



Isle of Man
Government

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Extradition Bill

Summary of Public Consultation Responses

Cabinet Office, External Relations
(on behalf of the Department of Home Affairs)

May 2025

Overview

Public consultation on the draft Extradition Bill ("the Bill") was held from 31 January 2025 to 7 April 2025, a period of nine full weeks. Although views from all members of the public were welcome, the consultation was specifically drawn to the attention of Tynwald Members, the Isle of Man Law Society, the Isle of Man Courts and Government Departments as those likely to have the most interest in the Bill.

A total of 18 responses to the consultation were received. Of these 15 were through the Consultation/Engagement Online Hub and three were sent by email. Two of the responses were on behalf of organisations and the rest were by individuals. Two respondents said that their responses could be published in full, six said that their responses should not be published and ten said that their responses could be published anonymously.

The information provided below is a narrative summary of the responses received together with commentary on some of those responses.

Questions and Responses

The substantive questions in the consultation were as follows:

- Do you agree that the Isle of Man should implement international obligations relating to extradition?
- Do you think that the Isle of Man should have its own extradition legislation?
- Do you think that the Isle of Man should follow the approach taken in Jersey and Guernsey by having the Attorney General (along with the Island's courts) as the main decision maker for extradition cases rather than the Minister?
- Do you have any other comments on the Bill in general or any specific provisions of the Bill?

The responses to each of these questions are summarised below. For the avoidance of doubt, the numbers in the columns for "Yes" and "No" for the first three questions only relate to those persons who said that their responses could be published. The summaries of comments received also only relate to those persons.

Question 1: Do you agree that the Isle of Man should implement international obligations relating to extradition?

Yes	No	Not Answered or Do not publish response
9	2	7

One person who did not agree that the Isle of Man should implement international extradition obligations did not state a reason for their view. The other said that the world had changed and the fixed bases of assessment and authorities needed to be capable of fundamental review.

Of those who supported the Island complying with relevant international obligations, one suggested that the Island should not be seen as a safe haven for serious criminal activity and one said that the Island needed to be up to date and aligned with United Nations and Council of Europe obligations. Another suggested that as an international finance centre the Island was vulnerable to being used for fraud, money laundering, terrorist financing and proliferation financing, with the perpetrators often outside the Island. However, another said that the countries that we have arrangements with must meet their obligations too as this type of thing cannot be one-sided.

Question 2: Do you think that the Isle of Man should have its own extradition legislation?

Yes	No	Not Answered or Do not publish response
11	—	7

Comments from those who supported the Island having its own extradition legislation included one suggesting that the political landscape in the UK isn't always in step with the Isle of Man. They said that with UK political parties being quite polarised, and courts becoming more politicised, the need to be independent on this issue was more important than it has been before.

Another comment suggested that it was important for the Island to retain control of its own legislation wherever it can.

Another said that the Island should maintain its identity and individuality and craft legislation to best serve its interests.

One said that Isle of Man is a modern and diverse jurisdiction with its own judicial and parliamentary systems, and the law in the Isle of Man should be dictated by those who are elected to serve the people of the Isle of Man and legislation enacted by neighbouring jurisdictions was no longer appropriate.

A further comment suggested it was a positive development to modernise and simplify extradition processes.

Another comment simply said “take back control”.

Question 3: Do you think that the Isle of Man should follow the approach taken in Jersey and Guernsey by having the Attorney General (along with the Island’s courts) as the main decision maker for extradition cases rather than the Minister?

Yes	No	Not Answered or Do not publish response
9	2	7

One of the comments supporting the Attorney General being the main decision maker said that such decisions should not be taken by politicians and politics had no place in a fair and just judicial system.

Another comment said it would ensure further judicial review and help ensure the decision was considered and fair, and not impacted by political decisions or views.

Another said it should be a legal decision and not just made by someone who happened to be a Minister at the time.

A further comment said it was a judiciary rather than a political matter.

One comment suggested the Attorney General was, notwithstanding his position in Tynwald, politically neutral and served the government of the day. Further, the Attorney General was an eminently qualified and experienced Advocate, whose Chambers employs Advocates specialising in every area of Manx law. Consequently, the Attorney General was best

placed to understand the legal position in any given case, and to make a decision dispassionately. They said that, with the greatest of respect, the same was unlikely to be able to be said about all Ministers.

However, one comment, from a Member of Tynwald, said that their initial reaction to the construction of the Bill was that extradition was a political as well as legal process. They noted that in many countries a responsible minister will make a final decision on extradition, alongside a court driven process. They said that there appeared to be no role for a publicly clear elected official to take any part in the process, relying entirely on a crown officer who has a legal, but not political role. They said this was in contrast to many other Commonwealth jurisdictions, and suggested that there was a duty to place this burden on a minister, rather than a crown officer.

