

Paper 1

Review into the Parliament of the Isle of Man The Tynwald Remit –

“That Isle of Man Government should establish an independent review using its powers under the Inquiries (Evidence) Act 2003 to examine the functioning of the branches of Tynwald and to consider options for reform.”

The Review is to:

- *examine the functions of the branches of Tynwald*
- *assess their efficacy*
- *consider the scrutiny structure required by the Parliament*
- *recommend any options for reform*

and to report to the sitting of Tynwald on 19th July 2016.”

Response to the call of evidence by R. W. Henderson, MLC

Legislative Council – Reasons to Keep the current format:

I intend to major on the Legislative Council as I believe it has the power to continue to serve Tynwald and be an architect of reform.

The below is in note format.

In my opinion LegCo serves as a valuable reviewing and 'second look' forum empowered to revise or propose amendments to legislation - most often government and sometimes private members' Bills - under consideration by the House of Keys. Provides a process for legislation / Bills – to be re-read and re-considered, going through similar stages to that in Keys, thus ensuring an invaluable additional scrutiny process.

This process provides for any errors to be identified and rectified, also opportunities to expand and/or rewrite sections of legislation for the purpose of greater clarity, such as in the case of the recent Road Racing Bill.

There is also a process of deputations which can meet between both branches to discuss legislative issues and find a way forward. This provides a further avenue of scrutiny, review, clarification and amendment, thereby avoiding any potential impasse between the two branches and allowing a solution to be reached acceptable to both sides.

It also provides for the provision of a LegCo subcommittee Select Committee to examine legislation laid before it then come back with recommendations to the full branch. This has proved to be a valuable exercise and I cite the attached recent LegCo report from one such subcommittee – 'Report of the Select Committee of the Legislative Council on the Highways (Amendment) Bill 2015 – 2015 – 2016' as one of the more recent examples of the value of this process.

The work of LegCo in this area can clearly be evidenced in previous order papers (LegCo Order Paper 26th of April, 2016 attached) where extensive amendments to various pieces of legislation can be seen. The author would strongly recommend that the reviewer access at least one year's worth of previous LegCo and Keys' order papers to better understand how the process of review sees Bills shuttling between the two branches while

legislation is being considered. It is this legislator's firm belief that this scrutiny model ahead of any legislation being passed is essential for clarity, transparency and parliamentary democracy and is in the interest of every Manx citizen.

The Isle of Man Parliament is technically a micro-parliament, operating at, I would suggest, critical mass in terms of numbers to conduct viable democratic process, functions and requirements. Any fewer in number (which has been mooted by the 'do away with LegCo altogether' faction), then I think its functionality would be seriously compromised or become inoperable. The Tynwald System is stretched now: evidenced by the various committees currently functioning; imposing considerable demands on the time of members and of our small administration team.

Therefore to abolish LegCo and move to some sort of committee system, which has been suggested by some as a replacement 'Keys System' that would examine legislation coming before the Keys, would not work. In fact, it could have the effect of seriously disrupting the work of Keys as the house would be faced with an over-elaborate system of additional committees for every Bill, which would be totally impractical and unworkable.

The Manx parliamentary structure would then shrink to a point below critical mass and be democratically unsustainable.

Also separation and impartiality - that loss of 'examination by a fresh set of eyes' - would be seriously compromised were there such a small college from which to operate. Furthermore, with Ministers being signed up to collective responsibility, there is a risk of conflict, given the relatively small number of Keys members, all with their various governmental and departmental responsibilities, to act on any one committee.

There could also be, quite justifiably, a perception of bias levelled at such a process. It would also mean that, in the main, Ministers would be seriously compromised if working on such committees. If Ministers were exempted from such committees then that leaves an even smaller, unworkable number of Keys members to undertake such additional work.

LegCo operating separately from Keys as an impartial, conflict-free reviewing chamber works well in the public interest and for transparency. If there is a perception of bias within LegCo performing its functions, where by one Member is also a Member of the sponsoring Department of which that Department's legislation is under examination - this is outweighed by the number of LegCo Members versus that one Member – negating 'executive dominance' in the 2nd or Upper House.

