STANDING ORDERS
COMMITTEE OF TYNWALD

FIRST REPORT
2013-2014

PETITIONS FOR REDRESS
FIRST REPORT OF THE STANDING ORDERS COMMITTEE OF TYNWALD 2013-14:
PETITIONS FOR REDRESS

There shall be a Standing Orders Committee of the Court to carry out the duties imposed upon it by Standing Orders 6.8 and 9.1, and to make recommendations to the Court for the revision of Standing Orders.

6.8  (1) The person presiding under Standing Order 3.29 shall, on receipt of a Petition for Redress refer the petition to the Standing Orders Committee.

(2) It shall be the duty of the Standing Orders Committee to examine every Petition for Redress to ascertain whether it is in order, and report to Tynwald.

9.1 (4) Any Member dissatisfied by a determination of the President may refer the principle of the issue involved to the Standing Orders Committee which shall report thereon to Tynwald.

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. S C Rodan SHK (Chairman)

Mr R P Braidwood MLC

Mr P Karran MHK

Hon. R H Quayle MHK

Mr J R Turner MLC

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 IM1 3PW.
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ANNOTATED LIST
To: The Hon Clare M Christian MLC, President of Tynwald, and the Hon Council and Keys in Tynwald assembled

FIRST REPORT OF THE STANDING ORDERS COMMITTEE OF TYNWALD 2013-2014

PETITIONS FOR REDRESS

I. PETITIONS FOR REDRESS PRESENTED IN 2014

1. The eight Petitions for Redress reproduced at Appendix 1 were presented at Tynwald assembled at St John’s on 7th July 2014. We have considered these in the light of the relevant Standing Orders.

2. We note that of the eight petitions, all are in order. We continue to encourage petitioners to seek the advice of the Clerk of Tynwald in a timely fashion in order to ensure that their petitions comply with Standing Orders. We also draw attention to the revised Guidance for Potential Petitioners at Tynwald Hill (PP 0075/12) issued by the Office of the Clerk of Tynwald in May 2012.

3. Our conclusions in respect of this year’s Petitions are set out in the following table:

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II. PETITIONS FOR REDRESS PRESENTED IN THE PREVIOUS FOUR YEARS

4. At Appendix 2 is an annotated list of the Petitions for Redress presented in the previous four years going back to 2010. Under Standing Order 6.12 those which are in order and which have not been the subject of a resolution may still be picked up by a Member.

S C Rodan
R P Braidwood
P Karran
R H Quayle
J R Turner

8th July 2014
Appendix 1

Petitions for Redress presented in 2014: full text
IN TYNWALD

5th July 2014

To the Honourable Members of Tynwald Court

The humble petition of

Samantha A Blackford
16 Hope Street
Castletown
IM9 1AP

Sheweth that

The combined effects of the exceptionally high tide and the storm surge of 3rd January 2014 caused a significant amount of damage to private houses in Hope Street, Victoria Road, Athol Terrace and Milner Terrace, Castletown. The consequences of this event should not have been as severe and might even have been preventable. The cost to Isle of Man Government of responding to this and subsequent events later in January and March could have been significantly lower.

There is no protection afforded for property along these roads from tidal waters rising through the public surface water drainage system which is connected to the mill race between Back Hope Street and Hope Street and to Victoria Road. Rising tidal water can also enter these roads from the boatyard/car park entrance adjacent to Qualtroughs Yard and through the stone boundary wall alongside the mill race and the Silverburn.

Wherefore your petitioner seeks that

Tynwald appoint a Select Committee to investigate and report on the technical feasibility of introducing sustainable and low cost flood protection infrastructure to protect householders in Castletown from loss or damage of property and possessions and which can be deployed quickly and with minimum labour or supervision.

Signed

(Signature)
In Tynwald

7th July 2014

To the Honourable members of Tynwald Court

The humble petition of

Millie Blenkinsop-French of The Lansdowne Guesthouse, 102 Bucks road, Douglas, Isle of Man IM1 3AQ

Sheweth that

I call upon Tynwald to introduce Legislation with the intension to legalize

“Assisted Suicide”

For people who have a Terminal Illness, and no Quality of life.