Another comment that did not support the Attorney General as the decision maker simply said that the IOM Government was “too woke” to follow through.

Question 4: Do you have any other comments on the Bill in general or any specific provisions of the Bill?

Yes	Not Answered or Do not publish response
7	11

There were a range of additional comments on the draft Bill.

One noted that human rights might be a reason for refusing extradition. They were concerned that, with the right advocate and enough money, a person who is up for extradition could use things such as “the right to a family life” to avoid extradition, or they could state they were LGBTQ+ and that they would be persecuted in their home country, or they could claim that their religion is persecuted in their home country. They believed these were all reasons that have been exploited in the UK through the courts for various reasons, with people “converting” to Christianity or claiming to be bisexual or fathering children, which had meant that those accused of serious crimes (or who did not have legal right to be in the country) have potentially avoided being returned to their home countries. This person did not want the Island to become known as a place where criminals, domestic or foreign, living in the UK can move to in order to avoid extradition.

Another comment suggested that the Island should be more actively extraditing criminals of all nationalities.

Another said that the Island should have the power to rid itself of any unwanted people. They thought there were far too many people here now who are in court frequently and are not locals.

A further comment suggested there should be a three strike rule for minor offences after which foreign nationals were deported.

Another person suggested that implementing an extra proportionality safeguard following s 21A of the UK's Extradition Act 2003 applying to all extradition offences would be beneficial.

A further comment said that the legislation needed to be enacted urgently along with legislation on custody time limits.

As well as their comments on the previous question, a Member of Tynwald had a number of additional comments and questions:

- They were interested in unpicking the conflict of interest between the Attorney General's role as prosecutor for extradition, and defender of the rule of law in the relevant jurisdiction. It appeared to them that no one has the job of defending the rights of the individual subject to the extradition request, but the state puts its resources towards extraditing the individual and asked how equality of arms was assured in the process.
- They wondered if they had misinterpreted set clause 34(1), as it appeared that where a request came from a Part 1 designated territory there was no requirement to provide evidence, and the process skips straight through to the human rights considerations under section 37. They believed that where a person has not faced trial that some prima facie evidence should be submitted in all cases that would justify the extradition request.
- They also noted that within clause 14, where Part 1 designated territories were involved, references to evidence were treated as references to information. They were interested in the rationale for this, as opposed to requiring a degree of evidence. Similar concerns arose in clause 16(1), 16(5), in the absence of consideration of evidence in clause 23.
- They questioned with regard to the re-extradition process, why this would be done. It seemed strange to them that we would reimport someone to complete a sentence on the Isle of Man. They considered it would be beneficial if there was a way of permitting a non-national to

complete the sentence for the Manx offence in the same place as the overseas offence, i.e. overseas.

- They noted that there was an inconsistency between paragraph 36 of the explanatory memorandum and clause 22. The draft clause stated may, but the explanatory memorandum said must and they suggested that “may” would be preferable.
- They noted that in clauses 13 and 43(7) with regards to extradition of refugees, and presumed this would only apply if the person was a refugee from the requesting country as opposed to a refugee from an unrelated country.
- They questioned the impact of clause 42, as their understanding was that the Attorney General receives a request from another country, makes a value judgement on the merits of that application and then applies to the High Bailiff for an extradition warrant. They were therefore not clear why the High Bailiff would send a case to the Attorney General for decision.

Commentary and Next Steps

Some of the responses to consultation go beyond the scope of extradition law and the proper place for detailed consideration and debate on an Extradition Bill is, as with any Bill, the Branches of Tynwald.

However, it is perhaps worth including some commentary on the most relevant responses. That commentary is attached as Appendix 1 to this document.

The next step is for the Department of Home Affairs and Council of Ministers to consider the responses to the consultation and decide whether to approve the introduction of the Bill into the House of Keys.