The current functionality of LegCo and Keys with the aggregate of both chambers numbers - supplies the required 'member numbers' for their roles separately in each chamber and in Tynwald. This is especially so for committee and government department work purposes – working in a viable fashion to answer the above issues relating to 'a below critical mass.' In other words keeping LegCo – as their numbers are critical to the operation of our parliament, various parliamentary committees and departmental system. Within those systems LegCo (Members) provide the experience, independence and a separate 'set of eyes' to the oversight required in the discharge of such work. Of particular note here is the fact that legislation and our current system allows all Tynwald Members to be Members of government departments – as an accepted part of our political structure – and desired part of that structure. Thus ensuring a full political balance to any department or board membership and input there of.

A publicly elected LegCo would pose other sets of issues and problems. Would LegCo become a quasi-Senate? Were that the case it would become a parliamentary powerhouse in its own right, something which exponents of reform for LegCo are trying to avoid, and so would present something of a paradox to the reform/abolish argument.

Another issue: 32 publicly elected members and or a move to unicameralism? This would have the effect of dismantling Tynwald as we know it. It would produce a whole new political working dynamic. The independent reviewing mechanism and 'check to the executive' / legislation would be lost. I don't think anyone has actually undertaken a full impact assessment of what that could mean and the inherent 'law of unintended consequences' that would inevitably follow.

The whole operation of Tynwald - its functions, how members work on government departments, and the ministerial system - would have to be re-worked. It would mean rafts of new legislation, policies and procedures. It would mean a complete sea change of the political / social environment for the Isle of Man: a fundamental change of what is in place now. I can't see any compelling argument for this. Importantly, no argument has been forthcoming which is factual or evidence based, or can clearly demonstrate there to be flaws of such a fundamental nature as to be causing our political / administrative system sufficiently serious issues to warrant such a deep-seated overhaul and the attendant ramifications.

That there is a second branch to Tynwald via the electoral college of the Keys, causing LegCo Members to be indirectly elected to the Manx Parliament, has proved a very workable and pragmatic parliamentary model and supports the island's fundamental constitutional development, which also negates the argument that our current arrangements are stifling the democratic process.

LegCo and the composition of Tynwald have undergone fundamental political reforms over the years. These include the removal of the Lieutenant Governor's 'chairmanship' role and of his financial control over the national budget; also removing the power that gave LegCo, and the institutions of the ministerial system and President of Tynwald. I believe the current legislative system is politically sharp and in good administrative shape. This is not, however, to say that improvements - but not radical overhaul - could be made to sharpen it further:

- 1 Review the election process of LegCo Members by Keys as the current system can cause weeks of 'deadlock', a factor I believe to be a major cause of stress, leading to parliamentary and public frustration. It also engenders much, in my view justified, negative media comment. Further – I feel this issue, singularly, caused the most criticism of LegCo and calls for reform
- 2 Study other parliaments where a bicameral operation with an indirectly elected or nominated upper house forms part of the structure and see if there are any elements worthy of cherry picking and importing into our system, albeit customised for the Manx parliamentary system
- 3 A review of what work - apart from its main functions - LegCo should be undertaking; also look at what additional work such as policy / strategic issues it could consider
- 4 A review of the Keys, LegCo and Tynwald standing orders, as these mechanisms provide plenty of scope for internal adjustments which would provide 'progression of constitutional development' in a more pragmatic way, without the need to disassemble parliament
- 5 Establishment of an Inter House Cooperation Committee

Frequent amendments from LegCo are referred to Keys, good recent examples such as the Road Races Bill – which had to be re-written in places - and the Marriage and the Civil Partnership Bill illustrate the effectiveness of what is a fully functional and workable reviewing process.

1. A second chamber / upper house gives the system a 'check and balance' to the first house and or government operating within the first house, especially as our executive operates in near majority, as is argued elsewhere in this paper and in paper 2. LegCo provides this function, either as a check on government, or on a Keys initiative that may, for example, have been hastily passed, or ill considered. LegCo can block legislation, delay it and can do so when it operates within Tynwald. It is an invaluable principle for any responsible parliament: to operate a check and balance system. Also an important stay or block to ill-considered change, safeguarding civil liberties and general principles of common law and affording protection to the rights and privileges of a community. This check and balance is also there, should potential constitutional issues arise in the future, providing an element of 'democratic security'

To have this check and balance to the lower house, any upper chamber (and LegCo) must enjoy full separation and be distanced to be free to carry out this function. Therefore were a second chamber to be formulated from, say, a directly elected Tynwald, 'impartiality – real and perceived – would be lost as it would be an internally constituted committee. The effect would be much the same were there to be some form of unicameralism dynamic. In my view either option represents a step backwards for democracy