There comes a time in life when “Enough is Enough”

This is the 21st Century- Human Beings should not have to die in Agony, Frustration, or Mental Despair.

Let us be the “First” and pave the way to rectify this deplorable situation.

I am not afraid to die – I am afraid of “How I die”

Wherefore your petitionee prays that:

Tynwald set up a Select Committee of three Members who are authorised to take written and oral evidence pursuant to sections 3 & 4 of the Tynwald proceedings set 1876, as amended to consider and report to Tynwald on the law relating to “Assisted Dying”.

Signed

Millie Blenkinsop-French
IN TYNWALD

To the Honourable Members of Tynwald Court

The Humble Petition of
Joseph Rae Hamilton 28 Sunnybank Avenue Onchan Isle of Man IM3 3BP

Sheweth That
Following matters of wrongdoing within Onchan District Commissioners during a tendering process for the lease of the squash courts in Onchan Park in February 2010, which resulted in their closure, a Petition for Redress was presented to Tynwald. A Select Committee, which was appointed to investigate Members Interests, issued a report in 2012 with recommendations that the Department of Infrastructure should introduce new legislation, which agreed with what was sought by the Petition.

During evidence given to the Select Committee by the DOI it was identified and commented upon that in relation to wrongdoings of local authorities there is absolutely no system in place in breach of the Government Code of Practice and no process of recourse and no penalty for failure to comply except for a criminal offence. This was confirmed as correct by the Head of Corporate Services, Ms Craig, who notwithstanding this gave an undertaking on behalf of the DOI that “Certainly from our perspective, we would investigate any concern as a complaint against a local authority”.

Following the affirmative recommendations of the Select Committee as a result of my Petition and having previously followed proper procedure and received confirmation in writing that any complaints about Local Authorities should be submitted to the DOI and also Ms Craig’s undertaking in evidence I arranged a meeting with the Minister Mr David Cretney MHK to discuss making a complaint about the wrongdoings and maladministration, which occurred within Onchan District Commissioners during the tendering process for the lease, which resulted in the squash courts being closed.

During the meeting he was naturally aware that officers of his Department had given evidence to the Select Committee and we discussed the recommendations, which he confirmed he agreed with. We also recapped on the issues, which had led to the Petition, during which he had in fact requested the Commissioners to reconsider not closing the squash courts. I then asked if I submitted a particularised complaint in relation to the wrongdoings and maladministration, which had occurred would he investigate my complaint and he confirmed that he would.

In conjunction with my Advocate I then prepared a fully particularised complaint with supporting documentation and evidence for investigation under the provisions of the Local Government Act. This was dated 15th April 2013 and I handed it to the Minister personally in a second meeting shortly thereafter along with a further letter of complaint from Messrs Smith, Shaw and Parrington dated 12th April 2013 during which we had a lengthy discussion and he gave me his personal assurance that my complaint “would be investigated and would not lye on a shelf collecting dust”.

However in letters dated 28th May 2013 the Minister advised my Advocate and Messrs Smith Shaw and Parrington, “I am not in a position to assist any further in
relation to this matter”. This is despite having confirmed previously in writing that any complaint should be submitted to the Department, the personal assurance he had given to me and also the undertaking given by Ms Craig to the Select Committee that any concern would be investigated as a complaint, which did not happen. We were all totally bewildered by this response.

Thereafter there was a considerable exchange of correspondence between the parties with the complainants being joined by Mr David Quirk MHK, in pressing the Minister to fulfil the undertakings and assurances that had been given to investigate. However the Minister failed to acquiesce and had completely changed his position.

