



**Isle of Man
Government**

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**RESPONSE TO THE CONSULTATION ON
THE LOCAL GOVERNMENT (AMENDMENT) BILL**

**DEPARTMENT OF INFRASTRUCTURE
STRATEGY POLICY AND PERFORMANCE DIVISION**

Part 1 – Introduction

In October 2017, the Department issued a consultation paper which was designed to advise the public of several amendments that were required to the Local Government Act 1985 and to invite comments on several other proposed amendments concerning Local Authority matters.

In the paper, the Department acknowledged that much of the current legislation in this area is over 30 years old and is in need of updating. Progressing the recommendations of a Select Committee of Tynwald on Local Authorities Members' interests, details of which can be found at Appendix A, being considered a good start.

The paper also included several proposals concerning areas of governance, tendering and how to simplify processes to allow Local Authorities to work together more easily, as well as implementing new byelaws.

Part 2 – The Consultation Exercise

The Department drafted a consultation paper and detailed the various issues identified by a Tynwald Select Committee, items which had to be changed and the reasons for doing so. The paper explained how these items would be dealt with and the main purpose was to inform and therefore feedback, other ideas or alternative suggestions were not requested in relation to these items.

The paper also contained details of items where the Department was looking for ideas and suggestions that could be considered going forward, for example:

- Provide clarification on matters that must or may be included in joint board Orders.
- Strengthen the legislation regarding joint board Orders.
- Clarify the obligations of joint boards and joint committees.
- Repeal the Douglas Market Act 1956.
- Update requirements relating to Member's expenses/allowances.
- Clarify Local Authority boundaries.
- Clarify the requirements for election and holding office as a member of a Local Authority.
- Clarify the process for filling casual and unfilled political vacancies.
- Clarify the process required to alter the number of Local Authority members and/or wards.
- Amend the local government superannuation scheme legislation.
- Update the requirements relating to the inspection of the minutes from Local Authority meetings.
- Provide clarity on tendering for, and the carrying out of, works by Local Authorities.
- Amend the Tynwald procedure for the introduction of Local Authority byelaws.
- Clarify the provisions relating to open space.
- Update the Department's powers in relation to Local Authority governance.

The consultation exercise ran from 9 October 2017 to 4 December 2017, the documents were distributed to:

- Tynwald members
- Attorney General
- Local Authorities
- Isle of Man Government Chief Officers

- The Isle of Man Chamber of Commerce
- The Isle of Man Law Society

The Consultation was subject to a press release and was posted on the Department's social media pages. The Consultation was also included on the new Government Website Hub.

Part 3 – The Responses

A total of 58 responses were received either through the Consultation Hub or by email/letter directly to the Department. Responses were received from individuals, Government Departments, Local Authorities and clerks to Local Authorities. Those who agreed their details could be shared are listed on page 8 of this report.

The purpose of the consultation was not to be referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of the proposed legislation.

The responses can be separated into comments made and questions asked and also into appropriate sections or subject matter. The following brief summary of the answers to the 14 questions posed within the consultation paper are as follows, it should be noted the percentage totals provided relate to the number of respondents that answered that particular question (A full list of questions is provided in Appendix B):

Question 1 asked "should the provisions of the Local Government Act 1985 which relate to minimum standards be applied to Joint Boards and Joint Committees?" 50 (96%) respondents to this question supported this action. Several comments welcomed the clarity the proposal would bring.

Question 2 asked "should the provisions of the Local Government Act 1985 which relate to conflicts of interests, be applied to Joint Boards and Joint Committees?" Of the 50 (100%) respondents to the question the Department again noted the good support for the provisions. The Department therefore intends to draft legislation to apply such provisions to Joint Boards and Joint Committees.

Question 3 asked "should the status of Joint Boards and Joint Committees be further clarified?" 38 (76%) respondents agreed with this question, providing good support for further clarification in this area. The Department will therefore consider whether provisions of the Local Government Act 1985 need to be applied to Joint Boards and Joint Committees.

