



# HOUSE OF KEYS OFFICIAL REPORT

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# PROCEEDINGS

DAALTYN

HANSARD

**Douglas, Tuesday, 29th October 2019**

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**Present:**

The Speaker (Hon. J P Watterson) (Rushen);  
The Chief Minister (Hon. R H Quayle) (Middle);  
Mr J R Moorhouse and Hon. G D Cregeen (Arbory, Castletown and Malew);  
Hon. A L Cannan and Mr T S Baker (Ayre and Michael);  
Hon. C C Thomas and Mrs C A Corlett (Douglas Central);  
Mrs C L Barber and Mr C R Robertshaw (Douglas East);  
Hon. D J Ashford and Mr G R Peake (Douglas North);  
Hon. W M Malarkey (Douglas South);  
Mr M J Perkins and Mrs D H P Caine (Garff);  
Hon. R K Harmer and Hon. G G Boot (Glenfaba and Peel);  
Mr W C Shimmins (Middle);  
Mr R E Callister and Ms J M Edge (Onchan);  
Dr A J Allinson and Mr L L Hooper (Ramsey);  
Hon. L D Skelly (Rushen);  
with Mr R I S Phillips, Secretary of the House.

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## House of Keys

*The House met at 10 a.m.*

[MR SPEAKER *in the Chair*]

**The Speaker:** Moghrey mie, good morning, Hon. Members.

**Members:** Moghrey mie, good morning, Mr Speaker.

5

**The Speaker:** I call on the Chaplain to lead us in prayer.

### PRAYERS

*The Chaplain of the House*

### Leave of absence granted

**The Speaker:** Hon. Members, I have granted leave this morning to Mrs Beecroft.

## 1. Questions for Oral Answer

### CHIEF MINISTER

#### 1.1. Manx athletes – Government promotion

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Chief Minister:

*Which Government website promotes the success of Manx athletes?*

**The Speaker:** We turn to Item 1 on our Order Paper, Questions for Oral Answer, and I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

10

**Mr Moorhouse:** Thank you, Mr Speaker.

I would like to ask the Chief Minister: which Government website promotes the success of Manx athletes?

15

**The Speaker:** I call on the Chief Minister to reply.

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

There is no specific Government website to promote the success of Manx athletes. I believe our local media do an excellent job in reporting on sports events both on and off the Island throughout the year with journalists employed just to write about and report on sport.

In addition, many clubs and sports governing bodies have volunteer media relations officers to ensure that stories and achievements reach the wider public through the traditional media and also on social media.

Furthermore, each year Isle of Man Sport organises and promotes the Isle of Man Sports Awards held at the Villa Marina to both recognise and celebrate the successes of our athletes, many of whom are doing great things at national and international level. I have attended this event several times in recent years and seen for myself the fantastic levels of achievement being attained by our sportsmen and women.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Chief Minister – and thank you, Mr Speaker – an incredibly positive Answer.

In terms of the outstanding performance of Manx athletes, the performance is incredible. This year alone there have been a large number of successes such as Tom Gandy in golf, Colin Kelly in crown green bowling and lots of other examples. Will the Chief Minister consider highlighting some of these individuals on the Government website, just to show the range of skills and talents on Island?

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

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

I recognise, obviously, the Hon. Member for Castletown and Malew's enthusiasm – Mr Moorhouse – in covering sport. He lists a number of people and I am delighted he mentioned Mr Colin Kelly, a Marown bowling champion extraordinaire. And just so I am not talking about sport all the time, I will keep the Hon. Member for Garff, Mrs Caine happy – where we go on about culture as well as sport: he also used to sing in the Guild against me many years ago. So, congratulations there.

I think, Hon. Members, if we look at what our media does to promote sport on the Isle of Man ... If I give some examples, last week's *Manx Independent* had no less than 12 pages of sport coverage, including football, rugby – men's and women's, cycling, running, race walking, triathlon, netball, hockey, boxing, darts, golf, rallying, motorcycle racing, snooker and pool. And in addition to that, it also included a full-page feature on the renowned – nay, world-famous – Braaid Annual Conker Championships held in my constituency.

**A Member:** Did you win? *(Laughter)*

**The Chief Minister:** I have been beaten at that, sadly, many a time.

Today's *Isle of Man Examiner* had a further nine full pages of sports coverage. And that is just my good friends at Isle of Man Newspapers. All of our main radio stations and news publications provide sports coverage. Manx Radio, our public service broadcaster, also does an excellent job of providing sports coverage. Their sports editor, Chris Cave and his team provide a catalogue of Manx sporting successes on their website.

I would have to ask: what would the point be in the Government trying to duplicate this on its own website? I am sure then my good friend the Hon. Member for Onchan, Ms Edge would be on my case asking the reasons for staff increases in this area and wanting a review on salaries. But I take on board the Hon. Member's good intentions and, should he see a way of

doing it without it costing the taxpayer any additional funding, I would of course be happy to take on board his points.

70 Thank you, Mr Speaker.

## TREASURY

### 1.2. Pensions – Collection via card or cash

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

*What plans he has to enable pensions to continue to be collected via card or cash should these services be withdrawn from Isle of Man Post Office locations?*

**The Speaker:** Now, after that word from our sponsors, Question 2. *(Laughter)*  
I call on the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

75 I would like to ask the Minister for the Treasury: what plans does he have to enable pensions to continue to be collected via card or cash should these services be withdrawn from Isle of Man Post Office locations?

**The Speaker:** I call on the Treasury Minister to reply.

80

**The Minister for the Treasury (Mr Cannan):** Mr Speaker, I can confirm that the Post Office is committed to continuing to provide the MiCard service until 31st December 2022 and the Treasury is committed to using the MiCard service until then. Between now and 31st December 2022 the Treasury and the Post Office will investigate the ongoing suitability of MiCard and whether there might be any viable alternatives. I expect any changes, if there are any, to be announced at least 12 to 18 months prior to that date.

85

As I stated in another place last Wednesday evening, there is an obvious trend towards payment of state pensions and other benefits by direct credit transfer into bank and building society accounts, with over 90% of new pensioners opting for payment by direct credit transfer rather than collecting their cash at a post office. But I am pleased to confirm that the state pension form does very clearly provide a choice between direct credit transfer and payment at a post office. Indeed, for all benefits where payment by direct credit transfer is an option the relevant claim form also offers the choice of payment at a post office.

90

Thank you.

95

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

100 I would like to thank the Treasury Minister for that Answer. Again, I am not sure what question he was answering but it certainly was not the Question that I had asked him.

Let's try and make this a bit simpler. Say the Post Office in Jurby decides that it is no longer financially sustainable to run all the services from that post office location. Say the Post Office then closes that location and replaces it with a kiosk. What is the Treasury Minister's plan to make sure that people in that location are still able to access cash or MiCard pension collection arrangements when that service is no longer provided from that location?

105

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

110 **The Minister:** Mr Speaker, I was absolutely very crystal clear with the Hon. Member when he asked me what plans we had to enable pensions to be collected via card or cash should these services be withdrawn from the Isle of Man Post Office, and I was very clear in answering that Question that we will investigate between now and 31st December 2022 what options might be available should MiCard be withdrawn.

115 I am not in a position to forecast the future in terms of how we would provide services were a sub-post office to shut and there was a clear need to do so, Mr Speaker. I can only work with what is in front of me and I have given the Hon. Member and this House the assurance that any changes in terms of the ability to use the MiCard service and for pensions to be collected in cash would be announced, if there were changes, 12 to 18 months prior to 31st December 2022.

120 **The Speaker:** Supplementary question, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

125 I just feel that I need to stand, as Chair of Isle of Man Post Office, just to be clear that the Treasury Minister advised that the Post Office is committed to continue with this service. We are committed under contract. I just want to make that clear.

**The Speaker:** Supplementary, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

130 It seems to me it is clear from the Minister's answers that he is not able to answer the Hon. Member's question from Ramsey, but does he not accept that this creation of uncertainty will actually exacerbate the situation further and will result in sub-post offices closing earlier than they might otherwise have done had the Government found itself in a position to answer the question proposed today with clarity?

135 Thank you.

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

140 **The Minister:** No, I do not accept that, Mr Speaker. I think every Hon. Member in this House will recognise the facts that I outlined in my contribution to the debate on the Post Office going forward which we had in the other place two weeks ago: 40% transactional decline in the last decade; 76%, in the UK, of sub-postmasters running franchised sub-post offices are earning less than the minimum wage. I do not know the exact facts over here, but I can tell you there are sub-postmasters operating below the minimum wage and I point out to the Hon. Member that, 145 even with these services currently in delivery, sub-post offices are closing.

I need to be absolutely clear: the Government will take all factors into consideration and will still need to ensure that cash is delivered to those who need to take cash services when collecting pensions or other benefits and we will make sure that we are in a position to enable those services to be delivered appropriately in the community. But we cannot be in a position of 150 guaranteeing years into the future technology such as MiCard when clearly society is moving potentially in different directions when it comes to operating cashless and bank technology, and the cards in use today mean that people want to use other alternatives rather than the MiCard.

