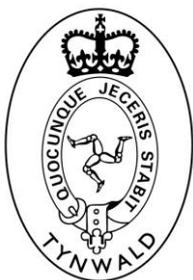


PP 2017/0120



**INTERIM REPORT OF THE
SELECT COMMITTEE ON THE
FUNCTIONING OF TYNWALD**

REMIT AND WORK PLAN

2016-2017

**INTERIM REPORT OF THE
SELECT COMMITTEE ON THE FUNCTIONING OF TYNWALD
REMIT AND WORK PLAN**

2016-2017

On 20th June 2017 it was resolved:

That a Select Committee of five members be appointed, comprising the Speaker as Chairman, one Member of the Council of Ministers (Mr Boot), one Member of the Legislative Council (Mr Cretney) and two other Members of the House of Keys (Dr Allinson and Mr Baker):

A) *And that Tynwald approves the following and refers them to the above select committee to report with recommendations to Tynwald on the changes required for their implementation:*

1. *Recommendation 2 – Role of the Legislative Council:*

- a. *That MLCs should not vote on measures which are exclusively on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;*
- b. *That MLCs should not be Ministers, except in exceptional circumstances. [Report by October 2017]*

2. *Recommendation 3 – The Bishop:*

- a. *That the Bishop should remain an MLC;*
- b. *That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain. [Report by October 2017]*

3. *Recommendation 4 – A Programme for Government:*

- a. *That the first task of an Administration be to prepare and publish a Programme for Government,*
- b. *The views of the public should be explicitly sought on this Programme; and*
- c. *That thereafter Tynwald approval be required for such Programme on formulation, by means of a major debate, at which amendments to the Programme could be moved, and thereafter annually.*

4. Recommendation 9 – Diversity:

- a. That Tynwald address with energy the need to make its membership more diverse.

5. Recommendation 11 – Training:

- a. That there should be continuous professional development training for Members of Tynwald.

B) And that Tynwald refers the following items to the select committee for further consideration to examine and report with recommendations on:

1. Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

- a. That the vote be open. [Report by October 2017]

2. Recommendation 2 - Role of the Legislative Council:

- a. The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department. [Report by October 2017]

3. Recommendation 5 – Departmental Members:

- a. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement; and
- b. That the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities. [(b) only Report by October 2017]

4. Recommendation 6 – Scrutiny:

- a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald (“the four principal committees”), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Economic and Infrastructure Review Committee and the Social Affairs Committee, as renamed;
- b. That the members of the four principal committees be paid at the same level as Departmental members;
- c. That the Programme for Government be the focus of the reformed Policy Review Committees;

- d. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;*
- e. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;*
- f. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.*
- g. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.*

5. Recommendation 7 – Legislation:

- a. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.*
- C) and that the Committee prioritise the work on Recommendations 1 & 2 (and other issues relating to Legislative Council) and to report back with recommendations on the election and role of the Legislative Council in October 2017, and by the December 2017 sitting on the remainder of the recommendations.*

Committee Membership

The Hon J Watterson SHK (Rushen) (Chairman)

Hon G G Boot MHK (Glenfaba and Peel)

Mr D C Cretney MLC

Dr A J Allinson MHK (Ramsey)

Mr T S Baker MHK (Ayre and Michael)

Copies of this Report may be obtained from the Tynwald Library, Legislative Buildings, Finch Road, Douglas IM1 3PW (Tel: 01624 685520) or may be consulted at www.tynwald.org.im

All correspondence with regard to this Report should be addressed to the Clerk of Tynwald, Legislative Buildings, Finch Road, Douglas, Isle of Man, IM1 3PW.

