tobacco paraphernalia.

1415

1420

I would like to support Mr Anderson, who has obviously worked on this in his time too whilst in the Department.

I would like to thank Mr Singer for his kind words, and again he discussed his opposition to the Hon. Member for Onchan, Mr Karran's viewpoint, which I share.

1425

And I thank Mrs Beecroft, the Hon. Member for Douglas South for stating her support of this Bill.

Without further ado, I beg to move.

The Speaker: Hon. Members, I put the question that the Public Health (Amendment) Bill be read for the third time. Those in favour, please say aye; against, no. The ayes have it.

1430

A division was called for and electronic voting resulted as follows:

FOR

Mr Anderson
Mrs Beecroft
Mr Cregeen
Mr Gawne
Mr Hall
Mr Houghton
Mr Malarkey
Mr Peake
Mr Quayle
Mr Quirk
Mr Robertshaw
Mr Singer
Mr Skelly
The Speaker

AGAINST

Mr Karran

The Speaker: There are 14 votes for, 1 against. The motion therefore carries.

HOUSE OF KEYS, TUESDAY, 26th MAY 2015

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 Tuesday, 16th June in Tynwald Court.

The House adjourned at 11.25 a.m.