155 I will finally add, Mr Speaker, that one would see that since we introduced MiCard only three years ago there has been something like a 20% drop in the number of users, and if that were to continue in the next three to six years then MiCard itself, even if it were to continue, would simply start to become irrelevant in terms of its use across society.

**The Speaker:** Supplementary question, Mr Hooper.



**Mr Hooper:** Thank you very much, Mr Speaker.

160 I think the Minister is again failing to understand the core of this Question. This is not about  
the Post Office as a whole withdrawing these services; this is about services being withdrawn  
from individual post office locations. So, whilst the network as a whole may still deliver MiCard  
services up until 2022, we have no guarantee these services will be available across the entire  
Island until 2022. And the Treasury Minister seeming to think he is going to get 12 to 18 months'  
165 notice from a sub-post office closing – which is a private business – I think is completely farcical,  
to be honest. (**A Member:** Hear, hear.)

The Treasury Minister in his comments has just referenced he needs to ensure cash services  
are available and he has also referenced essentially the inevitable result of a decline in  
transactions is the closure of sub-post offices. So the question I am trying to get an answer to  
170 here is: when that inevitably happens, as the Treasury Minister has outlined, what plans does he  
have? How is he going to ensure that local people in these rural areas can still access these cash  
services such as collecting their pensions? How will that happen if some of these individual  
locations stop providing that service?

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

**The Minister:** Mr Speaker, over the course of the last decade many sub-post offices have  
closed. Indeed, only in the last 12 months or so the Hon. Member for East Douglas, where he  
currently resides his local post office closed. The fact is in those areas those individuals who  
180 were collecting cash had to move a couple of miles or a mile or so down the road to the next  
available sub-post office in order to collect their cash. That facility was still there, albeit a mile or  
two miles down the road.

We do not have all the answers, Mr Speaker. We currently offer a service for people to  
collect cash for pensions via sub-post offices. Were we to be in a position where either we  
185 decided to change the MiCard function, or indeed the viability of sub-post offices in general  
became a ... to such an extent that they were no longer in their communities, then we would  
have to look at our options. At present, the option is for MiCard, the option is for sub-post  
offices, and that will continue until 31st December 2022, prior to which date we will announce  
whether there will be any changes for the community to be able to access cash services.

190 **The Speaker:** Supplementary question, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr Speaker.

195 It is clear from the Minister's replies so far that he understands the lack of viability that exists  
within sub-post offices at the moment – in other words, they are all in danger of potential  
imminent closure – and therefore signalling at this stage that there is going to be a removal of  
the MiCard or a replacement creates further uncertainty.

He will recall, will he not, that in another place in our October meeting it was clear that the  
Cabinet Office and GTS are not in a position to even begin to provide a replacement within five –  
200 perhaps even longer, six – years? Does he not accept we are getting to a position where, if we  
are not careful and we do not plan this properly, we are going to end up with a group of left-  
behinds or left-outs and this must not be allowed? This requires careful planning from now, and  
can he assure me that that is going to happen?

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

**The Minister:** I think, Mr Speaker, nobody is talking about left-behinds or left-outs. We are –

**Mr Robertshaw:** We should be.

210 **The Minister:** I think, Mr Speaker – if the Hon. Member will let me finish – clearly a priority for everybody in this room is to make sure that everybody in society has a proper opportunity to get the services that they need and they deserve.

The Hon. Member will recognise that I have already made a commitment that we will be reviewing this matter – well before 31st December 2020, well before the three-year deadline –  
215 in three years' time before this expires and we will ensure that those who need to access cash, and more importantly want to access cash services, still can. But I cannot fight, and we cannot fight, the way technology and society continues and wants to have its services delivered, because we cannot force the issue on people and neither do we have the kind of finances available to start subventing services to the degree that would be required to maintain the sub-  
220 post office network were it to come under significant pressure or even expound the pressure that it is currently under.

**The Speaker:** Supplementary question, Mr Thomas.

225 **Mr Thomas:** Thank you, Mr Speaker.

Does the Treasury Minister agree that the Hon. Member for Douglas's statement about Cabinet Office policy is his own statement and it is not actually a quote from anything said in October?

230 However, does the Treasury Minister agree that Government collectively, and the whole of this House and the Court, does actually recognise the importance of digital inclusion for everybody, which includes financial inclusion, and policies are being developed to deal with that?

**The Speaker:** Minister to reply.

235 **The Minister:** Yes, I do indeed, Mr Speaker. Of course one needs to think both about the current population and also what things might look like in the future, and I have to respectfully suggest to this Hon. House that the vast majority of people coming up towards their retirement will be computer literate and will be receiving a lot of their payments directly into their bank  
240 accounts, that as the trends continue more and more people are likely to want to do so, and that cash unfortunately will become less and less prominent in terms of people's desires in terms of how they want to receive money. I would suggest that most people in the future are going to want the money paid directly into their bank account, and where they do not have banking facilities then the Government needs to be in a position to ensure that they can access  
245 cash reasonably within their local community.

**The Speaker:** Supplementary question, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

250 Would the Minister agree with me that the viability of sub-post offices is a question for the small businesses themselves, and if a sub-postmaster chooses either to retire or to reallocate space in his retail outlet to other more profitable lines, this will actually help the neighbouring sub-post offices, which are often located close by, and it will help them become more viable as business transfers to them; and that ultimately, trying to fight against consumer preference is  
255 futile?

**The Speaker:** Minister to reply.

260 **The Minister:** Yes, Mr Speaker, I take the Hon. Member's point. I absolutely concur with his latter point that trying to fight consumer desire in these circumstances is futile. And yes, Mr Speaker, it may well be the case that a sub-post office that closes in one area actually adds

more sustainability to another sub-post office in another area, but the important thing is – as we said in that debate and I think Hon. Members made clear – we want the Post Office to do everything it can to try and keep these sub-post offices open because they are of value, do and have played a valuable role in the community. But the question we must ask ourselves is: at what cost would that be? How can you continue to fight against consumer desires when they want money paid directly into their bank account and very few people, decreasing numbers of people, want to go and pick up cash at their local post office?

270 **The Speaker:** Final supplementary, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

This question actually is not about sub-post offices, it is not about the post office network; it is about access to services. The Treasury Minister seems unable to comprehend that this ever-decreasing number of people are the left-behind, digitally excluded people who cannot access services in any other way.

I just want to be clear then, from my own mind, that the Treasury Minister appears to have supported a strategy from the Isle of Man Post Office which in his own mind is one of inevitable closures and a reduction in local service, but his message to his constituents is: 'If your local sub-post office stops providing these services, go to Ramsey, go to Peel – that is close enough'?

**The Speaker:** Minister to reply.

**The Minister:** No, Mr Speaker. I made it absolutely crystal clear that Government's *modus operandi* in terms of delivering cash to those who want to collect it – to the decreasing number of pensioners who wish to collect their pensions in cash – is via the sub-post office. I have told Hon. Members that agreement is in place until 31st December 2022.

And let me be clear: this is costing the taxpayer £½ million a year just to deliver the service. The Hon. Member wants to spend more money at this stage widening that out and delivering it through a number of other networks, and he needs to be absolutely crystal clear because he has come forward with no other policy. All he seems to be doing is delivering a vague attack on the fact that the Post Office is currently delivering cash to the community. That is the fact. That is the way we are delivering it.

We will carry out a review and once we have carried out that review we will be in a position to consider whether in fact MiCard as a service via the sub-post offices is the most appropriate way to deliver cash to the community. I will finally add that if that is not the case and we choose to use other available community services, such as newsagents or petrol stations or whatever is available, then clearly that is not going to be a position that is going to help the Post Office, so one needs to be absolutely very clear about what some Members are wishing for in this position. But I have made the position very clear: we are in control of the situation and we will let Hon. Members know in the next 12 to 18 months, prior to 31st December 2022, what the proposals are to go forward into the future.

## INFRASTRUCTURE

### 1.3. Rehabilitation rates – Island and UK measurements

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Minister for Home Affairs:

*Whether rehabilitation rates in the Island are measured using the same methodology as in the United Kingdom?*

**The Speaker:** Question 3. I call on the Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

305

**Mr Moorhouse:** Thank you, Mr Speaker.

I would like to ask the Minister for Home Affairs: are rehabilitation rates in the Island measured using the same methodology as in the United Kingdom?

310

**The Speaker:** I call on the Minister for Home Affairs to reply.

**The Minister for Home Affairs (Mr Malarkey):** Thank you, Mr Speaker.

315

The simple answer is no. For example, figures are collected quarterly in the adjacent jurisdictions, whereas in the Isle of Man we measure data on an annual basis. As from 2018-19, Her Majesty's Prison and Probation Service (HMPPS) split adult offenders and young offenders and children separately; in the Isle of Man the Department aggregates adult and young offenders together. Furthermore, direct comparisons are difficult because HMPPS describe proven reoffending as adult and juvenile offenders who were released from custody, received a non-custodial conviction at court or received a caution during the three-month cohort period – I emphasise a three-month period, whereas in the Isle of Man any offender who is convicted of a further offence within a period of 12 months from the date of their release from custody or the date of the end of their period of non-custodial supervision and receives a further prison sentence or community order is captured as having reoffended. That is within a 12-month period and this does not include cautions or fixed penalties, which are included in England and Wales.

