

Clare McDonough – Committee Administrator Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners Legislative Buildings Douglas IM1 3PW

31st August 2007

Dear Committee

PAG Submission - Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners

- 1) Although not able to directly provide evidence to the Select Committee, Positive Action Group wishes to comment on an underlying principle that emerges from public hearings so far, viz., "Conflicts of Interest"
- 2) The conduct of Braddan Commissioners, its former Clerk and certain Government Officials may or may not have been inappropriate. However, even a *suspicion* of a conflict of interest leads to disquiet and undermines public confidence in public servants.
- 3) In the interests of good governance, PAG considers it vital that the public maintains trust in its Elected Representatives and Public Officers, at both National and Local level.
- 4) Many governments and public service organisations worldwide provide Legislation; firm Guidelines or strict Codes of Conduct about conflicts of interest. These often set out the sanctions that may ensue if persons are found to be guilty of such conflicts. Existence of such measures is recognition of potential problems.
- 5) Indeed as recently as April of this year Council of Ministers approved Staff Guidance Notes regarding conflicts of interest for distribution to Government Chief Officers and incorporation within the Corporate Governance Handbook. A video disc has also been produced for public servants on standards expected in public life.
- 6) A ruling by His Honour Deemster Kerruish on 12th February 2007 in the matter of a Petition of Manx National Heritage may have prompted the April Council of Ministers Approval. In this ruling, Deemster Kerruish made reference to the "perception" of conflict of interest in relation to the "compact" nature of the Isle of Man public service.
- 7) In an earlier judgement His Honour Deemster Corrin had stated, "the disinterest of those dealing with public business should be demonstrable" [Pilling v DOLGE and Anor].
- 8) In December 2002, these comments were heavily relied upon by the Final Report of the Select Committee on Complaints of Maladministration Made by Mrs A E S Pilling.

At paragraph 20.01 "Recommendations" the Report states:

"It should be accepted as a rule in the public service that wherever an official might reasonably be perceived by a member of the public to be likely to be biased, partial or otherwise personally interested in the outcome of dealings between the citizen and the state, that official should cease to be involved with them".

 Similarly in April 2004 a Report of the Standing Committee of Tynwald on Expenditure and Public Accounts: Ramsey Post Office and Associated Matters highlighted this area.

At paragraph 9.4 that Report states:

"We recognise that the Island has a relatively small population and there are many links to members of the public through family connections, business associates and friendships. It may therefore sometimes be difficult for Members of Tynwald or members of the business community to distance themselves sufficiently to ensure that they cannot be criticised for a potential conflict of interest."

10) Our final example of a Committee of Tynwald making direct reference to a conflict of interest is in May 2001 and The Select Committee of Tynwald on the Petition of Redress of Grievance of A D Radcliffe. This case directly involved a Government Minister (DOLGE) who failed to declare an interest in the rezoning of land within close proximity to his home.

At paragraph 10.1, one of the Committee's recommendations is:

"We recommend that, when a Member of Tynwald or a member of any elected body is considering whether he should declare an interest, he should err on the side of caution, as much for his own protection as for any other considerations. The principle of transparency should be paramount".

11) Thus, the problematic issue of ensuring immediate and open declarations of any possible Conflict of Interest has been prominent in public polemic for at least the last 6 years. The Manx Judiciary has issued guidance and rulings that create precedent as to the standard expected from Elected Representatives and those involved in Public Service. Various Committees have recognised the existence of a problem and have made recommendations in an attempt to eliminate even the "perception" of any Conflict of Interest.

As to matter in hand, no-one of any standing in public service can credibly deny an absence of some knowledge about the underlying concern on this subject.

- 12) This Select Committee will soon have to address this very same issue again.
- 13) PAG fervently believes that the only way to address this undermining, disruptive, perceived malaise in our society is through:
 - Effective Legislation
 - Prompt disciplinary action against anyone bringing trust in the unbiased delivery of the provision of National or Local Public Services into disrepute through self interest
 - Demonstrable action to retrieve any financial benefit gained by any individual involved
- 14) It would be easy for the Committee to confine its investigations to the actual Facts and Circumstances of the various parts of its brief. However, by referring to the findings of prior Tynwald Committees and the repeated observations of the Courts, PAG is attempting to place the existing "Braddan Affair" into context.

It is the latest episode giving concern in a continuum of repetitive suspicions about Conflicts of Interest.

- 15) Without wishing to pre-empt the outcome of the Select Committee's deliberations, PAG would urge the Committee to be bold and to set out specific recommendations that aim to restore the public's confidence and credibility in our system of Public Service Administration.
- 16) Such recommendations need to be based upon establishing as pre-eminent the principle of impartial and unbiased "Public Service" by laying down clear and effective rules and procedures to enable its insidious enemy "Personal Self-Interest" to be openly confronted and punished.
- 17) At the heart of any such recommendations, PAG would request that the Select Committee call for the urgent introduction of a "Conflicts of Interest Act" for the Isle of Man.

PAG wishes the Select Committee well in its deliberations and look forward to studying the ensuing Report.

Kind Regards

W Roger Tomlinson Chair - Positive Action Group

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