



**STANDING ORDERS COMMITTEE OF
THE LEGISLATIVE COUNCIL**

**FIRST REPORT FOR THE SESSION
2017-2018**

**COMPOSITION OF THE COMMITTEE
AND OTHER MATTERS**

**FIRST REPORT OF THE STANDING ORDERS COMMITTEE OF THE LEGISLATIVE
COUNCIL FOR THE SESSION 2017–18:
COMPOSITION OF THE COMMITTEE AND OTHER MATTERS**

There shall be a Standing Orders Committee to consider the Standing Orders of the Council.

The powers, privileges and immunities relating to the work of a committee of Tynwald are those conferred by sections 3 and 4 of the Tynwald Proceedings Act 1876, sections 1 to 4 of the Privileges of Tynwald (Publications) Act 1973 and sections 2 to 4 of the Tynwald Proceedings Act 1984.

Committee Membership

The Hon Steve Rodan MLC (Chairman)

Mr D C Cretney MLC

Mr J L M Quinn MLC, HM Attorney General

Mrs K Sharpe MLC

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To: The Hon President and Members of the Legislative Council

**FIRST REPORT OF THE STANDING ORDERS COMMITTEE OF THE LEGISLATIVE
COUNCIL FOR THE SESSION 2017–18:
COMPOSITION OF THE COMMITTEE AND OTHER MATTERS**

I. COMPOSITION OF THE COMMITTEE

1. We received in December 2017 an email from the Standing Orders Committee of Tynwald which suggested a change in our composition. It said:

At present, Tynwald and each of the two branches elect their own Standing Orders Committees. With the exception of the Speaker as Chairman of both the House of Keys and Tynwald Standing Orders Committees, there is no institutional connection between the various Standing Orders Committees. Although Mr Speaker is the ex officio Chairman of the Tynwald Standing Orders Committee, he is not necessarily Chairman of the Keys equivalent (but it happens that he is at present).

Mr Speaker's proposal to make one composite Standing Orders Committee proposes the model used for the Management and Members' Standards Committees, where the House of Keys elects its own Committee, which sits separately for matters exclusive to its own branch, and combines with members of the other branch to form the Tynwald Committee.

The Legislative Council Standing Orders Committee is comprised of "the Attorney General and three other members" (LCSO4A.1(2)). If the Legislative Council Standing Orders Committee were chaired by the President, with two other members being elected, then they could form the Legislative Council part of the Tynwald Standing Orders Committee.

The Keys Standing Orders Committee comprises the Speaker and five other members. This number could be reduced to be Mr Speaker as Chairman with three other members. They would then form the Keys part of the Tynwald Standing Orders Committee.

We are content with these proposals, which require changes to the Standing Orders of all three Chambers.

2. As far as the Standing Orders of Tynwald Court are concerned, the new composite Tynwald Standing Orders Committee was put in place in May 2018 when the following resolution was made:

That the Schedule to Standing Orders be amended as follows:

Paragraph 5.2 be deleted; and

The following paragraphs be added in its place:

“5.2 The Committee shall be chaired by the Speaker of the House of Keys, the Vice-Chairman shall be the President of Tynwald and it shall further be composed of the Members of the House of Keys Standing Orders Committee and the Members of the Legislative Council Standing Orders Committee.

5.3 Notwithstanding any other provisions in Standing Orders, the quorum of the Committee shall be three.”

3. As far as the Standing Orders of the Legislative Council are concerned, the necessary changes are to remove HM Attorney General from our Standing Orders Committee and to make Mr President *ex officio* chairman of that Committee. In order to give effect to these changes we make our first recommendation as follows.

Recommendation 1

That in Standing Order 4A.1(2) the words “HM Attorney General and three other Members” be left out and replaced with “the President, who shall chair the Committee, and two other Members”.

II. PROCEDURE FOR SEEKING LEAVE OF ABSENCE

4. Standing Order 3.1 reads:

A Member of the Council who is unable to attend when notified to do so shall inform the Clerk of the Council, for the information of the President, of such inability and apply to be excused.

It is not clear from this wording who is responsible for considering a Member's application to be excused. The words "for the information of the President" suggest that the President might not be expected to make a decision as to leave of absence. By contrast, section 18 of the Isle of Man Constitution Act 1919 reads:

If any elected member be and remain out of the Island, or be absent from the meetings of Tynwald and the Council, for a continuous period of six months without the consent of the President of Tynwald, the seat of such member shall thereupon become vacant.