320

325

However, trying to be helpful, Mr Speaker, although not a useful comparator, as I have explained, the HMPPS annual report showed a reoffending rate of 37.8% for adult offenders – that is over 21 – and 64.6% for young people and children, compared to the average in the Isle of Man of 12.35% for reoffenders, which I think is a quite remarkable figure. If the questioner would quickly like to add the 64% and the 37% and divide them by two he will see that the average in the UK is about 51% for reoffending, against our Island figure of 12.35%, and I think the Prison Governor, who is actually sitting in the Gallery, should be congratulated on the work he is doing to get the reoffending rates down.

330

335

**A Member:** Hear, hear.

**The Speaker:** Supplementary question, Mr Moorhouse.

**Mr Moorhouse:** Thank you, Mr Speaker, and thank you, Minister, for such a positive Answer.

340

In 2017 it was stated that the data for rehabilitation in the Island was similar to that in the UK. Given the incredible data you have just given us, how has that transformation been achieved?

**The Speaker:** Minister to reply.

345

**The Minister:** I am not quite sure what the questioner is actually looking for. Our rehabilitation at the Prison has changed considerably since the new Prison Governor has arrived with Education and Probation being involved with the help that the prisoners are getting after they are released. These are all factors that help to hopefully stop people reoffending. So I think what has been put in place is working well.

350

I cannot speak for how the UK prisons operate. I think the very fact that they only go out for three months to capture their figures for reoffending, while we go for 12 months ... I think they would find that their reoffending rates would be an awful lot higher than the figures I just quoted.

355

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thanks very much, Mr Speaker.

360

Firstly, I would like to commend the prison officers in the work they are doing with rehabilitation, but some of the information the Minister has just provided is quite interesting.

365

Back in January the Justice Committee asked a question about rehabilitation and reoffending rates and it was difficult at that time for them to provide any information on this. I would be really grateful if the Minister could circulate the detail of that definition and how it is worked up, and also if he could provide some information on what has changed in respect of data capture since January, because back in January when we asked this question the concern was that the Department was having difficulty gathering and collating all this data, so if he could just briefly comment on the progress that has been made, that would be quite appreciated.

370

**The Speaker:** Minister to reply.

375

**The Minister:** Mr Speaker, obviously these are very early figures because at the time we were only setting up the capture of figures; prior to that, they were not being collected. These figures are worked, I understand, on something like a 12-month period. They are early figures. As years go by we will get more fixed figures, but in the last 12 months the figures I am quoting – the 12.35% – are figures we could not give to the Committee at the time because we had only just started collecting the information.

**The Speaker:** Supplementary question, Mr Moorhouse.

380

**Mr Moorhouse:** Thank you, Mr Speaker.

With regard to the change in the data, if an individual leaves prison and leaves the Island do they drop out of the figures automatically?

385

**The Speaker:** Minister to reply.

**The Minister:** I would have thought if they leave the Island and reoffend we would not know about it, so obviously they would totally drop out of our figures. We would not be aware of any reoffending.

390

**The Speaker:** Supplementary question, Mr Perkins.

**Mr Perkins:** Thank you, Mr Speaker.

395

Would the Minister agree with me that a good starting point for these Members would be to look at the *Hansard* edition of the Social Affairs Policy Review Committee? We covered a great deal of area with the Prison Governor at the last meeting we had and I suggest they have a look at that.

400

**The Minister:** I must agree, Mr Speaker. It was a very interesting debate and it was good for the first time to have the Prison Governor in front of the Committee, answering a lot of questions on a lot of subjects that have not been covered before.

**INFRASTRUCTURE**

**1.4. Housing pilot schemes –  
KPIs measured**

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Infrastructure:

*If he will make a statement on the housing pilot schemes which are running; what KPIs are being measured to determine success for each scheme; and what those measures are?*

**The Speaker:** We turn to Question 4. I call on the Hon. Member for Ramsey, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

I would like to ask the Minister for Infrastructure: will he make a statement on the housing pilot schemes which are running, what KPIs are being measured to determine success for each scheme and what those measures are?

**The Speaker:** Minister for Infrastructure, Mr Harmer.

**The Minister for Infrastructure (Mr Harmer):** Thank you, Mr Speaker.

The Department has for some time used piloting as a means to undertake market and operational testing. For example, the regional shared housing lists operated as pilots before they became business as usual, and two local authorities are operating pilot schemes for day to day management of the Department's housing stock within their areas. The Department has also undertaken development pilots – for example, the multiple award winning passive house at Janet's Corner, air source heat pumps in Bride and the eco housing pilot at Clagh Vane estate.

In addition to those pilots relating to public sector stock, the Department is currently running a small-scale pilot for a housing tenure, mid-rental housing, utilising six new-build properties in the south of the Island. In the first 12 months of this two-year pilot the evidence is that there is a demand for this type of housing tenure and the Department will therefore start to develop this as a formal housing scheme to bring forward to Tynwald. If approved, this will create a new housing model, enhancing the existing affordable housing options of public sector rental and first-time buyer assistance.

In respect of the KPIs, obviously these will vary from pilot to pilot. For example, the measure of success for shared waiting lists was the take up by local authorities, the ease of use in operation and most importantly an enhanced service offering for users of the shared lists. This data is captured in real time within the shared list environment. For the two management agreements, the KPI measures are in terms of customer satisfaction, time and attendance, service delivery and cost. Depending on the measure, this is tracked by a combination of monthly, quarterly and annual returns. The *de minimis* mid-rental pilot is tracked in terms of customer satisfaction and the effectiveness of the offer in assisting in saving for a deposit. Finally, the development pilots were tracked in terms of cost of materials and construction, and anticipated and actual savings of energy consumption, which included air tightness testing, which was extended as a pilot on public sector stock last year for energy efficiency testing.

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you very much, Mr Speaker.

It was specifically the day to day management and mid-rent schemes that I was interested in, so I would like to thank the Minister for providing some information on those.

It does feel to me that these are very subjective measures he is collecting. For example, could the Minister please provide some more detail on how he is measuring the effectiveness in saving

445 for a deposit on the mid-rent scheme? And in respect of the day to day management with local authorities, these local authorities I assume manage their own housing stocks already and why was it not simply considered adequate enough to transfer DoI housing stock directly to them?

**The Speaker:** Minister to reply.

450 **The Minister:** Thank you. There is some detail on that I will come back to the Member on in terms of, for example, the housing stock which local authorities ... It is about the cost of them operating versus the cost of the Department operating, but I will come back to the Member with the detail.

455 **The Speaker:** Supplementary question, Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

I would like to thank the Minister for his statement. In particular, in reference to the mid-rent pilot scheme would you give an undertaking that if this is found to be effective this sort of scheme would be open to local authorities to perhaps consider when they are looking at investing in new housing infrastructure?

460 Thank you.

**The Speaker:** Minister to reply.

465 **The Minister:** Yes, as I said, my view is that local authorities deal with housing.

**The Speaker:** Supplementary question, Mr Hooper.

**Mr Hooper:** Thank you, Mr Speaker.

470 Just a quick one for the Minister: could he just advise what the end date is for the day to day management scheme, so we know when he is going to assess whether they are effective and when he can start rolling that out across the rest of the Island?

**The Speaker:** Minister to reply.

475 **The Minister:** Again, I do not have the exact date with me, but we are actually quite close. I believe it is months, but I will come back to you with an exact date.

### 1.5. Rail travel – Tynwald Policy Decision 18/08

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Infrastructure:

*When he intends to report on rail travel pursuant to Tynwald Policy Decision 18/08?*

**The Speaker:** Question 5. I call on the Hon. Member for Ramsey, Mr Hooper.

480 **Mr Hooper:** Thank you, Mr Speaker.

I would like to ask the Minister for Infrastructure: when does he intend to report on rail travel pursuant to Tynwald Policy Decision 18/08?

**The Speaker:** I call on the Minister for Infrastructure to reply.

485 **The Minister for Infrastructure (Mr Harmer):** Thank you, Mr Speaker.

The intention of the Department is to cover this issue within the forthcoming bus and rail strategy. As I have previously reported, the development of that strategy has been delayed pending the outcome of the work on climate change and the associated action plan to lower emissions. Undoubtedly decisions on how we travel around the Island will be required to respond to the challenge of climate change and lowering emissions. This may include revisiting how we use the Island's rail and tram network.

**The Speaker:** Supplementary question, Mr Hooper.

495 **Mr Hooper:** Thank you very much, Mr Speaker.

I was going to ask the Minister if this would form part of the integrated transport strategy, but I think he has just answered that. Can the Minister please confirm that this will include some detailed consideration of commuter rail, not just on the Steam Railway but also on the MER from Ramsey? This report will have been 11 years in the making by the time Tynwald sees it, so I am expecting it to be one heck of a piece of work.

**The Speaker:** Minister to reply.

**The Minister:** Thank you. It will be considered as part of the overall strategy.

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**The Speaker:** That concludes Questions for Oral Answer.

Item 2 is Questions for Written Answer and those will be circulated in the usual manner.