Notwithstanding the provisions of Sec 4(1) of the Local Government Act, which states “the Department may cause to be made such inquiries by this or any other Act, or as they may see fit” he referred to Sec 4(1)(d) which states “as to the manner in which any functions of a local authority are carried out by the authority” He was now saying that this Section meant the Department did not have the vires to investigate as they could only become involved “if there was a failure by the local authority to act, rather than the manner in which it had acted”.

The Minister also confirmed that the Department had discretion whether or not to investigate but then confirmed that even if it exercised this discretion and were satisfied there was serious misconduct that the default powers under Sec 5 of the Act did not provide that they could implement any censure measures and accordingly there was no point in investigating.

As a result of the foregoing Mr David Quirk MHK suggested a meeting, which we attended on 30th October 2013. The Minister and two officers of the Department were present and there was considerable discussion during which the Head of Corporate Services, Ms Craig, stated that my complaint had been investigated but refused to provide the findings. Mr Quirk and myself challenged this because as the complainant I am legitimately entitled to the findings. Ms Craig then said that she would discuss separately with the Minister the outcome of my complaint with a view to providing me with the information I required. This was never provided although subsequent to the meeting the minister advised that he had instructed a ‘review’ to be carried out, which effectively confirmed that no ‘investigation’ had in fact taken place.

By literal definition ‘a review’ is a very different process to ‘an investigation’ as it is much less thorough and what was produced is consistent with this fact. Additionally the review is not independent as it excludes information that ought to have been included. It nevertheless identified a list of ‘Major Wrongdoings’, which occurred within Onchan District Commissioners in relation to the tendering process. The relevant contents of the review reported in an Advice Note to the Minister were sent on 3rd February 2014 to all parties, namely, the complainants, Mr David Quirk MHK and Onchan Commissioners and the Department then advised they considered the matter closed.

Subsequently however, and more than 2 months later in April 2014 it was confirmed by the Chairman and other members of the Board of Onchan District Commissioners that the Chief Executive Clerk had not brought to the attention of the Board the ‘Major Wrongdoings’ identified in the review, in which the Clerk is implicated. The Chairman asked if he could be provided with a copy and this was sent ‘direct’ to him
and the other Board members for comment and not via the Chief Executive Clerk for obvious reasons. However the Chairman then advised that any further correspondence would have to be through the Clerk. In the circumstances communicating with the Board via the Clerk, who is implicated in the ‘Major Wrongdoing’ is as inappropriate as asking the Attorney General to authorise his own prosecution.

What is clearly established by events is that there is no independent or effective procedure in place in relation to any complaint of wrongdoings or maladministration against members of local authorities or it’s senior officers with mandatory investigation powers or associated censure measures, short of criminal proceedings.

My own interests along with those of many others have been prejudicially affected as a result of the loss of the squash courts at this purpose built facility in such an inappropriate manner.

In compliance with [SO No. 6.11(a)] this Petition relates to a matter of clear public interest as public confidence is dented if members of Local Authorities can unilaterally decide to opt in and out of proper procedures and legal requirements appertaining to the standard of behaviour expected in relation to Standing Orders Departmental guidance and Government Code of Practice arising as a result.

Furthermore in this instance in compliance with [SO No. 6.11 (b)] this Petition clearly falls within the province of Tynwald as being ultimately responsible in ensuring Good Governance and Best Practice by Local Authorities.

There is substantial and significant documentary and witness evidence in support of the matters referred to in this Petition, highlighting a significant problem, which needs to be addressed.

**Wherefore your Petitioner seeks that**

Tynwald urgently appoint a “Select Committee” to consider, investigate and report to Tynwald with recommendations in regard to:

- An Independent Tribunal/Authority to be established with mandatory powers to investigate, report and make recommendations in relation to complaints against Local Authority Members or it’s Officers, on matters of wrongdoing, maladministration, misconduct, or any other of their actions or comments in the process of undertaking any of their duties or functions but not limited only to a failure to act, but also to the manner in which they have acted in any discussions, processes or associated matters.

- A process of recourse to be introduced with a legal obligation to comply with any recommendations and censure measures for failure to do so.