External Relations

May 2025

Commentary on responses

Response	Commentary
<p>The IOM should only comply with international extradition obligations if the countries that we have arrangements with meet their obligations too. This type of thing cannot be one-sided.</p>	<p>The purpose of international agreements and arrangements on extradition is to ensure each country complies with obligations that have been entered into freely and there is respect that each country's legal systems meet basic standards of fairness.</p> <p>Where it is believed that a country is no longer honouring its commitments, it is open to the UK on behalf of the Island to suspend or withdraw from particular arrangements.</p>
<p>Claims of human rights might be abused to avoid extradition.</p>	<p>The Bill is designed to ensure that there is an appropriate balance between ensuring justice is served and ensuring that persons who may be extradited are not subject to treatment that would breach their fundamental rights, such as facing the death penalty or being tortured. Under the Bill the Island's courts will consider human rights issues in any extradition case.</p>
<p>It was suggested that the Island should be more actively extraditing criminals of all nationalities.</p> <p>It was also said that the Island should have the power to rid itself of any unwanted people and that there were far too many people here now who are in court frequently and are not locals.</p> <p>It was also suggested there should be a three strike rule for minor offences after which foreign nationals were deported.</p>	<p>There is a difference between the process of extradition and deportation/exclusion from the Island, and different legislation applies.</p> <p>Extradition may be an appropriate course of action where a person in the Island has committed a serious offence either wholly or largely outside the Island, and the country where the offence took place has either convicted the person or wishes to try the person for the offence.</p> <p>Deportation/exclusion from the Island may occur where a person who is not a permanent Isle of Man resident has committed offences in the Island.</p>
<p>It was suggested that implementing an extra proportionality safeguard following s 21A of the UK Act applying to all extradition offences would be beneficial.</p>	<p>Section 21A of the UK's Extradition Act 2003 deals with the situation where a category 1 territory is seeking the extradition of a person who has not been convicted an offence. A judge must then decide, if no other bars to extradition apply, whether the extradition would be compatible with human rights or disproportionate.</p> <p>Category 1 territories in the UK Act are those countries that were covered by the European Arrest Warrant (EAW) when the UK was in the EU, and extradition to these territories is a more streamlined process than for Category 2 territories.</p>

	<p>The Island was never covered by the EAW and it is now not covered by the extradition arrangements between the UK and EU under the Trade and Cooperation Agreement.</p> <p>The draft Bill is, like the Jersey and Guernsey Laws, based on the arrangements for Category 2 territories in the UK Act where other substantial safeguards already apply.</p>
<p>An initial reaction to the construction of the Bill was that extradition was a political as well as legal process. It was noted that in many countries a responsible minister will make a final decision on extradition, alongside a court driven process. It was said that there appeared to be no role for a publicly elected official to take any part in the process, relying entirely on a Crown officer who has a legal, but not political role. It was said this was in contrast to many other Commonwealth jurisdictions, and suggested that there was a duty to place this burden on a minister, rather than a crown officer.</p>	<p>It is true that many Commonwealth countries have political involvement in the extradition process (often in the form of the Minister for Justice or equivalent), but this is not exclusively the case – for example, the Attorney-General is the central authority for extradition in Australia.</p> <p>It may be argued that extradition is not intrinsically a political process, it is a criminal justice process and it is not normal for there to be political involvement in other criminal justice processes. Therefore, the degree to which there is political involvement in the extradition process/legislation is simply a matter of political judgment for individual countries.</p> <p>Our Minister for Justice and Home Affairs approved the approach taken in the Bill of having the Attorney General (along with the Island's Courts) as the key decision maker. There may be pros and cons to each approach but, for the Island, following the approach of the other Crown Dependencies was considered to be appropriate.</p> <p>In addition, legislative development in the UK demonstrates a reducing role for politicians - under the Extradition Act 1989, the Secretary of State played a major part at both the beginning and end of the extradition process but the 2003 Act reduced that involvement to consideration of a narrow range of issues – and the Secretary of State has no involvement in the European Arrest Warrant (now UK-EU TCA) extradition process. The basis for limiting the executive's role in extradition is to counter any perception that decisions are taken for political reasons or influenced by political considerations (similarly, the executive has no role in prosecution decisions).</p>
<p>A response was interested in unpicking the conflict of interest between the Attorney General's role as prosecutor for extradition, and defender of the rule of law in the relevant jurisdiction. It appeared to them that no one has the job of defending the rights of the individual subject to the</p>	<p>Describing the AG's role in extradition as "prosecutor" is not really correct. It is more akin to acting as a competent authority for international requests for mutual legal assistance. There are a number of instances where the AG acts in assistance to other jurisdictions and in any event his / her decisions will always be reviewable (and of course the subject of the proceedings is able to instruct</p>