Table of Contents

I. BACKGROUND.....	1
II. WORK PLAN	2
OCTOBER	2
DECEMBER	3
III. NEXT STEPS	5
TERMS OF REFERENCE	5
CONSULTATION	5
ANNEX.....	7
TYNWALD 20 TH JUNE 2017 ITEM 5 AMENDMENT – WITH VOTING RESULTS	7



To: The Hon Stephen C Rodan, President of Tynwald,
and the Hon Council and Keys in Tynwald assembled

**INTERIM REPORT OF THE
SELECT COMMITTEE ON THE FUNCTIONING OF TYNWALD
REMIT AND WORK PLAN
2016-2017**

I. BACKGROUND

1. In June 2015 Tynwald resolved:

That Tynwald is of the opinion that the Isle of Man Government should establish an independent review using its powers under the Inquiries (Evidence) Act 2003 to examine the functioning of the branches of Tynwald and to consider options for reform.¹

2. Lord Lisvane was appointed on 26th April 2016 to carry out the inquiry. He reported in June 2016, having taken a wide range of evidence from: Members of Tynwald; the Clerk of Tynwald and other officers; and the general public.
3. The Lisvane Review was debated in July 2016, when Tynwald resolved (on an amended motion):

That Tynwald receives the Review of the Functioning of Tynwald [GD No 2016/0047]; notes the recommendations contained therein; and resolves that the recommendations be submitted to Tynwald for debate and decision in April 2017.²

¹ Hansard 1726,T132

4. The planned debate in April was delayed to June 2017³, when Tynwald debated the recommendations on a motion in the name of the Chief Minister, which was comprehensively amended. Because the amendment was voted on in parts, some of which were agreed and some of which were not, there is scope for misunderstanding exactly what the Committee has been tasked to do. The amended motion which gives this Committee its remit is set out at the front of this Report.
5. The debate on the recommendations underlined the need for speedy action by the Committee. We met on 21st June 2017, the day after we were elected, and decided immediately to issue this Report, which has two main purposes:
 - to inform Members and the public about the precise terms of the remit; and
 - to set out the general work plan of the Committee.

In addition we request a modest change to our remit.

II. WORK PLAN

6. The work of the Committee is in two parts: the matters to be reported on in October and the matters to be reported on by December.
7. There is a further qualitative split in the remit. Some matters have been given general approval by Tynwald and we take those to have been agreed in principle, but not in detail; others have not been given such approval.
8. Detailed agreement of matters which have been given in principle approval requires a further stage where the method of implementation is defined. We are required to report with recommendations to Tynwald on the changes required for the approved recommendations to be implemented.
9. Tynwald referred the matters which have not been given in principle approval to us for further consideration to examine and report with recommendations.

October

10. We shall report in October on the following issues:

Matters which have received Tynwald approval in principle:

Lisvane Recommendation 2 (as amended) – Role of the Legislative Council:

² Hansard 2054, T133

³ Hansard 742, T134

- a. That MLCs should not vote on measures which are exclusively on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;
- b. That MLCs should not be Ministers, except in exceptional circumstances.

Lisvane Recommendation 3 (as amended) – The Bishop:

- a. That the Bishop should remain an MLC;
- b. That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.

Matters referred to the Committee for further consideration to examine and report with recommendations:

Lisvane Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

- a. That the vote be open.

Lisvane Recommendation 2 (as amended) – Role of the Legislative Council:

- a. The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department.

Lisvane Recommendation 5 (as amended) – Departmental Members:

- b. That the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities.

December

11. We shall report by December on the following issues:

Matters which have received Tynwald approval in principle:

Lisvane Recommendation 4 (as amended) – A Programme for Government:

- a. That the first task of an Administration be to prepare and publish a Programme for Government,
- b. The views of the public should be explicitly sought on this Programme; and
- c. That thereafter Tynwald approval be required for such Programme on formulation, by means of a major debate, at which amendments to the Programme could be moved, and thereafter annually.

Lisvane Recommendation 9 – Diversity:

- a. That Tynwald address with energy the need to make its membership more diverse.

Lisvane Recommendation 11 – Training:

- a. That there should be continuous professional development training for Members of Tynwald.

Matters referred to the Committee for further consideration to examine and report with recommendations:

Lisvane Recommendation 5 – Departmental Members:

- a. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.

Lisvane Recommendation 6 – Scrutiny:

- a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald (“the four principal committees”), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Economic and Infrastructure Review Committee and the Social Affairs Committee, as renamed;
- b. That the members of the four principal committees be paid at the same level as Departmental members;
- c. That the Programme for Government be the focus of the reformed Policy Review Committees;
- d. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;
- e. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;
- f. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.
- g. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.