## 2. Questions for Written Answer

### CHIEF MINISTER

#### 2.1. Construction sector – Level of activity and growth

The Hon. Member for Onchan (Ms Edge) to ask the Chief Minister:

*If he will make a statement on the level of recent activity and growth in the Construction sector?*

**The Chief Minister (Mr Quayle):** The Department for Enterprise – which has responsibility for the construction industry – has provided the following commentary:

510 The Isle of Man construction sector is currently undergoing a period of growth. The sector has seen a 15% increase in jobs since 2014 and now employs 5% of our Manx workforce. In terms of the sector's GDP contribution this has increased by 10% in recent years. The construction sector now makes the seventh largest contribution to Manx economic activity.

515 Cabinet Office's latest Business Confidence Survey confirmed that the construction sector had an excellent winter season, with healthy orders reported. Of all the sectors surveyed, construction had the highest confidence both currently and looking forward. The Chief Minister's planning reform committee has also been supporting the industry in its review to streamline processes.

520 Over the last year or so there have been a number of proposals for larger scale developments and this has been reflected at both the pre-application and application stages. This has included sites for residential and commercial applications. Applications are from both the private and public sectors and that mix is key to the future of infrastructure in the Island. For example, the Douglas Promenade scheme is being supported by a range of private sector companies working together to deliver the project with the Department of Infrastructure.

525 In terms of education, UCM currently have 248 students and apprentices taking part in the construction programme which is an increase of 24% against last year's enrolments. All these factors contribute to the ongoing success and development of this important sector.

### TREASURY

#### 2.2. Permitted work scheme – Use in the last five years

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

*How many people in each of the last five years have used the permitted work scheme; and of these people how many have (a) used the scheme more than once, and (b) stopped claiming benefits following their time on the scheme, having moved into full time remunerative work?*

530 **The Minister for the Treasury (Mr Cannan):** Records of permitted work applications have only been kept centrally since March 2017. Prior to then records of applications were retained on the individuals' casefiles.

It is not possible to provide the data requested for periods prior to March 2017 without undertaking a clerical trawl of thousands of casefiles and my Department does not have the capacity to undertake that work at present.

535 I can confirm that:

- From March 2017 to October 2017 we received 101 applications from incapacity benefit claimants for permitted work. Of these, 42 are no longer getting incapacity benefits.
- From November 2017 to October 2018 we received 111 applications from incapacity benefit claimants for permitted work. Of these, 38 are no longer getting incapacity benefits.
- From November 2018 to October 2019 we received 128 applications from incapacity benefit claimants for permitted work. Of these, 36 are no longer getting incapacity benefits.

540  
545 During the period from March 2017 to October 2019 a total of 49 claimants submitted more than one application for permitted work.

It is not possible to state definitively how many of those who have undertaken permitted work since March 2017 and have stopped claiming incapacity benefits have moved into full-time remunerative work.

550 Reference to 'incapacity benefits' above means Incapacity Benefit and/or income support paid based on a person's incapacity for work.

### **2.3. Pensions Freedoms Schemes – Number approved; providers; members in total; tax revenue raised**

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

*How many Pensions Freedoms Schemes have been approved to date; how many providers are offering such schemes; how many members in total these types of schemes have; and how much tax revenue has been raised from the associated tax charges?*

**The Minister for the Treasury (Mr Cannan):** The Pension Freedoms Schemes introduced with effect from 6th April 2018 enable a member aged 55 or over to take a tax-free lump sum and then have full access to the remaining funds as and when required.

555 I can confirm that 19 Pension Freedoms Schemes have been approved to date and there are currently 12 pension providers offering such schemes. The Assessor is also aware that several other pension providers are currently drafting schemes to take to the market.

The Assessor does not hold any data in respect of the number of members in each of these schemes. However, some of the schemes are Master Trust arrangements or large employers with multiple members.

560 The total revenue collected to date is £688,960 comprising of £281,422 from pensions cashed-in under the schemes and £407,538 collected from pension transfer fees.

**POLICY AND REFORM**

**2.4. Vacant properties report –  
Data sharing between MUA and Cabinet Office**

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Policy and Reform:

*What the legal basis was for sharing personally identifiable data and other data between the Manx Utilities Authority and Cabinet Office for the production of the vacant properties report?*

**The Minister for Policy and Reform (Mr Thomas):** Personally identifiable data was not shared between Manx Utilities and Cabinet Office. The Cabinet Office provided Manx Utilities with a list of property addresses and the unique property reference number from the Property Gazetteer of properties that were recorded as vacant on Census Night in 2016. Manx Utilities then only provided the number of units of electricity based on a matching exercise between the unique property reference number and that used by Manx Utilities.

The information provided by Manx Utilities did not include any customer details therefore no personal data was exchanged between Cabinet Office and Manx Utilities.

**2.5. Freedom of Information Act –  
Publishing responses to requests**

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Policy and Reform:

*Whether he plans to make it his policy to publish responses to requests under the Freedom of Information Act; and what plans he has to create a publication scheme for all authorities now required to comply with the Act?*

**The Minister for Policy and Reform (Mr Thomas):** It is already the policy of this administration to publish responses to requests for information under the Freedom of Information Act 2015 ('the Act'). The responses of Departments, Boards and Offices have been published [online](https://services.gov.im/freedom-of-information/search) for a number of years: <https://services.gov.im/freedom-of-information/search>

The Hon. Member will appreciate that whilst Departments, Boards and Offices can be required to comply with the policy on publication of responses, we cannot require all public authorities to do so. Some public authorities such as local authorities are not obliged to follow Government policy to publish and some local authorities do not even have a website which they would use for this purpose.

As I have advised previously the publication of Freedom of Information responses is a voluntary policy and not an obligation under the Act.

A publication scheme under the Act is a different measure than the publication of responses. A statutory publication scheme requires public authorities to commit to make certain classes of information routinely available through publication, which in other regimes has covered information such as policies and procedures, minutes of meetings, annual reports and financial information. Any publication scheme would be required to specify:

- classes of information to be published;
- manner in which each class of information is to be published;
- whether the published information is free of charge or on payment.

590 Mindful of the burden of the Act on public authorities, Council of Ministers does not have plans at this time to exercise its power to require public authorities to adopt publication schemes by order.

As part of our ongoing commitment to transparency, Council of Ministers encourages all public authorities to make as much information as publicly available as possible. The recently published [Open Data](https://www.gov.im/media/1366718/council-of-ministers-open-data-policy-for-publication.pdf) policy is evidence of this continued commitment to transparency:  
595 <https://www.gov.im/media/1366718/council-of-ministers-open-data-policy-for-publication.pdf>.

## INFRASTRUCTURE

### 2.6. Aircraft at Ronaldsway – Information obtained, stored and procedure for different aircraft

The Hon. Member for Douglas East (Mrs Barber) to ask the Minister for Infrastructure:

*What information is obtained when an aircraft lands at Ronaldsway; in what format this data is stored; and whether the procedure is the same for commercial, freight, light, corporate and military aircraft?*

**The Minister for Infrastructure (Mr Harmer):** When an aircraft lands at Ronaldsway the following information is retained on the IOM Airport ATC Daily Movement Log for that day:

- Aircraft registration;
- Aircraft operator;\*
- 600 • Aircraft type;
- Origin of flight;
- Actual time of landing.

\*Where relevant, for example an airline. Most light and corporate aircraft operate under their aircraft registration.

In turn, when the aircraft departs, the following information will be added to the relevant daily movement log:

- 605 • Destination of flight;
- Actual time of departure.

Against the flight arrival or departure (where relevant) on the log, the number of passengers and/or kilos of freight is also recorded. For example, against each scheduled and charter airline flight the exact number of passengers carried is recorded.

610 The only other information required by the Airport before the aircraft departs is to whom the invoice for using the Airport is to be made out to. Those with credit facilities will receive an invoice during or at the end of the month; those with no credit facilities must pay their invoice before take-off. This information is not recorded on the daily ATC movement list but held against/written on the appropriate invoice for the airport charges.

## Order of the Day

### 3. BILL FOR FIRST READING

#### 3.1. Income Tax Bill 2019

615 **The Speaker:** Item 3, Bill for First Reading. I call on the Secretary of the House.

**The Secretary:** Bill for First Reading: Income Tax Bill 2019 – Member in charge, Mr Cannan.

### 4. BILLS FOR SECOND READING

#### 4.1. Children and Young Persons (Amendment) Bill 2019 – Second Reading approved

Mr Ashford to move:

*That the Children and Young Persons (Amendment) Bill 2019 be read a second time.*

**The Speaker:** Item 4, Bills for Second Reading, and firstly I call on Mr Ashford to move the Children and Young Persons (Amendment) Bill 2019.

620

**Mr Ashford:** Thank you, Mr Speaker.

I am pleased to stand today to move the Second Reading of the Children and Young Persons (Amendment) Bill 2019.

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The purpose of this Bill is to amend the Children and Young Persons Act 2001 by inserting provisions for the review of child deaths in the Island and for the analysis of information in relation to such deaths. Hon. Members will be aware that the statutory requirement for the review of child deaths was originally included in the Safeguarding Act 2018, a proposed function of the Safeguarding Board being to review such information as may be prescribed in relation to deaths of children in the Island and in such circumstances as may be prescribed. However, as the primary function of the review of child deaths relates more to public health than safeguarding, it was decided that those provisions of the Safeguarding Act 2018 would not be brought into operation, the intention being to instead amend the Children and Young Persons Act 2001, which I am seeking to do today.