LegCo is formed not all at once but on a seat-by-seat basis, and evolves gradually as its membership changes, which gives it a clear sense of separation

2. Legislation can commence in LegCo – such as recent Treasury Bills and, importantly, the Equality Bill which is being substantially amended
3. Allows for Bills to commence their passage if there is an issue such as timing when it can't fit into the Keys' programme or if Keys can't take it – such as when the House is dissolved. This is particularly pertinent currently as that is exactly what is happening to some legislation so that it can begin its legislative transit in LegCo then await the new House of Keys. Any Bills commencing their passage now, or in the recent past which had little hope of gaining Royal Assent prior to the House being dissolved in July, would fall. So, Bills such as the crucial Equality Bill, on which the Island's future international reputation hangs, with its nearly 170 clauses and which has generated much publicity, is one such piece of legislation beginning in LegCo. In this way the Island can demonstrate to the world its robust scrutiny of equality legislation and demonstrate we are keen to progress such legislation
4. Provides the Manx Parliament with an invaluable experience resource base for input to both LegCo work *per se* and in Tynwald, LegCo members being, in the main, drawn from Keys. Provides continuity and guidance for Tynwald - especially when a new house is formed - and for government departmental work, which LegCo members also undertake and continue when the House of Keys is dissolved

5. LegCo work in Tynwald – using experience base to add to debates
6. LegCo members are easily accessible to members of the House of Keys and the public alike, assisting them whenever and however they can
7. By virtue of its unique role LegCo promotes the Island on many different levels, such as through memberships of the Commonwealth Parliamentary Association, government departments and, of course, Tynwald
8. LegCo votes separately in Tynwald, providing an invaluable check to government when the branches are in disagreement or a motion to parliament fails. The motion can – but not always - be brought back to be voted on

The number of government ministers and political members of a department can accumulate to a near majority in Tynwald (this is far more evident in Keys). Political members of a department will be expected to vote with their minister, as will all Council of Ministers members, on any government motion, or legislation in the Keys, which makes this LegCo check and balance function always important and, at times, critical. This additional check in the system is possibly unique among parliaments and incredibly valuable as it strengthens democracy. If an item is to be brought back to be voted upon a month later, jointly, as per standing orders, it gives a time frame for discussion to take place and the item to be brought back under a new motion should it have been amended in any way

9. Lego has a unique historical and heritage lineage as it originally consisted of 'The Lord's Council' – the King or Lord of Man. Hence why we have the Lord Bishop and, latterly, the Attorney General as members. It thus forms part of the Manx Parliament, Tynwald, and has done so, most likely unbroken, since its inception by the Viking Kings who ruled Man. This renders the present incarnation of the institution and composition of Tynwald, from a cultural, historical, functional, and identity perspective, unique. It has created a parliamentary dynasty of international repute and respect, one which has and continues to hold the Island in good stead

10. Legislative Council, a chamber in its own right, takes part in Tynwald, when the two branches come together to form the unique tri-cameral or 'two plus one' - Manx Parliament – which has a 1000 year history of continuous unbroken service to the Island

11. Nearly all parliamentary visitors from other countries – Britain and beyond – are very impressed after observing Tynwald in operation, with many envious and favouring the *status quo*. For the current system to be disassembled would be a travesty indeed. Please see attached note from one such recent visit from the Scottish Parliament, also a press cutting from the Financial Times where there is a call for a 'two-tier system' in Scotland to be introduced following a report of concerns that the system there is not working as well as it could because it is suffering from party / executive dominance

12. In its present unique form Tynwald has the power to promote the Island economically, culturally, historically and politically. It is also fundamental to the Island's international reputation and image, a fact not lost on the government as

witnessed from its continual, promotional activities in efforts to boost our economy

13. Crucially the current structure enables the Island to be in charge of its own destiny, to make its own legislation and policies, thus allowing us to shape our way of life, politically, socially, culturally and environmentally. It also means that we are better placed than many other parliaments to respond swiftly and effectively to challenge and change. The current political system offers consistency, stability and certainty as well as a remarkable degree of public accessibility. This, in turn, contributes to resilient economic growth and business confidence, from financial services, aircraft and ship registry to manufacturing, e-gaming and more.