Question 4 asked "should the setting of Members' expenses and allowances be the responsibility of Local Authorities?" This question evenly split the respondents. This split accords with previous attempts to reach a consensus on this issue. The Department notes the mixed opinion surrounding expenses and allowances; however, in the Department's view the best option would be to devolve the power to set Members' expenses and allowances to the Local Authorities, subject to the consent of the Department. Legislation will therefore be drafted to enable this course of action.

Question 5 asked "should the requirement to be on the register of electors only apply to persons seeking election to a Local Authority?" Again this question split the respondents right down the middle. In light of the comments made on this and other aspects of qualifications, the Department considers further work is needed on these matters before bringing forward any proposals.

Question 6 asked "should not being on the register of electors result in the disqualification of a Member between Local Authority elections?" As for question 5 above this question split the vote and in light of the comments made the Department considers further work is needed on these matters before any proposals are brought forward.

Question 7 asked "should the process for filling casual vacancies and unfilled vacancies be further clarified?" 45 (90%) respondents supported this proposal, the Department notes the level of support and intends to clarify the process of filling casual vacancies and unfilled vacancies.

Question 8 asked "should the process for the alteration in the number of Local Authority members and wards be simplified?" 38 (76%) respondents agreed with this suggestion. The Department has noted the comments provided, which will be further and fully considered during the drafting of revisions to the existing legislation.

Question 9 asked "should meetings and documents of Local Authorities be publicly accessible?" 45 (90%) respondents agreed with this suggestion. The Department will bring forward proposals to address this matter but will ensure data protection and freedom of information matters are taken into account within any final drafting.

Question 10 asked "should the legislation regarding what work can be tendered for and carried out by a Local Authority be clarified?" 45 (90%) respondents supported this proposal. However, further research will be necessary to determine what is required to improve Local Authority powers to be able to tender for and carry out works. The Department will not progress this proposal at this time.

Question 11 asked "should byelaws be approved by the Department instead of Tynwald and then laid before Tynwald?" 39 (78%) respondents were supportive of this proposal. The proposal is about removing business from Tynwald in order to improve efficiency. This type of provision could be adequately dealt with by the Department in much the same way as already happens with Dog Control Byelaws. Legislation will be developed to enable this provision to go forward.

Question 12 asked "does the Local Government (Miscellaneous Provisions) Act 1984 need to be amended to allow for the leasing or licensing of open space to other parties?" 33 (66%) respondents were supportive of this proposal. The Department intends to enable leasing or licensing of open space to other parties, subject to them being managed and used for the benefit of the community. This will hopefully address some of the concerns raised in the consultation responses and in separate messages to the Department. It should be noted that the new provisions will allow Local Authorities to impose covenants on any lease so as to control how the open space is managed and used. Similarly in a licensing regime, the Local Authority will be able to impose conditions on a licence governing the management or use of an open space.

Question 13 asked "are the Department's powers to deal with failures within a Local Authority adequate?" This question split the respondents. The Department notes the difference in opinion on this issue and considers that further work is required on this matter, therefore we do not intend to bring forward any proposals on this matter in the forthcoming Bill. The comments received in response to this question will be fully considered when undertaking the further work required.

Question 14 asked "what other areas of the local Government legislation should be included in the comprehensive review?" The Department would like to thank respondents for their comments relating to this matter. All the suggestions received will be fully considered during the comprehensive review of local government legislation.

Part 4 – Conclusion

The Department would like to take this opportunity to thank all respondents for taking the time to reply to the consultation.

The Department will now seek to introduce a Bill to put into effect the recommendations of the Select Committee of Tynwald on Local Authority Members' Interests. The Bill will amend the Local Government Act 1985 to reflect the recommendations which are detailed in Appendix A below, except for Recommendation 4 which is subject to a wider review of Local Authority legislation. The Bill will also include provisions to cover the following items:

- Clarification on matters that must or may be included in Joint Board Orders.
- Strengthen the legislation regarding Joint Board Orders.
- Clarify the obligations of joint boards and joint committees.
- Repeal the Douglas Market Act 1956.
- Update requirements relating to Member's expenses/allowances.
- Clarify Local Authority boundaries.
- Clarify the process for filling casual and unfilled political vacancies.
- Clarify the process required to alter the number of Local Authority members and/or wards.
- Amend the local government superannuation scheme legislation.
- Update the requirements relating to the inspection of the minutes from Local Authority meetings.
- Amend the Tynwald procedure for the introduction of Local Authority byelaws.
- Clarify the provisions relating to open space.