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Hon. Members will have observed that this Bill inserts provision into the Children and Young Persons Act 2001 requiring arrangements to be made for the analysis of information about child deaths to be undertaken and for such arrangements to be made with a body outside the Island. Best practice states that for meaningful analysis of information to enable the identification of any potential public health or safeguarding issues which may be affecting children, there should be a review of 60 child deaths per year. The Island only has around four to five child deaths per year; therefore, to keep in line with current best practice, arrangements for the analysis of information about child deaths will be made with the Merseyside Child Death Overview Panel.

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Hon. Members will be aware that a key outcome of the Programme for Government is 'to have improved the quality of life for children, young people and families at risk'. Making it a statutory requirement for the review of child deaths in the Island and the analysis of information in relation to such deaths is an important part of ensuring that we safeguard and promote the welfare of all children in the Island.

Mr Speaker, I beg to move that the Children and Young Persons (Amendment) Bill 2019 be read for a second time.

650 **The Speaker:** I call on the Hon. Member for Douglas Central, Mrs Corlett.

**Mrs Corlett:** Mr Speaker, I beg to second.

**The Speaker:** Hon. Member for Ramsey, Mr Hooper.

655

**Mr Hooper:** Thank you, Mr Speaker.

I would like to thank the Minister for bringing this Bill forward. I will be honest – it was not entirely what I was expecting when I saw this title on the legislative programme.

660 The only question I have at the moment about the detail of the Bill is in respect of the child death reviews, where it says:

The child death review partners must make arrangements for the review of each death of a child ...

I just want to be clear that this is not intending to review every single child death on the Island. There will be, I would imagine, some guidelines or circumstances as to when this would be considered appropriate.

665 One thing I briefly want to talk about is the Combined Action Plan for Children and Young People. That Combined Action Plan, which was laid before the last sitting of Tynwald, states that the Independent Reviewing Officer (IRO) – who is part of the Safeguarding and Quality Assurance Unit – should be set down in statute, and the Minister committed to doing this with an amendment to the Children and Young Persons Act. I do not see that in this Bill. We are also supposed to be making provisions for corporate parenting and aftercare, and again they are not included in this Bill.

670 Reading through the Government response to that Action Plan, there are references to there being two Bills in the legislative programme this year amending the Children and Young Persons Act, but unfortunately that is not the case; there is only one Bill listed in that legislative programme. In last month's Tynwald as well there was a Select Committee talking about accommodation for vulnerable young people and the Council of Ministers repeated these commitments and made further commitments, including benchmarking for service standards. Again, none of this is included in this Bill.

675 My question for the Minister is: all of these commitments that are supposed to be coming forward are not here, and yet there is no second Bill included in the legislative programme, so where are those other changes? Where are they coming? When are they coming? Is this phantom second Bill real? Is the legislative programme inaccurate? I think we need some information on this and I would be very grateful if the Minister could provide us with an update.

685 **The Speaker:** Hon. Member for Douglas Central, Mr Thomas.

**Mr Thomas:** Thank you, Mr Speaker.

690 Does the Minister agree with me that there are multiple parts for the Government's legislation programme – for instance, there are the public Bills that will be introduced into the Branches this year, behind that there are Bills that are in drafting this year for introduction in subsequent years, and then there is even a medium-longer-term planning Bill – and that is the perfectly simple answer to the question that is being asked?

695 And does the Minister agree with me that already Government has an incredibly ambitious legislative programme of 34/35 Bills and things have got to be prioritised? It is my understanding that the Department of Health and Social Care is making an awfully good attempt at catching up on some legislation, but not everything can be done at once and the Bills that the Hon. Member

has mentioned in terms of corporate parenting and in terms of the IRO are perfectly prioritised immediately behind adoption and mental capacity and the other Bills that this Hon. House and the Court believe are important.

700 **The Speaker:** I call on the Hon. Member for Onchan, Ms Edge.

**Ms Edge:** Thank you, Mr Speaker.

In response really to what the Minister has just confirmed – and he has talked about various pieces of legislation – I just want reassurance from the Minister that he is ensuring that the correct information is in each of these pieces of legislation as they come forward. One of the concerns I have is the age of children and young persons and vulnerable people and capacity, so I just want to make sure that whilst he is working on legislation they are looking across the board and not just within his Department; obviously it affects other Departments as well.

710 **The Speaker:** Hon. Member for Ayre and Michael, Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

I would just like the Hon. Minister to bring a bit of clarity after the intervention of the Minister for Policy and Reform, who does not always bring complete clarity around the timings of actions.

Echoing the points made by my hon. friend Mr Hooper, there were some clear commitments made by the Minister to actually take some timely and serious action around those issues that were agreed unanimously in the other place just over a week ago. The Minister also pledged to make himself personally accountable to Tynwald for progress by a regular – I think six months was the first one – update on progress. So I felt very comfortable from the statements that the Minister made; I feel slightly less comfortable now when we are talking about effectively three elements of the Government's legislative programme and all the visibility around one. So I would just like the Minister to reiterate his personal commitment and bring some real clarity to this situation, because when we talk about a legislative programme which extends beyond September 2021 one wonders whether there is a real commitment to address these matters.

**The Speaker:** Hon. Member for Onchan, Mr Callister.

**Mr Callister:** Thank you, Mr Speaker.

I just want to follow on from my colleague from Ayre and Michael. Unfortunately the Policy and Reform Minister has really put doubt over this now because he has talked there about priority. As my colleague has just said, this particular Bill was given priority in the other place ... and said that those changes that are desperately needed for that Committee report will be brought forward as a matter of urgency. Suddenly the Cabinet Minister has just turned around and said it has now become a priority and this seems to have slipped down that priority within a space of two weeks. I hope that the Health Minister can reassure us today that those recommendations that did go through the other place unanimously will be taken forward and brought forward as a matter of urgency, as promised by the Health Minister in the other place.

Thank you.

740

**The Speaker:** I call on the mover to reply.

**Mr Ashford:** Thank you, Mr Speaker.

Turning to each of the Hon. Members who spoke in turn, firstly Mr Hooper – in relation to his first point about the death of a child, obviously there will be guidelines in place about when they are reviewed, but as I said in my opening remarks, in the Island we suffer roughly around about four to five child deaths a year, so to be perfectly honest I do not see it being a big problem in

750 reviewing all of them if required to do so, not in the same way as it would be say in a jurisdiction  
the size of the UK – or even some of the smaller local authority areas, which is the way it is split  
out in the UK – where you would end up spending your entire time trying to manage the  
numbers.

755 In relation to the other points that Mr Hooper made, which were around the Combined  
Action Plan and obviously the guidelines of corporate parenting, Hon. Members are fully aware  
how long it can take with a Bill, from drafting instructions, to a Bill coming forward and to it then  
going into the Branches. This specifically deals with the child death review panel, which was a  
pledge that was made at the time of the Safeguarding Act, and that is the purpose of this Bill.  
This is not something that has just suddenly come along; this was something that this place and  
another place were told was coming forward well over 18 months ago, so that is no different.

760 Tying in the comments from Mr Hooper, Mr Baker and Mr Callister, Mr Baker is quite right, it  
has only been a couple of weeks – and that is the whole point. I said that we would be doing the  
other changes through, again, an amendment to the Children and Young Persons Act, and they  
will come forward. Around about the drafting instruction stage at the moment is my  
understanding of where that particular piece of legislation is, and when that comes forward it  
will include everything that I pledged.

765 Mr Baker is quite correct, Mr Speaker, I stated quite clearly in Tynwald Court that we will give  
six-monthly updates because it is important that we keep the faith of elected Members who  
supported all the amendments that I moved, and the first of those reports will be laid either  
before March or April's Tynwald. As part of that report it will include where we are in the  
legislative programme with those particular amendments because, as I made a clear  
770 commitment in Tynwald Court, it will lay out where we are against each of the  
recommendations, be they the recommendations accepted as they were or the  
recommendations as amended, and that pledge still stands. I hope that reassures Hon.  
Members, but what we are dealing with here today is a specific piece of legislation pledged to  
get the death review panels – which is an important part of our legislative programme – in place,  
775 so I do not particularly want to get convoluted but I will give the pledge again here and now that  
on the other amendments to the Children and Young Persons Act I stand by exactly what I said in  
Tynwald Court and they will progress accordingly.

780 The other thing I should point out, of course ... There was reference to the fact about the  
legislative programme I think from Mr Hooper. It has got to be remembered that the legislative  
programme was out and published before we had the debate in Tynwald Court, so there was no  
way, with some of the amendments, that what we have pledged to do could have been included  
in the legislative programme. The legislative programme, from my understanding of timings, was  
published beforehand. But it is a pledge and I agree with Minister Thomas, there is a lot of  
785 legislation to be caught up on in DHSC, including exceptionally important ones like mental  
capacity, like adoption, that are starting, slowly but surely, to move forward.

It is all about priorities, but as I have made clear pledges in Tynwald Court, we will bring  
forward those changes to the Children and Young Persons Act and those pledges stand.