Lisvane Recommendation 7 – Legislation:

- a. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.

III. NEXT STEPS

Terms of reference

12. We note that our terms of reference are complex and do not necessarily reflect the settled views of a majority of Members of Tynwald. We believe that we need to be able to refer in our Reports to all the possibilities which may receive wide support (on the basis of the voting on 20th June 2017 when at least 17 Members voted in favour) in order to produce realistic recommendations.

We therefore recommend that this Committee receive an amended remit, by way of an Instruction to the Committee, in the following terms:

That the Select Committee on the Functioning of Tynwald should have the authority to consider the following issues when deliberating:

- 1. Whether Members of Legislative Council should be able to vote on the appointment of the Chief Minister or on a vote of confidence in either the Chief Minister or the Council of Ministers;**
- 2. Whether the Lord Bishop should retain his vote;**
- 3. Whether a sitting Member of the House of Keys should be eligible to be nominated as a Member of Legislative Council;**
- 4. And whether the following changes to draft Bill procedure be adopted:**
 - i. Draft legislation be automatically referred to the relevant principal committee instead of being subject to the existing formal consultation procedure; but that the relevant principal committee seek the views of the public;**
 - ii. In considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;**
 - iii. Amendments to the Long Title of a Bill be authorized by an instruction moved immediately after second reading (which instruction would be open to amendment);**
 - iv. Amendments to the Long Title of a Bill be taken at the end of the clauses stage.**

Consultation

13. We will wish to consult Members of Tynwald on each of these issues. To that end, and as a start but not an end to this consultation, we invite Members to submit written evidence

on the topics in the Committee remit. We ask that in the first instance, however, Members write to us about the matters on which we must report in October by 14th July 2017, in order to allow us to observe our deadline. Once we have completed our work on these issues we will turn to the other matters.

14. We also intend to invite members of the public to send in written evidence. The time within which this Committee must report precludes any oral evidence being collected.

15. For our report in October we take our remit as instructing us that we must accept in principle:

- That MLCs should not vote on measures which are exclusively on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;
- That MLCs should not be Ministers, other than in exceptional circumstances.
- That the Bishop should remain a Member of the Legislative Council;
- That Tynwald should consider whether:
 - the Bishop should be included in the quorum of the Legislative Council; and
 - he should be allowed to abstain.

16. We take our remit as instructing us to consider in principle and in detail, where necessary:

- Whether the vote be open for the election of the Members of the Legislative Council (this is already the case).
- The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department.
- Whether the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities.

J P Watterson (Chairman)

G G Boot

D C Cretney

A J Allinson

T S Baker

July 2017

ANNEX

Tynwald 20th June 2017 Item 5

Amendment – With Voting Results

The amended recommendation reads:

“That a Select Committee of five members be appointed, comprising the Speaker as Chairman, one Member of the Council of Ministers, one Member of the Legislative Council and two other Members of the House of Keys:

A) And that Tynwald approves the following and refers them to the above select committee to report with recommendations to Tynwald on the changes required for their implementation:

1. Recommendation 2 – Role of the Legislative Council:

Keys		LegC		C/F	
F	A	F	A		
24	0	5	2	C	a. That MLCs should not vote on measures which are exclusively on taxation or appropriation and that the Clerk of Tynwald formulate a definition for Standing Orders;
18	6	6	1	C	b. That MLCs should not be Ministers except in exceptional circumstances
22	2	3	4	F	c. That MLCs should not vote on the appointment of the Chief Minister nor on a vote of confidence in the Chief Minister or the Council of Ministers.

2. Recommendation 3 – The Bishop:

Keys		LegC		C/F	
F	A	F	A		
20	4	7	0	C	a. That the Bishop should remain an MLC;
15	9	2	5	F	b. That the Bishop should not retain his vote; and
18	6	7	0	C	c. That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.