Joseph Rae Hamilton
5th July 2014
To the Honourable Members of Tynwald Court

I authorise Phil Gawne MHK to present this Petition on my behalf

Signed: Dated: 29/4/2014

The humble petition of
Roseleen Harrison
2, Sandrock
St Marys Road
Port Erin
IOM
IM9 6JJ

Sheweth that
The Isle of Man does not have an Animal Welfare Act. I started the puppy farm petition last year and while researching for this I found a serious lack of legislation to protect our animals. This has left many opportunities for people to cause harm and unnecessary suffering. There are many stories of neglect and abuse on the Isle of Man, which has been allowed to happen without consequences. Not because the MSPCA do not care, they do. And have to see some terrible sights, they want to help, they go home knowing they have no power to help in certain situations. Animals are known to be living in horrendous conditions, but there is no workable legislation to seize or protect these neglected and abused animals, or to pursue legal action against the people who cause harm. Animals are a huge part of the Isle of Man’s history and future and should be treated with respect. We understand there are a lot of pieces of legislation waiting to be passed, but we feel that due to not having an animal welfare act, and only having brief and limited references to welfare, that legislation should be seen as a priority. I have collected many signatures in support of my campaign in the form of an informal petition to Tynwald

Wherefore your petitioner(s) seek(s) that

Tynwald bring in legislation equivalent to the united kingdom Animal Welfare Act 2006, that a Select Committee to be appointed to put together this piece of legislation. And that the informal petition stand referred to the select committee as evidence.

Signed Dated 29/4/14
IN TYNWALD

Monday, the 7th day of July, 2014

To the Honourable Members of Tynwald Court

The humble Petition of G. Stephen Holmes, of 127 Ballabrooie Drive, Douglas

Sheweth that –


The General Registry has a web-site called judgments.im and this web-site shows that every children matter in the Isle of Man is listed as an adversarial dispute : as A v B or K v J or even Holmes v Holmes. Children matters in England are listed as Re X (A Child) or Re X and Y (Children). A court in London referred to a matter here in the Island, and in England, as Re H (Children); a children matter should be anonymised. During the 1990s, minors matters under the Family Law Act 1991 were listed as Re B (A Child) but since about 2001 the General Registry (the administrative office for the Courts) has listed all children matters as adversarial, as A v Z, when children matters should be non-adversarial as Re (The Child).

His Honour Judge of Appeal Tattersall confirmed from the Bench (in September 2011) that children matters should be governed “differently from any other matter in the court system.” Following discussions with legal professionals, it has been learned that a Coroner’s inquest is a non-adversarial hearing “to find the truth”. A children matter should be a non-adversarial hearing to find the truth about what is best for the child; and this cannot be achieved if the “habit” of the General Registry is to list the matter as adversarial and to have no advocate represent the child. On 5th September 2013 Sir James Munby publicised an “in chambers case” Re J (A Child) but kept the name of the child secret (although the name was widely available on the world-wide-web). This case is wonderfully governed and judged.

In Re J, the Applicants were represented, and a barrister “kept a watching brief” on behalf of the guardian of the child. No advocate has ever been appointed to keep a watching brief on behalf of a child in a private law proceeding under Parts 1 & 2 of the Children and Young Persons Act 2001 in the Isle of Man; children are unrepresented in hearings that concern their futures.
Manx Children do not get fair hearings in Court because matters are always adversarial; and Advocates representing parents are acting for their clients (who pay them). There are cases where the identities of children have been published by one of the Departments, contrary to law.

Over the last five or six years, I have spoken to many people who have been directly or indirectly involved with matters relating to Manx children – and I have assembled a mass of evidence to show that this listing of children matters as adversarial disputes between parents is the root of the problems in the Departments that have joint responsibility for safeguarding of children.

It is now well known that our services regarding children are inadequate or mediocre at best [shown by the Scottish Care Inspectorate report of March 2014]. The same people whose services are inadequate gave evidence to the Select Committee this year in the investigation begun as a result of the Petition of Mr Walmsley; and no mention was made of the failures in the General Registry when it comes to applications regarding the future of Manx children.