<p>extradition request, but the state puts its resources towards extraditing the individual and asked how equality of arms was assured in the process.</p>	<p>their own lawyers as is also the case in the other instances of the AG acting in aid).</p> <p>In general, the perception of any potential conflict of interest between the prosecution function of the AG's Chambers and other functions of the AG is being addressed as part of the follow up to the Wooler review.</p> <p>In extradition cases, as in any public prosecution, it is the responsibility of the person who is appearing in court to arrange their own legal defence /representation and, if they are unable to afford that, they may be eligible for Legal Aid.</p> <p>Whether there should be an "equality of arms" in criminal justice matters that goes beyond current arrangements, and if so how that is to be funded, is a question that goes far beyond the issue of extradition.</p>
<p>A response wondered if they had misinterpreted set clause 34(1), as it appeared that where a request came from a Part 1 designated territory there was no requirement to provide any evidence, and the process skips straight through to the human rights considerations under section 37. It was believed a person should be incumbent on a person who has not faced trial that some prima facie case be submitted in all cases that would justify the extradition.</p> <p>It was also noted that within clause 14 where Part 1 designated territories were involved references to evidence were treated as references to information. The person was interested in the rationale for this, as opposed to requiring a degree of evidence. Similar concerns arose in clause 16(1), 16(5), in the absence of consideration of evidence in clause 23.</p>	<p>The requirement, or not, for prima facie evidence to accompany an extradition request stems from the particular extradition agreements/arrangements that exist between the UK/IOM and individual countries.</p> <p>Under some of these international arrangements a country does not have to submit prime facie evidence with an extradition request and under others a country is required to submit such evidence with an extradition request. The Bill, like the Jersey and Guernsey Laws and the UK Act, reflects this international reality.</p>
<p>It was questioned with regard to the re-extradition process, why this would be done. It seemed strange to them that we would reimport someone to complete a sentence on the Isle of Man. The response considered would be beneficial if there was a way of permitting a</p>	<p>It is unclear why a country would agree to house an IOM resident British national in a custodial institution in that country for an offence that was unrelated to the country, with the associated costs of doing so, or whether there would be any legal basis for the other country to do so.</p> <p>In addition, it may not be appropriate for time served in another country for an extradition offence</p>

<p>non-national to complete the sentence for the Manx offence in the same place as the overseas offence, i.e. overseas.</p>	<p>to be counted towards the duration of a period of custody in the Island for an unrelated offence that was committed here.</p> <p>If the person involved is actually a national of the country to which they have been extradited, there may be the possibility of repatriation to the other country to serve the IOM sentence. Again, this is on the basis of international arrangements – such as the Council of Europe Convention on the Transfer of Sentenced Persons – but this an entirely separate process and with a more limited range of countries.</p>
<p>It was noted that there was an inconsistency between paragraph 36 of the explanatory memorandum and clause 22. The draft clause stated may, but the explanatory memorandum said must and they suggested that “may” would be preferable.</p>	<p>This inconsistency has been corrected to read “may” in both places.</p>
<p>It was noted that clauses 13 and 43(7) referred to extradition of refugees, and presumed this would only apply if the person was a refugee from the requesting country as opposed to a refugee from an unrelated country.</p>	<p>It will be an established fact as to whether the person has been granted refugee status by the UK Secretary of State. Certain international obligations flow from refugee status, including the principle of non-refoulement which guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. When this refugee status exists, as is the case in the UK, Jersey and Guernsey, the AG then has discretion as to whether to refuse to issue an extradition certificate and send the case to the High Bailiff. If the country seeking the person’s extradition is the country of which the person is a national, or if there are grounds to believe the extradition request by another country is a means to get the refugee back to the country of origin, the AG may have good reason to refuse to issue the extradition certificate but if the country seeking their extradition is totally unrelated to their origin home country the AG may have no reason to refuse to issue the certificate.</p>
<p>The impact of clause 42 was questioned, as their understanding was that the Attorney General receives a request from another country, makes a value judgement on the merits of that application and then applies to the High Bailiff for an extradition warrant. It was therefore not clear why the High Bailiff would send a case to the Attorney General for decision.</p>	<p>In the first instance the AG is simply receiving and processing the extradition request, i.e. checking that the request is valid and, unless clause 13(2) applies, issuing an extradition certificate and sending the documents to the High Bailiff. The AG only has discretion to refuse to issue the certificate at this stage if one of three factual things apply – i.e. there is a competing extradition request for the person in question; the person has been previously recorded by the UK Secretary of State as a refugee; or the person has been previously granted immigration leave to enter or remain in the UK/IOM on the basis</p>

	<p>that if the person were to be returned to the country seeking their extradition this would breach their right to life and right not to be tortured. The AG must not consider any human rights issues relating to the extradition request at this stage as that is a question to be considered in detail by the court.</p> <p>The case then moves to the court for detailed consideration and arguments and only then if the court finds that the extradition can proceed from its point of view does it go to the AG for final consideration (of a limited number of questions) and approval. There is the possibility of appeal throughout the process.</p> <p>The process follows that in Jersey and Guernsey and (also the UK with the substitution of AG for SoS).</p>
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