The business sector tells us time and time again that it is our political stability that attracts new and retains existing business. The way I see it is - that we tinker with our political and parliamentary institution at our peril

The Tynwald of today is delivering on all counts. The Manx Parliament has consistently shown itself to be well placed to cope with any change in the socio- economic/political landscape.

No system is perfect but, in the main, ours works...and works very well. Ironically the minority who have pushed for this review will now see this all the more clearly. The composition of Tynwald is right for the Island, never more so than now given the enormous economic challenges we are facing such as balancing the Isle of Man budget, currently some £75 million adrift; huge Manx Electricity legacy debts; sewerage/Water Authority operating costs; a massive deficit in our public sector pension scheme which, with a diminishing fund, has yet to be addressed; and an unsustainable state pension scheme

Given these factors I think it would be premature to alter the very structure that has delivered our success and proved resilient in the face of challenge. Fundamental change runs the very great risk of altering the parliamentary dynamics to such a degree that the very system on which we have relied, used to promote the Island and which gives us a competitive edge, becomes unstable and unsustainable and could severely damage our international standing. In short, why fix something if it's not broken?

In the pursuit of 'we must have reform' we also run the very great risk of falling foul of the law of unintended consequences and could be left isolated and vulnerable.

I have to raise a 'red flag' at this juncture - this island is facing the greatest set of international threats in its history: 'Brexit,' 'the Panama Crisis,' and unrelenting scrutiny by the G7, G5, OECD, Europe – ECOFIN, FATF, FATCA and MoneyVal to name but a few issues and European bodies involved. The effects of this scrutiny and reform in the name of greater transparency, financial regulation and increased exchange of information place huge additional burdens on the Island and threaten its future wellbeing. I can't over emphasise these very real dangers circling our jurisdiction currently and the potential economic and political damage that could be caused.

Similarly, damage limitation efforts to counter the perception of offshore finance jurisdictions, together with scrutiny reviews by the USA and UK has a major impact on our Island.

Most of these reviews lead to a scrutiny delegation visiting the island, causing an inordinate amount of additional work, pressure and anxiety. I cite the Edwards Review of the early 2000s which was a major UK undertaking and created a huge amount of extra work, and the current MoneyVal review (delegation here now at the time of writing).

My point being is that we should be concentrating on these really big, potentially harmful issues and not be sidetracked by 'internal reform meanderings', so we can navigate the island through to long-term economic security.

Furthermore, the very system we rely upon, a robust, resilient system which is holding us in good stead. A system which provides us with stability, security, certainty and flexibility – the platform the Island needs more than ever now, we are considering deconstructing it in some of the most dangerous times the Island has ever had to face and endure. I feel at this point the reform which is being called for by some is premature, and would do more harm than good, causing instability and uncertainty – the last thing we want at this time.

I have been a member of Tynwald for nearly 20 years and can honestly report that in all my time and contact with the public, not once has the issue of LegCo reform been raised as a major concern. True, we have had comments and matters put to Tynwald over the years for reform, but it only becomes an issue when it is voiced by a few politicians or aired in the media as an issue focusing largely on LegCo not being directly elected by the public and therefore, reformers believe, undemocratic.

One such argument was during a recent Tynwald debate (20th of April, 2016) regarding a proposal that challenged the current system of voting within Tynwald. It transpired that what the mover of the resolution was wanting - reform - had already taken place. Much of the historical evidence presented by the mover omitted the fact that there was a Lieutenant Governor in Council who also acted as a presiding officer, and to all intents and purposes, as Treasury minister, so of course there were calls for reforms at that point.

What this debate did, and I'm sure the review will have sight of the relevant Hansard Report, was to confirm that the occasional call for reform by minorities is a personal perceptual issue for the mover of any debate on the matter. The call for reform seems to be one of a populist standpoint: it's a

good mantra to adopt and difficult to vote against. The more the reformers' evidence is scrutinised the stronger my alternate view becomes. It transpires that the evidence 'for' lacks depth and the evidence to retain the current system has many benefits and works well. All of which supports my contention that this is a political perception issue rather than a functionality issue, or one generated out of national interest.

Tynwald in its current make up is most certainly democratic, functional, practical, and pragmatic... and it works well for the community and the Island.

Tynwald is an institution which is the envy of many, not least in its closeness to and accessibility by the community. Furthermore, members are not hindered in any way in expressing themselves, putting up private member's bills, private member debates, questions and scrutiny, much of which succeeds.