790 **The Speaker:** I beg to move.

**Mr Ashford:** I beg to move, Mr Speaker.

795 **The Speaker:** In which case, I put the question that the Children and Young Persons  
(Amendment) Bill 2019 be read for a second time. Those in favour, say aye; against, no. The ayes  
have it. The ayes have it.



**4.2. Domestic Abuse Bill 2019 –  
Second Reading approved**

Mr Malarkey to move:

*That the Domestic Abuse Bill 2019 be read a second time.*

**The Speaker:** Item 4.2, Domestic Abuse Bill 2019. I call on the Hon. Member for Douglas South, Mr Malarkey, to move.

**Mr Malarkey:** Thank you, Mr Speaker.

800 In moving the Second Reading of this Bill I invite Hon. Members to join me in reflecting on what this Bill is all about.

Domestic abuse is a gross abuse of trust, where people living in an intimate and/or family relationship find they are not safe from those close to them. People are entitled to expect respect, security, trust and love. No one should have to experience the pain and suffer the consequences of abusive behaviour by family members or intimate others. Furthermore, 805 children should not have to witness or indeed suffer the effects of such abusive behaviour in any of its forms. We have a duty to protect our people and to address such behaviour as being unacceptable.

The key object of the Bill, therefore, is to address domestic abuse for the first time in Manx law. Our aim is to protect people from domestic abuse or mitigate the effects of domestic abuse and punish offenders. Other objectives of the Bill include raising awareness of domestic abuse so it is clearly seen by all in our society as a key issue which must be addressed; enhancing the safety of victims of abuse and those at risk of abuse; and providing legal tools and appropriate guidance to enable various agencies, including our justice system, to effectively address 815 domestic abuse by taking specific measures to protect victims, punish offenders and identify perpetrators who may respond positively to programmes designed to rehabilitate them.

Turning to the contents of the Bill very briefly, Part 1 consists of clauses 1 to 6 and provides a comprehensive definition of 'domestic abuse'. The Bill uses the term 'personally connected' and defines 'relative' as a way of ensuring that the Bill is wide enough to cover the variety of 820 relationships we may find in today's society without losing its focus, which is on those close or intimate and family relationships.

Part 2 consists of clauses 7 to 33 and is about powers to protect those caught up in an abusive domestic situation. The provisions do this through Domestic Abuse Protection Notices, which are time limited and given by the Police to deal with immediate situations. Domestic Abuse Protection Orders, which may be made by the courts, can be tailored to deal with the 825 circumstances of any particular case.

Part 3 sets out in clauses 34 and 35 the domestic abuse offence and the controlling or coercive behaviour offence. Both have a maximum penalty of 14 years' custody. Clause 36 deals with those situations where the behaviour maybe occurred outside the Island, and clauses 39 to 830 41 deal with aggravating factors.

Finally, Part 4 consists of clauses 42 to 47 and includes provisions enabling the Department to issue guidance to the Constabulary about the sharing of information and to bodies generally to help them use the Act effectively.

835 Mr Speaker, I commend this Bill to the House and beg to move that the Domestic Abuse Bill 2019 be read for the second time.

**The Speaker:** I call on the Hon. Member for Ramsey, Dr Allinson.

**Dr Allinson:** Thank you, Mr Speaker.

840 I beg to second and also recognise the Minister's personal commitment to getting this Bill of legislation before us today and the importance of actually passing it so that the Constabulary

and all those involved in treating victims of domestic abuse can act when it is needed and actually get the right outcome for those people.

Thank you.

845

**Mr Thomas:** Hear, hear.

**The Speaker:** Hon. Member for Ramsey, Mr Hooper.

850 **Mr Hooper:** Thank you very much, Mr Speaker.

I would like to start by congratulating and commending the Minister on bringing this Bill through – I think it is long overdue – and I would like to thank the Department and the drafters for spending some time with me over the summer going through the detail of the consultation draft. I am very glad to see that the version that has been entered into this Hon. House today is a significant improvement, in my view, over the original draft that was consulted on.

855 I am especially glad to see this Bill is addressing the issue of controlling and coercive behaviour as well, and I would like to think that this will also be addressed in the Sexual Offences Bill that the Minister and his Department are bringing through this Hon. House at the same time.

860 I have raised a number of technical queries with the drafters, which I am not going to go into on the floor – you will be glad to hear, Hon. Members – but I am anticipating some small amendments as a result of that.

I am going to focus on two areas of concern, which both relate to the Domestic Abuse Notices that the Minister has mentioned. These are a positive step, in my view, but the way the Bill addresses them would seem to raise two quite important issues.

865 Firstly, although the Minister said they are time limited, there is actually no maximum period for which a notice can be operable. A police officer can issue a notice and then, after 14 days, this needs to be ratified by a court – and that is the only time limit that appears to be mentioned – but if the court adjourns its decision, the time limit would appear to be extended and there is no maximum period for this adjournment, there is no maximum period for this extension, which means technically a court could adjourn one of these decisions for quite some time. I accept in the current circumstances this might not be very likely, but as we cannot predict the future I would very much like to see a maximum time limit for the protection notices enshrined in this Bill. These notices are a police power, there is no immediate court oversight, so it is very important that these do come to courts, they go to the right courts and the right training is provided to the courts where necessary.

875 Secondly – and, I think, the more significant issue – is that these protection notices can prohibit a person from returning to their home; that is what they are designed for. So, what happens to the subject of that notice? Where do they go? Up to 14 days before the notice has to be heard by a court, which means the Police will be given the power by this Bill to essentially make a person homeless with no court oversight for up to two weeks. That is an awful position to put a police officer in. So, an officer responds to a domestic incident and is in a position where they feel using one of these protection notices is appropriate, but then they have to worry about where the subject goes to live. If they choose not to use these powers to issue a protection notice, they could be leaving a vulnerable person at risk; but if they do use these powers, they could be leaving a different vulnerable person at risk. What if the subject of this notice has mental health difficulties and, being removed from their home and forced into a state of homelessness, they spiral and end up doing themselves or others harm? That is a lot of responsibility to put on a police officer at the scene making these decisions.

885 I would like to ask the Minister: where are these people going to go? Are we expecting the Police to put them up in holding cells? Are we expecting the third sector to step in, a charity provider? Perhaps we are expecting everyone to be able to afford hotel rooms or rent on a second property. But what if they cannot afford a second property? So, the person has been removed from their home under a notice and then this is formalised by the court by way of a

895 protection order and they now need to find a more permanent home for themselves. Can they  
afford to pay rent or mortgage on two properties – the one they were previously living in and  
their new home? Does this then risk making the victim of abuse also homeless if rent or  
mortgage payments cannot be kept up on the property they are living in? And how will our  
Housing Division and Social Security treat people in these instances? If they own the property  
they have been evicted from, they would not be eligible for public sector housing. They may  
900 actually be a public sector tenant and so would not be eligible for a second tenancy. The housing  
element of Income Support or EPA is capped, so I do not think it will cover the cost of two  
rented properties. And if the person owns a property but is not living in it, the property could  
potentially be treated as an income-generating asset, which would, bizarrely, increase the  
person's income despite the fact they have just been evicted from their home.

905 This is yet another example of policy being made in isolation. It is not the Department of  
Home Affairs that makes social policy, or housing policy or benefits policy, but this legislation  
does not come with any assurances of updates to those other essential pieces of the puzzle.  
There is a social policy deficit at the heart of this Government and that was clearly demonstrated  
this morning when we were unable to get a coherent answer about access to pension services.  
910 This legislation is missing even recognition that there might need to be consequential changes to  
social security law and to housing policies and procedures. I think this Hon. House needs  
assurances. Personally, I would much prefer there to be a statutory duty of some kind on  
Government, on the DoI, to provide housing of some sort for people, or at the very least a  
statutory requirement to ensure these issues are resolved before these sections of this Act come  
915 into force.

I would like to ask the Hon. Minister to confirm that a suitable amendment is coming from  
Government to make sure we do not end up with a power the Police simply cannot use because  
of these and potentially other unforeseen circumstances and consequences.

Thank you, Mr Speaker.

920

**The Speaker:** Hon. Member for Douglas Central, Mrs Corlett.

**Mrs Corlett:** Thank you, Mr Speaker.

925 The Domestic Abuse Bill recognises for the first time that domestic abuse is a pattern of  
controlling behaviour that can include significant emotional and psychological abuse, as well as  
physical and sexual assaults. The Bill reflects the reality of domestic abuse. It recognises the  
complex nature of coercive control and is an important step toward improving the protections  
for all who experience domestic abuse. The controlling or coercive behaviour offence gives a  
clear warning that all forms of domestic abuse are criminal offences.

930 The trauma of domestic abuse and the impact that it can have on those who experience it,  
including children and young people, cannot be overestimated. It is important to make sure that  
the harm done to children by perpetrators of domestic abuse is fully recognised in law. It is true  
to say some of the biggest victims of domestic abuse are the smallest. Children are present at  
around 50% of reported domestic abuse incidents. Violence has no place in a child's life. The  
935 provision within the Bill of statutory aggravation when a child sees, hears or is present during an  
incident of behaviour acknowledges that domestic abuse has an impact on children and ensures  
that account is taken of this.

