

**RESPONSE TO CONSULTATION ON PROPOSED FREEDOM OF
INFORMATION BILL.**

Isle of Man Pensioners' Association.

August 26th, 2010.

Dear Sir

We fully concur with the views expressed by The Office of the Data Protection Supervisor's response to Consultation on Freedom of Information - A draft Bill.

We wish to have the name of The Isle of Man Pensioners' Association (IOMPA) added to the response that you have received from The Office of the Data Protection Supervisor.

<http://www.gov.im/lib/docs/odps//odpsfoiresponse23072010.pdf>

In addition IOMPA wishes to add comments of its own.

IOMPA has over the years and indeed is at the present time making use of the United Kingdom's Freedom of Information Act in order to obtain information denied to us by the Isle of Man Government and its Civil Servants.

It is the intention of the draft Bill under

1. Clause 5: Public Authority

that the Council of Ministers is not to be included in the list of public authorities and that no request for information can be made to the Council of Ministers as a "request for information". This makes the proposed legislation utter nonsense. This is further compounded by preventing the Council of Ministers from being added to the list of public authorities by Order at a later date. In the UK, their Freedom of Information Act applies to information held by the UK Cabinet. However the Bill does not prevent the supply of information with the leave of the Chief Minister. Does this not leave the Isle of Man open to be seen as a latter day "Animal Farm". Are we not a mature democracy? Is not "Freedom to Flourish" a much heralded slogan, in fact meaningless without an open, transparent jurisdiction? Surely if more information is made available to the public then fewer requests will have to be made on the resources of the public authority. IOMPA proposes that the Council of Ministers be included in the list of public authorities.

IOMPA has experienced such prevarication and lack of openness to be pointless and with an individual or group who are prepared to pursue their objectives to be counterproductive. By way of an example, IOMPA is engaged with a group including Age Concern, other similar groups and the relevant Government Department to discuss issues relating to older people. I am still trying to obtain a Government Report or alternatively a response that it is no longer available. Below is a part of my attempts to obtain a response to what I thought was a simple request.

On 260210 14:00 I contacted Ken Crellin DHSS by email to obtain A REPORT TO THE SOCIAL SERVICES DIVISION ISLE OF MAN GOVERNMENT AUGUST 1999 "THE NEEDS OF PEOPLE AGED 65 AND OVER ON THE ISLE OF MAN"

Michael Preston-Shoot Professor of Social Work and Social Care Liverpool John Moores University

110310 14:04 I again contacted Ken Crellin, who forwarded on my request.

220410 17:59 I contacted Kate Hooson Owen – same request. Response received.

190510 11:41 I again contacted Kate Hooson Owen – same request. Response received.

060710 17:08 I again emailed Kate Hooson Owen – see below no reply

**From: Paul Chambers [mailto:p.s.chambers@mcb.net]
Sent: 06 July 2010 17:08
To: 'Kate.Hooson-Owen@gov.im'
Subject: Request for documents**

Dear Kate

Further to my email of 19th May and all the other emails to members of your Department since the 26th February, any chance of a positive response?

Paul

In 2009 IOMPA used the UK Freedom of Information Act to publish the calculations by which the Common Purse Agreement VAT returns were decided. The IOM Government has still not released these calculations to the public.

2. Clause 10: Fees

The intention to levy a fee for all requests seems intended to deter people from making requests for information that in a democracy should be readily available. The intention to prescribe and levy a blanket fee for all requests is unlikely to meet the standards set down in Article 7 of the Council of Europe Convention on Access to Official Documents (“The convention”). IOMPA proposes that if fees are to be charged they should be the same as those applicable to requests made under the UK Freedom of Information Act.

14. Clause 43: Vexatious Requests.

A concern regarding this particular clause is who decides what is vexatious.

Using the IOMPA example above it would appear that the lack of response from IOM Social Services for information as to whether a report is available or not indicates that the request is being obstructed as staff do not consider the request to be of any importance. IOMPA is attempting to engage in meaningful discussion with other bodies including a Government Department and is being obstructed by a lack of response.

A public authority is not in a position to know why a person seeks the information and therefore is not in a position to determine whether the information is “sought for a bad or illegitimate reason.” To create a power for a public authority to establish the purpose for which a person seeks information is contrary to Article 4 of The Convention.

It is depressing to think that it has taken the Isle of Man so long to address the concept of a Freedom of Information Bill. As Julian Assange warns, “Any time people with power plan in secret, they are conducting a conspiracy.”

Paul Chambers

Chairman

Isle of Man Pensioners’ Association

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IOMPA does not require this response to be kept confidential