3. Recommendation 4 – A Programme for Government:

Keys		LegC		C/F	
F	A	F	A		
24	0	7	0	C	a. That the first task of an Administration be to prepare and publish a Programme for Government,

18	6	5	2	C	b. The views of the public should be explicitly sought on this Programme; and
				C	c. That thereafter Tynwald approval be required for such Programme on formulation, by means of a major debate, at which amendments to the Programme could be moved, and thereafter annually.

4. Recommendation 9 – Diversity:

Keys		LegC		C/F	
F	A	F	A		
21	3	7	0	C	a. That Tynwald address with energy the need to make its membership more diverse.

5. Recommendation 11 – Training:

Keys		LegC		C/F	
F	A	F	A		
				C	a. That there should be continuous professional development training for Members of Tynwald.

B) And that Tynwald refers the following items to the select committee for further consideration to examine and report with recommendations on:

1. Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

Keys		LegC		C/F	
F	A	F	A		
12	12	1	6	F	a. That the House of Keys remain the electoral college but that all candidates for election be nominated by an independent Nominations Commission;
9	15	1	6	F	b. That the Nominations Commission be charged with increasing the diversity of the Legislative Council;
16	8	1	6	F	c. That no sitting MHK be eligible for nomination;
				F	d. That no proposer or seconder be required;
				C	e. That the vote be open; and
9	15	6	1	F	f. That the candidates fill the available places in the order of the votes they secure in a single round of voting; a tie for last place would require a run-off.

2. Recommendation 2 - Role of the Legislative Council:

Keys		LegC		C/F	
F	A	F	A		
15	9	6	1	C	a. The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department.

3. Recommendation 5 – Departmental Members:

Keys		LegC		C/F	
F	A	F	A		
3	21	0	7	F	a. That there be no more than one Departmental Member per Department; and
24	0	7	0	C	b. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.
24	0	7	0	C	c. That the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities.

4. Recommendation 6 – Scrutiny:

Keys		LegC		C/F	
F	A	F	A		
				C	a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald (“the four principal committees”), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Economic and Infrastructure Review Committee and the Social Affairs Committee, as renamed;
0	24	0	7	F	b. That the Chairmen of the four principal committees be elected immediately after the Chief Minister;
4	20	0	7	F	c. That the Chairmen of the four principal committees be paid at the same level as Ministers;
22	2	7	0	C	d. That the members of the four principal committees be paid at the same level as Departmental members;
16	8	4	3	C	e. That the Programme for Government be the focus of the reformed Policy Review Committees;

24	0	7	0	C	f. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;
				C	g. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;
				C	h. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.
				C	i. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.

5. Recommendation 7 – Legislation:

Keys		LegC		C/F	
F	A	F	A		
16	8	3	4	F	a. That a new draft Bill procedure be adopted under which draft legislation is automatically referred to the relevant principal committee instead of being subject to the existing formal consultation procedure; but that the relevant principal committee seek the views of the public;
12	12	2	5	F	b. That the committee be required to report its conclusions on the draft Bill and any suggested amendments within a fixed time period, which could be reduced by resolution of Tynwald in cases where urgency was demonstrated;
11	13	6	1	F	c. That, in considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;
16	8	3	4	F	d. That amendments to the Long Title of a Bill be authorised by an instruction moved immediately after second reading (which instruction would be open to amendment);
16	8	2	5	F	e. That amendments to the Long Title of a Bill be taken at the end of the clauses stage; and

14	10	7	0	C	f. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.
----	----	---	---	---	--

C)

Keys F A		Leg C F A		C/F	
24	0	7	0	C	and that the Committee prioritise the work on Recommendations 1 & 2 (and other issues relating to Legislative Council) and to report back with recommendations on the election and role of the Legislative Council in October 2017, and by the December 2017 sitting on the remainder of the recommendations.”

Keys F A		Leg C F A		C/F	
17	7	7	0	C	Amendments
18	6	7	0	C	Motion as Amended

Parliamentary Copyright

available from:

The Tynwald Library
Legislative Buildings
DOUGLAS
Isle of Man, IM1 3PW
British Isles

July 2017

Tel: 01624 685520
e-mail: library@tynwald.org.im

Price: £2.75