The Bill does state that the Department can by order add factors that constitute aggravation,  
such as offences committed towards a woman during or after pregnancy and where an element  
940 of the offence includes strangulation. I would like to ask the Minister why these two offences are  
not actually included in the Bill itself.

Domestic Abuse Prevention Notices and Domestic Abuse Prevention Orders allow for the  
person alleged to have committed domestic abuse to be removed from the home. This is  
undoubtedly the right way to do it, especially if there are children in the home. It is right that the  
945 abuser is removed and not the victim; but, to follow on from Mr Hooper, this does raise

concerns with regard to accommodation. If a person is prevented from entering their own property there is a risk that they will be made homeless. Some people would be able to afford to source alternative accommodation quickly or be able to stay with relatives, but others may be unable to do this. Has consideration been given to providing temporary rented accommodation to those who, as the result of a notice or order, have nowhere to live? Or is it considered appropriate for the homeless shelter to accommodate this? Has the Department considered the adequacy of the current provision of refuge and accommodation for those fleeing domestic abuse? Victims stay in abusive relationships because they simply have nowhere else to go. If a victim of abuse does leave a relationship, they are often driven back because they have nowhere to live. There is nothing in the Bill that supports people in either situation.

I wholeheartedly support the enabling clause to allow disclosure of police information and I appreciate the Department's efforts in finding a way to allow this to happen. Information sharing with the Departments of Health and Social Care and Education, Sport and Culture will allow the implementation of schemes that will help to safeguard and promote the welfare of children.

A domestic violence disclosure scheme – or Clare's Law – would give an individual the right to ask about their partner if they have concerns that they may have been abusive or violent in the past. The right to know would allow the Police to inform a person if they believe that person is at risk.

In the Bill's explanatory notes, under 'Financial effects of the Bill' it states:

it is not expected to increase or decrease revenue or have any financial or personnel implications.

How? There will be a cost to issuing notices and orders, there will be a cost to monitoring notices and orders and there will be a cost to disclosing and sharing information. This Bill is intended to change the understanding of domestic abuse and therefore will need to be complemented by awareness training amongst the relevant agencies, including the judiciary, the legal profession, the courts, adult and child protection professionals and the Police. This cannot be achieved without cost. Has there been a budget identified to make this possible?

We know that on average a victim of domestic violence will be assaulted 35 times before contacting the Police. Victims of domestic abuse are often reluctant to report for fear of reprisal. The stigma which continues to surround domestic abuse means victims may also fear they will not be believed or adequately supported if they do come forward. It is crucial for those in this situation to have the confidence that appropriate support is available to them when they need it. This Bill should be the foundation upon which joined-up services and support for both victims and perpetrators stand.

Those who are experiencing domestic abuse need to feel safe in the knowledge that the justice system and other agencies will do everything they can to protect and support them and their children and pursue their abuser. This Bill is a very positive step towards achieving that.

Thank you, Mr Speaker.

**The Speaker:** I call on the Hon. Member for Middle, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr Speaker.

I rise also to commend the Minister for Home Affairs for bringing this important piece of legislation forward.

I would just like to perhaps provide a bit of perspective on the orders removing the perpetrator from the home. I think the flipside of what my hon. friend from Ramsey is saying is that sometimes perpetrators end up in the family home at the moment, and I find that personally quite unacceptable. In some of the cases I have had to deal with they have been exceptionally loath to leave the family home, they have refused to co-operate with the normal legal process and they have dragged their heels at every opportunity, so I welcome that there

will be orders removing the perpetrators from the family home. I think it is right that they are removed from the family home because they are committing a serious crime and often they are committing a crime against vulnerable people when children are involved.

1000 As my hon. friend Mrs Corlett said, unfortunately there are some circumstances where we see people who have been abused returning to the family home where their abuser is still living. They do that largely for economic reasons and subsequently are abused again. I would be interested in the Minister's comments on this particular issue when he responds to Mr Hooper's comments, but certainly from my perspective it is a welcome step forward.

Thank you.

1005

**The Speaker:** Hon. Member for Ayre and Michael, Mr Cannan.

**Mr Cannan:** Thank you, Mr Speaker.

1010 I just want to follow on from the Hon. Member for Middle and just pick up on and perhaps further build on the comments that he has just made in response to the Hon. Member for Ramsey.

1015 Frankly these are very serious matters, and if someone is given an order for a serious criminal offence relating to domestic violence it is not necessarily the responsibility of the taxpayer suddenly to house them or to take responsibility for their life. They have to take responsibility for their own actions. Why should the taxpayer suddenly pick up the tab for somebody who is committing a domestic violence offence? I find it quite astonishing that the Hon. Members want to suggest that people who are committing these offences are then ... somehow it is the responsibility of the taxpayer to look after them. Hon. Members, people have to take charge of their own lives. The people concerned who have an order given against them for this type of serious offence have to take responsibility for their actions and they have to sort themselves out. It should not be the responsibility for society to suddenly look after them and find them some housing. That is not right.

1020 Hon. Members, I would urge you to treat this Domestic Abuse Bill as a positive step forward. There may well be some imperfections that need to be picked up, but it is not a social policy deficit and it is not social policy for Government to pick up for those who are choosing to offend in this manner and have these types of orders issued against them.

**The Speaker:** Hon. Member for Douglas Central, Mr Thomas.

1030 **Mr Thomas:** Thank you, Mr Speaker.

1035 Again, I am only brought to my feet to ask the Minister for Home Affairs if he agrees with me that it is a bit dispiriting for Members in this House and the people upstairs to hear this Government described as having a social policy deficit, (**Mr Skelly:** Hear, hear.) because this House is the one that has brought you the Equality Act, it has brought you the Safeguarding Act, it is now bringing you the Domestic Abuse and the Sexual Offences Acts; forthcoming are adoption and mental capacity and on the Order Paper before us today we have got historic child abuse. In terms of other aspects of social policy, we are tackling earnings, we are tackling the quality of jobs, we are tackling children and family services and we are transforming the healthcare service, developing pathways around all these pieces of legislation.

1040 With that, Mr Speaker, I just want to ask the Minister for Home Affairs if he agrees with me that this is part of a five- or six-year campaign almost inside the Department of Home Affairs to address some serious deficit in terms of legislation around so many social issues, and finally this House – your Department, Minister – has actually risen to substantial challenges?

1045 **The Speaker:** Mover to reply.

**Mr Malarkey:** Thank you, Mr Speaker.

1050 I take on board all the comments with regard to housing. Before I even started with this Bill it was my number-one major concern that when you remove somebody from a property, what do you do with them? You do not want them to be put in a cell; it may not actually be the person who is causing the problem who is removed, it might be the family, for safe keeping, that is being removed and you cannot go and put them in a cell. So this was my number-one priority as this Bill was being drafted.

1055 With that in mind, my Department has three properties available that I am looking at for this very purpose. One of the properties, subject planning permission for usage being changed, will be ready and open by the time this Bill completes its course through the two Houses – I am planning to have it done by next May – so I do not feel that there is any need to put anything in the Bill; this is being covered by my Department. We already have liaison officers who are quite capable of dealing with the situation. We have also sat around a table with the third sector about running the place, about what help will be available and who will come and see the people to help them get back on track.

1060 What the Bill does is if somebody is removed from their property it gives them 14 days in a safe house – which will be one of our own properties – for the likes of Social Services or anybody else involved to come and talk to them and find out ... Particular people might have a 14-day order on them, so if things cannot be sorted out, the aggravation is still there and they cannot go home, they might well end up back in the courts for an extension to the order.

1065 This has been well covered, Mr Speaker, in all different directions, so that we are not just going to have the Police putting them either in cells or out on the street. Properties will be available and hopefully – well, I do know because of property swaps which I think we have just got permission for – in the next 18 months I will have two additional properties ready to be brought in, if necessary. I do hope that the situation is not that bad that we need to have three properties on the go and we have got people having to get safe houses all at once – only the future will tell us that – but from the point of view of housing people, yes, I have got that well and truly covered and we have been having meetings with the third sector about running the place and making sure there is clean bedding in the place etc. We are also in discussion with other third parties to make sure this will happen, so please be reassured of that.

1075 I think from Mr Cannan's point of view, yes, you are right, it is not really up to us to ... Where would we end up every time there was a fight in the house, having to go out and house somebody? Hopefully the way we are going to do this is to sort the problem out and help to get the people back in their own house or give them time to find alternative accommodation so that it does not fall upon the ratepayer.

1080 It is part of our social policies, Mr Thomas. I think this administration is doing everything it can with this type of Bill, the Sexual Offences Bill and all the other Bills on the horizon, to make this Island a much safer and better place to live for the future.

1085 Coming on to Mr Shimmins, the point is there will be a 14-day notice and they will be put into a safe house, and then the correct people will go and talk to these people to either get them back in their home and resolve the situation; or, if it is that bad, as I said, Social Services and the Police and whoever else needs to be involved, Housing Matters or whoever, to try and rehouse these people. It gives them that break and that time period to go ahead and do that.