There have even been failures in that entity known as “the Crown in the Isle of Man” : all police officers are Crown officers, and this fine sub-Division of Government has shared responsibility for Safeguarding Children. The evidence that children matters are misgoverned is provided by the General Registry web-sites; and misgovernment is prohibited by the Customary Laws Act 1422 (s. 45). Partiality or bias is also prohibited by the same Act of Tynwald; the heading being Partiality and misgovernment prohibited. It should be noted that much of the Deemster’s oath is based on this section of the 1442 Act. The Partiality rule or bias rule is a fundamental rule of natural justice, but is also (almost) our oldest Statutory law; a hearing must be fair. If the hearing is about a child “in the matter of A versus B” that child does not get a fair hearing from the court administrators, or the from the justices.

The General Registry is an entity of government that should be charged with shared responsibility for safeguarding children, but this particular entity has failed in its duty of care for at least the last eleven years. It is the view of this Petitioner that the Departments of Social Care, of Home Affairs and of Education are complicit in failures to uphold the statutory law of this Isle, probably because nobody in any of these departments is appraised of modern children law. Tynwald passed an excellent statute in 2001, but the implementation of this statute is left to administrators in an entity of government (the General Registry) where the CEO answers to no-one, and so justice has failed.

Wherefore your Petitioner seeks that –

Tynwald appoint a Select Committee to inquire into alleged failures of matters in relation to children, in the General Registry. A thorough independent investigation should be made into every children matter, both private and public matters, since 1st Feb. 2003 [the date the CYPA 2001 entered into force] to ensure that matters have not been unlawfully misgoverned.

G. Stephen Holmes
IN TYNWALD

7TH July 2014

To the Honourable Members of Tynwald Court

The humble petition of

Mr Philip Donald Jenkins & Mrs Kirrie Anne Jenkins of Ballagreyney, Colby Glen, Colby, Isle of Man IM9 4HJ

Sheweth that

The present planning and building control system is not fit for purpose.

People are not treated equally and it is open to abuse and cronyism and is detrimental to the people of the Isle of Man.

Wherefore your petitioner(s) seek(s) that

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report on the ambiguity and weaknesses in the practices and laws relating to planning, building control, and connected matters.

Signed

[Signatures]

Mr PD Jenkins  Mrs KA Jenkins
IN TYNWALD

5th July 2014

To the Honourable Members of Tynwald Court

The Humble Petition of

Christopher McEvoy of Flat 2, 5 James Street, Douglas

Sheweth that

The Lord Bishop is an ex officio Member of Tynwald. In this day and age Tynwald should be composed of elected Members rather than appointed ones.

Wherefore your Petitioner seeks that

Tynwald appoints a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and to report to Tynwald about methods of amending the membership of Tynwald to ensure that only elected Members continue to sit and vote.

Signed:

Christopher McEvoy
IN TYNWALD

7th July 2014

To the Honourable Members of Tynwald Court

The humble petition of James David Moore of Ballaberna, Maughold

Sheweth that in December 2008 Tynwald approved the Countryside Care Scheme which changed the requirements of farmers to receive Government financial support from the requirement to produce agricultural products which would meet the required standards to being paid for just maintaining the land in a condition that is capable of returning to agricultural production anytime during the growing season of the following calendar year but without the need to produce food products which is in conflict with a Tynwald resolution from Mr Ronan MHK approved in January 2014 to increase food production and Tynwald’s acceptance of the Food Strategy Report in June 2014.

Wherefore your petitioner seeks that, as agricultural production throughout the EU continues to require subsidies in addition to market returns to be viable and as a consequence of the subsidy payments being decoupled from production under the Countryside Care Scheme, it has become more profitable for farmers to reduce production as this reduces the amounts farmers have to take from their Countryside Care receipts to pay production costs and that as a result production levels from Island farms have fallen considerable since decoupling in 2008 and is likely to fall still further as productive farms will have insufficient to fund the deficits with the change from historic subsidy amounts to a flat rate acreage receipt, Tynwald will review the criteria for farmers to receive Government financial support currently under the Countryside Care Scheme so as to achieve the objectives of both Mr Ronan’s resolution to increase food production and the Food Strategy document.