The implication of the Act is that – at least as far as the "elected members" are concerned – absence is a matter in which the President has discretion to give or withhold consent.

5. We consider it desirable that the Standing Orders should be brought into line with the statutory provision and should make it clear that leave of absence is to be sought from the President.

Recommendation 2

That Standing Order 3.1 be replaced with the words: "No Member shall be absent from a sitting without the consent of the President."

III. SIGNING AND INITIALLING OF BILLS

6. Standing Order 4.4(1)–(2) reads:

4.4 (1) This Standing Order applies where a Bill has first been introduced into the House of Keys, has come to the Council, and has been amended by the Council.

(2) A Bill to which this Standing Order applies shall be returned to the House of Keys after the amendments have been initialled by the President.

7. Standing Order 4.5(1)–(2) reads:

4.5 (1) *This Standing Order applies where a Bill has first been introduced into the Council and has been passed by the Council.*

(2) *A Bill to which this Standing Order applies shall be signed by the President and transmitted to the House of Keys.*

8. The wording of Standing Orders 4.4(2) and 4.5(2) refers to the signing or initialling of Bills or amendments by the President. This practice was discontinued some years ago. There is no longer a single authoritative hard copy version of a Bill before the Council which the President can sign or initial, or which the Clerk can return or transmit to the Keys in physical form. Rather, the transmission of Bills between the Branches is a virtual process which is normally inferred from the Votes and Proceedings of each Branch read in conjunction with the respective Standing Orders of the three Chambers. (An authoritative hard copy of each Bill is, however, still produced for the purposes of signing in Tynwald Court and subsequent stages.)
9. We believe it appropriate that the Standing Orders of the Legislative Council should be brought into line with current practice.

Recommendation 3

That in Standing Order 4.4(2) the words “after the amendments have been initialled by the President” be left out; and that in Standing Order 4.5(2) the words “signed by the President and” be left out.

IV. TRANSMISSION OF BILLS: TIMING

10. Standing Order 6.2(5) reads:

The Clerk shall transmit to the House of Keys Bills which have been introduced into and passed by the Council or Bills which have come from the House of Keys and been amended by the Council.

This duplicates to some extent the provisions of Standing Orders 4.4(2) and 4.5(2) which are referred to above. The emphasis in Standing Order 6.2 is not on what happens to each Bill, but on the duties of the Clerk – duties which do not need to be spelt out on the face of the Standing Orders in this way. All of these Standing Orders are silent as to timing.

11. Keys Standing Order 4.26(3) reads:

On the dissolution of the House all Bills then before the House shall lapse.

12. On 14th June 2016 two Bills which had been introduced first into the Legislative Council were passed. A risk was identified that, had these Bills been transmitted to the House of Keys immediately, they might, even if not formally introduced into the Keys, have been considered to be “before the House” at the time of the Dissolution on 11th August 2016 and might have been deemed to have lapsed. In order to avoid this risk, Madam President announced on 14th June 2016 that each Bill would be transmitted to the Keys on 3rd October 2016. The implication of her announcement was that on 11th August 2016 each Bill was still in the possession of the Legislative Council and was not yet “before the House” for the purpose of Keys Standing Order 4.26(3).
13. We consider it appropriate to make express provision for this situation in our Standing Orders.

Recommendation 4

That Standing Order 4.4(2) be amended by the addition at the end of the words: “immediately unless the President determines that its return should be delayed”; that Standing Order 4.5(2) be amended by the addition at the end of the words “immediately unless the President determines that its transmission should be delayed”; and that Standing Order 6.2(5) be omitted.

V. CONSOLIDATED LIST OF RECOMMENDATIONS

Recommendation 1

That in Standing Order 4A.1(2) the words “HM Attorney General and three other Members” be left out and replaced with “the President, who shall chair the Committee, and two other Members”.

Recommendation 2

That Standing Order 3.1 be replaced with the words: “No Member shall be absent from a sitting without the consent of the President.”

Recommendation 3

That in Standing Order 4.4(2) the words “after the amendments have been initialled by the President” be left out; and that in Standing Order 4.5(2) the words “signed by the President and” be left out.

Recommendation 4

That Standing Order 4.4(2) be amended by the addition at the end of the words: “immediately unless the President determines that its return should be delayed”; that Standing Order 4.5(2) be amended by the addition at the end of the words “immediately unless the President determines that its transmission should be delayed”; and that Standing Order 6.2(5) be omitted.

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