1090 Mrs Corlett talked about some of the other things that we have not put in the Bill, like strangulation. This is an enabling Bill and we will be able to bring stuff to it in Tynwald once we know what the Bill looks like when it comes out the other end after some amendments have been done and anything else in the two Houses. So, yes, we will be adding things like that. We also have the Administration of Justice Bill which will cover things like strangulation as well, so our Department is working on several different Bills at the moment and things like strangulation will be covered by that.

I have covered the time limit for Mr Hooper and of course I have covered the housing, so I think I have covered most concerns that Hon. Members have. If you find you have any other concerns, please feel free to come in and talk to us.

1100 I thank Mr Hooper for the time he spent going through the Bill and for what he sent off to our legislation. Unfortunately the legislator in the Attorney General's office is on holiday this week, so the clauses stage will now be held up for a couple of weeks until they come back and we go through Mr Hooper's 19 – I think it was 19 – different comments he made about the various parts of the Bill.

1105 With that, Mr Speaker, I beg to move that the Domestic Abuse Bill 2019 be read for the second time.

**The Speaker:** I put the question that the Domestic Abuse Bill 2019 be read for a second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

#### 4.3. Limitation (Childhood Abuse) Bill 2019 – Second Reading approved

Mr Thomas to move:

*That the Limitation (Childhood Abuse) Bill 2019 be read a second time.*

1110 **The Speaker:** Item 4.3, Limitation (Childhood Abuse) Bill 2019, and I call on the Mr Thomas to move.

**Mr Thomas:** Thank you, Mr Speaker.

I am pleased to move the Second Reading of the Limitation (Childhood Abuse) Bill 2019.

1115 The purpose of this Bill, which amends the Limitation Act 1984 for one specific reason, is to remove the present limitation period for bringing an action in damages for personal injuries where the action relates to abuse and the person who sustained the injuries and who is bringing the action was a child at the time of the abuse. It responds to the recognition of the impact of historic childhood abuse on the victims of such abuse by removing the limitation which constitutes a barrier to access to justice for this specific group.

1120 Under the current law as provided for in section 11 of the Limitation Act 1984, personal injury claims, including claims involving child abuse, have to be brought within three years of the cause of action arising or, if later, three years from the date of knowledge of the person injured. If the person was a child at the time when the right to bring an action arose, the three-year period starts to run from when the person is 18 years old, or 21 years old for causes of action arising before 1st April 1972 because until that time the age of majority was 21.

1125 If a person wants to bring an action for damages for personal injuries after the limitation period, at present they must persuade the court to exercise its discretion under section 31 of the 1984 Act to permit the action to be brought despite being out of time. It is therefore possible, but by no means certain, that the court will exercise its discretion and permit a childhood abuse action to proceed if it is brought outside the limitation period.

1130 In the very specific context of child abuse the current law is burdensome on a person who has suffered such abuse. It can take years before the abused person, a survivor of child abuse, reaches the point where they feel able to bring an action for damages; and once a victim feels able to bring a claim, if it is outside the three-year period the victim faces the additional hurdle of persuading the court it would be fair to allow the claim to proceed.

1135 The Bill seeks to facilitate access to justice in such cases, removing the limitation period so that a claimant would no longer have the burden of establishing before a court why a claim

1140 should be allowed outside that period. Under the proposed legislation the burden would be on a  
defendant to show why a case should not proceed. It closely follows similar provision made by  
the Scottish Parliament in the Limitation (Childhood Abuse) (Scotland) Act 2017.

1145 Specifically the Bill inserts additional provisions into the Limitation Act 1984 to remove the  
limitation period in childhood abuse cases if the damages are in respect of personal injuries; the  
person who sustained the injuries was a child when the act or omission which caused the  
injuries took place, or if the act or omission was a continuing one, on the date the act or  
omission began; the act or omission to which the injuries are attributable constitutes abuse; and  
the person bringing the action is the person who sustained the injuries.

1150 Actions meeting the criteria are not subject to limitation, including those that arose before  
the provision removing the limitation period comes into operation. This will allow claims to be  
brought which currently fall outside the limitation period. Retrospective application of the  
legislation is considered appropriate in the case of childhood abuse for the reasons outlined  
earlier.

1155 It should be noted that only surviving victims of child abuse may make a claim without any  
limitation period applying under the proposed new legislation. However, child abuse claims  
which have already been subject to litigation may be re-litigated in certain specific  
circumstances. As the limitation on actions is being removed for survivors of child abuse who  
have never made a claim, it would be unfair not to permit those survivors of child abuse who  
have made a claim but who have never had the claim heard by a court because the claim was  
time barred under the old legislation to have the benefit of the new legislation.

1160 There are, however, restrictions on the ability to re-litigate under the Bill. The Bill will only  
permit a previously brought child abuse action to be re-litigated if the court did not make a  
decision on the merits of the claim and the reason the previous action was unsuccessful was the  
limitation period. The initial claim must either have been disposed of by the court as being time  
barred, or disposed of under a settlement between the parties in the belief that the claim would  
be likely to be time barred.

1165 In addition, if a previously litigated case was disposed of by a settlement, the claim can only  
be re-litigated if the claimant recovered no more than the costs of bringing the action under the  
settlement. A claimant will not be able to bring the claim again if the claimant recovered any  
financial compensation beyond his or her costs in bringing the claim.

1170 The Bill does not permit repeat claims on the same issue. New proceedings which are in  
substance the same as cases previously litigated are only permitted to be brought where there  
has been an initial claim disposed of by the court before the Bill comes into operation.

1175 It is also important to stress to Hon. Members that the provisions permitting retrospective  
application of the new law, and indeed the provisions of the new law itself, relate only to the  
removal of the limitation period for a very specific category of claims. The Bill does not change  
the existing law on rules of evidence, liability and procedure for the hearing of a claim in  
damages. A survivor of child abuse would still have to make out the substantive claim and  
establish the liability of the defendant, judged on the standards of the time when the abuse took  
place.

1180 Clearly, Mr Speaker, the Bill aims to make the law more generous to victims of childhood  
abuse by removing the limitation period in these specific cases. To strike a balance between the  
purpose of the Bill to remove a barrier which inhibits or prevents access to justice for victims of  
child abuse, on the one hand, and the rights of those accused of such abuse on the other, the Bill  
includes two important safeguards for defendants.

1185 Firstly, there is provision in the Bill that the court must not permit an action to proceed if it is  
not possible for a fair trial to take place. This reflects the current position under the European  
Convention on Human Rights that a court may not permit an action to proceed if a fair hearing is  
not possible. Secondly, the court must dismiss the action if the defendant satisfies the court  
that, because of the law's retrospective effect, the defendant will suffer substantial prejudice  
1190 which outweighs the claimant's interest in the action proceeding. In this way the Bill aims to



strike a fair balance between facilitating access to justice for the very specific and vulnerable group of surviving victims of childhood abuse and protecting a defendant's Convention rights.

As set out in the explanatory memorandum to the Bill, the proposed new legislation will have financial implications for Government and for other bodies who have provided care for children, but the implications are difficult to quantify. Nevertheless, the Government take the view that it is proper to accept the risk which is involved in order to secure justice for victims of child abuse.

What is paramount in all this, Mr Speaker and Hon. Members, is the principle that those harmed as children should be entitled to seek compensation through the court process provided the person defending the claim can have a fair trial, and this is more fundamental than the costs implication.

With your permission and help, Mr Speaker, and in closing, I should like to make it clear that there are live civil proceedings on foot at present, the claimants in which will be assisted by the passage of the Bill. But equally there are criminal proceedings involving child abuse allegations going on and I am sure Hon. Members will not wish to prejudice their outcome by referring to them, so I respectfully suggest the debate today and forthcoming debates on the present Bill should be confined to discussing the merits and provisions of the Bill alone. There should be no pre-emptive debate on the work of the Social Affairs Policy Review Committee on this topic or specific reference to any individual cases which are presently before the courts or may come before them in the future.

With that, Mr Speaker, I beg to move that the Limitation (Childhood Abuse) Bill 2019 be read a second time.

**The Speaker:** Hon. Member, Mr Harmer.

**Mr Harmer:** I beg to second and reserve my remarks.

**The Speaker:** Mr Baker.

**Mr Baker:** Thank you, Mr Speaker.

I am clearly going to take the wise words of the Minister for Policy and Reform as stated and not try to link this to any particular case, but I really just stand to welcome this very progressive step which will remove a barrier to justice for those who have suffered. I think it is a god step. It does not automatically mean that those who have suffered will achieve justice and restitution effectively, but it does remove one of those barriers and I think it is an important step forward for the Island.

Thank you, Mr Speaker.

**The Speaker:** Mover to reply.

**Mr Thomas:** Thank you very much, Mr Speaker.

I thank my seconder and I thank Mr Baker for showing respect to all the processes that are under way with his wise words.

Please feel free, Hon. Members, to discuss further any of the detail with the Attorney General's Chambers in coming weeks.

With that, I beg to move.

**The Speaker:** I put the question that the Limitation (Childhood Abuse) Bill 2019 be read for a second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that completes our business for today and the House will now stand adjourned until 5th November at 10 o'clock in our own Chamber. Thank you.

*The House adjourned at 11.25 a.m.*