As a result of the responses received to the consultation exercise several other matters will require further investigation and possible actions before legislation changes, should they be needed, can be brought forward.

List of Respondents, as identified in the Hub.

- 1) Paul Deakin
- 2) Paul Weatherall
- 3) Dr Alex Allinson MHK
- 4) Lewin
- 5) Barry Powell of Malew Parish Commissioners
- 6) Rae Hamilton
- 7) Phil Gawne
- 8) Tim Norton
- 9) Southern Local Authorities Swimming Pool Board
- 10) Tim Craig Of Onchan District Commissioners
- 11) Dirk McHarrie
- 12) Ian Maule of Patrick Parish Commissioners
- 13) German Parish Commissioners
- 14) Mr D Sewell of Peel Town Commissioners
- 15) Ian Maule of Marown Parish Commissioners
- 16) Stephen Hamer
- 17) H F Mackenzie of Castletown Commissioners
- 18) David John Quirk
- 19) Mrs Lisa Sims of Bride Parish Commissioners
- 20) Mr Juan Watterson SHK
- 21) J C Whiteway of Braddan Parish Commissioners
- 22) Ramsey Town Commissioners
- 23) Douglas Borough Council
- 24) Department of Environment, Food and Agriculture
- 25) Andreas Parish Commissioners
- 26) Ballaugh Parish Commissioners
- 27) Jurby Parish Commissioners
- 28) Arbory Parish Commissioners
- 29) Rushen Parish Commissioners
- 30) Department for Enterprise
- 31) Mr Henderson MLC
- 32) Ged Power

Select Committee of Tynwald on Local Authorities: Members' Interest recommendations

Recommendation 1

That the Department of Infrastructure should introduce legislation to require all members of Local Authorities to register any interest which could reasonably be regarded as bearing upon the way in which a member may carry out his or her duties.

Recommendation 2

That the definition of "relevant interest" applicable to members of Local Authorities should be the same as that applicable to Members of Tynwald except that shares in a UK company need not normally be declared unless and until they become relevant to a matter under consideration.

Recommendation 3

That the Department of Infrastructure should introduce legislation to require that the registers (or "books") currently maintained by Local Authorities under section 13 of the Local Government Act 1985, together with the registers of interests declared under Recommendations 1 and 2 above, must be made open to inspection by the public.

Recommendation 4

That the Department of Infrastructure should consider as part of any wider review of Local Authorities whether it should be given an express statutory power to issue guidance to Local Authorities, with Local Authorities being placed under an express statutory duty to follow such guidance.

List of questions in the consultation paper

1. Should the provisions of the Local Government Act 1985 which relate to minimum standards be applied to joint boards and joint committees?
2. Should the provisions of the Local Government Act 1985 which relate to conflicts of interests, be applied to joint boards and joint committees?
3. Should the status of joint boards and joint committees be further clarified?
4. Should the setting of Members' expenses and allowances be the responsibility of Local Authorities?
5. Should the requirement to be on the register of electors only apply to persons seeking election to a Local Authority?
6. Should not being on the register of electors result in the disqualification of a Member between Local Authority elections?
7. Should the process for filling casual vacancies and unfilled vacancies be further clarified?
8. Should the process for the alteration in the number of Local Authority members and wards be simplified?
9. Should meetings and documents of Local Authorities be publicly accessible?
10. Should the legislation regarding what work can be tendered for and carried out by a Local Authority be clarified?
11. Should byelaws be approved by the Department instead of Tynwald and then laid before Tynwald?
12. Does the Local Government (Miscellaneous Provisions) Act 1984 need to be amended to allow for the leasing or licensing of open space to other parties?
13. Are the Department's powers to deal with failures within a Local Authority adequate?
14. What other areas of the local Government legislation should be included in the comprehensive review?