Signed:
Appendix 2

Petitions for Redress presented in the previous four years: annotated list
Petitions for Redress presented in 2013

Amy Burns and Lisa Morris seeking that Tynwald commit to make available 15 hours of free pre-school education to all eligible children in the year prior to their admission to school.

*In order.*

Michael Henthorn and others seeking that Tynwald appoint a Select Committee to investigate means by which Members of the public may be able to ensure there is compliance with Planning Conditions.

*In order.*

Stephen Holmes seeking that Tynwald appoint a Select Committee to inquire into matters in the Family Division of the High Court in relation to children.

*Not in order.*

David McWilliams seeking that Tynwald appoint a Select Committee to examine welfare provision for the vulnerable.

*In order.*

Michael Geoffrey Speers seeking that Tynwald appoint a Select Committee to conduct a review of the processes used by the Independent Review Body and Noble’s Hospital.

*In order. Debated 10th December 2013 and adjourned sine die.*

Philip James Walmsley seeking that Tynwald appoint a Select Committee to review the law relating to care and upbringing of children in cases of broken marriages and relationships.

*In order. Select Committee appointed on 10th December 2013.*

Sarah Lee Watterson seeking that Tynwald appoint a Select Committee to investigate laws relating to all property matters.

*In order. Select Committee appointed on 10th December 2013.*
Petitions for Redress presented in 2012

Stephen Holmes seeking that Tynwald appoint a Select Committee to inquire into the feasibility of creating a position of Children’s Commissioner in the Isle of Man.

In order.

Graeme John Nash seeking that Tynwald appoint a Select Committee to look into the responsibilities of buyers and sellers in the property transaction process.

In order.

Christopher Charles Thomas seeking that Tynwald appoint a Select Committee to investigate the fairness of human resource selection by government departments, bodies and associated organisations.

In order.

Petitions for Redress presented in 2011

Neil Alan Cushing and others seeking that Tynwald appoint a Select Committee on the route and design specifications of a Peel by-pass.

Not in order.

Aileen Fraser and Marion Ashcroft seeking that Tynwald appoint a Select Committee on the constitution of the Advocates Disciplinary Tribunal and Appeals Panel.

In order.

Joseph Rae Hamilton seeking that Tynwald appoint a Select Committee on the responsibilities of local authorities where declarations of interest are concerned.


Robert Powell Hendry seeking that Tynwald set up a Select Committee on the conduct of the Department of Community, Culture and Leisure and its predecessor body in relation to historic rolling stock owned by the Isle of Man Railway and Tramway Preservation Society Limited.

In order.
Stephen Holmes seeking that Tynwald appoint a Select Committee on access to justice in cases involving children.

*In order.*

Tristram Llewellyn Jones seeking that Tynwald appoint a Select Committee on Children and Families Social Services.

*In order.*

David Nicholas Sykes and others seeking that Tynwald establish a Select Committee on the risk of flooding.

*In order. Debated 15th November 2011. Motion to appoint a Committee lost.*

**Petitions for Redress presented in 2010**

Charmian Perston seeking that the matter of the system of complaints about medical treatment for private patients be further investigated with the aim of establishing a complaint procedure system on the Isle of Man for private patients.

*In order.*

Marjorie MacMullen, Yvonne Williams, Michael Cook, Dorothy Cook and June Young seeking that Tynwald Court appoint a Select Committee to examine reform of the law relating to service charges with specific reference to freehold property.


Paul Smith seeking that Tynwald Court enquire into the impact on the administration of justice of the lack of a cost free complaints process through the Lieutenant Governor or internal Government procedures in relation to decisions by the Legal Aid Certifying Officer.