No doubt a call for evidence for this review will stimulate responses that may not have otherwise been forthcoming as a major issue. In saying that, I do not intend any disrespect to the review whatsoever, or to the input of individuals, but would merely point out the inevitable.

The deeper we look into 'our Tynwald' we find a system that we should be justifiably proud of and support unreservedly as the system best suited to the unique nature of this Island.

Having stated I never had this reform issue pushed at me by a member of the public and certainly not when I have been out canvassing, what I am contacted about are very different issues:

- Wages
- The cost of living

- What is directly effecting people's everyday lives
- Pensions – state and public sector
- Less disposable income
- Cost of heating
- Housing
- The cost of the Health Service
- Recent Government charging policy
- Improving the economy
- Threats to the Island

R. W. Henderson, MLC

12th of May, 2016

Attachments / Supporting evidence to Papers 1 and 2

1. Report of the Select Committee of the Legislative Council on the Highways (Amendment) Bill 2015. 2015 – 2016
2. Order Papers – Legislative Council – 26th of April, 2016 and 10th of May, 2016. House of Keys 10th of May, 2016
3. London School of Economics and Political Science – Article – 2014 – Elective Dictatorship
4. Restraining Elective Dictatorship, abstract, Aroney, Prasser and Nethercote, 2008
5. Select Committee on the Functions, and Procedure for Election, of the Legislative Council – Report – June, 1994
6. Kenyan Parliamentary Delegation Study Visit – IOM – May, 2016 – Study Agenda – Bicameralism in the IOM and ways in which to resolve conflict
7. The Legislature: Bi-Cameralism under the new Constitution – Constitution Working Paper Series No. 8. Society for International Development
8. 'Scottish politics 'dangerously lopsided' – Financial Times Article – 25th of April, 2016
9. Scottish Parliamentary Officers Visit to Tynwald – media release
10. Various articles from Tynwald information – giving a 'potted history / reference resource to the Parliament

Legislative Council – Functions, Description and History – ‘potted history’ taken from various papers – for information / reference -

The Isle of Man lies in the Irish Sea, roughly the same distance from England, Scotland and Northern Ireland.

The Crown's personal representative today is the Lieutenant Governor, who is appointed by The Queen and who has delegated power to grant Royal Assent to legislation dealing with domestic matters.

The Government, known as Tynwald, consists of two branches: the Legislative Council (mostly chosen by the House of Keys) and the House of Keys (which has 24 elected members).

However, the Crown, acting through the Privy Council, is the ultimate authority, with the Secretary of State for Justice and Lord Chancellor having prime responsibility as Privy Counsellor for Manx affairs.

The United Kingdom government is responsible for the defence and international relations of the Island.

On 5 July each year Tynwald Court assembles in the open air on Tynwald Hill at St John's. During The Queen's most recent visit in July 2003, Her Majesty presided over the outdoor Tynwald ceremony at St. John's.

The Queen is known in the Isle of Man as Lord of Man.

The Queen has visited the Isle of Man on various occasions, most recently in 2003.

History and background

It has the oldest representative government in the Commonwealth. The legislative system was introduced around 800 AD when the Isle was part of the Norwegian kingdom of the Hebrides.

The original government, the Tynwald, consisted of the King, two advisers, the chief officials and council, and the Keys, which was a representative group 'of the worthiest men in the Island'.

In 1266 the island was ceded to Scotland, and England later acquired it by treaty under Edward I. The lordship of Man was handed over to English lords in return for regular payments to successive monarchs.

From 1405 to 1765 the island was ruled by the Earls of Derby, and later the Dukes of Atholl, as Lords of Man.

The use of the island as a secure base for smugglers became such a problem that, in 1765, the British government gave the island its own legislature but required all customs and taxes to be paid into the British exchequer. The lordship reverted to the Crown, and George III became Lord of Man.

The Legislative Council is the upper Branch of Tynwald and its eleven members are either indirectly elected or sit ex officio.

The Legislative Council sits in public each week on a Tuesday from 10.30am except on the third Tuesday of the month and during recess periods.

The sitting may begin with Questions followed by the principal business of the Council which is the consideration of legislation. Although it is possible for Bills to be first introduced into the Council, by convention Bills are now usually first introduced into the Keys and the Council has become primarily a revising chamber.

The business of the Legislative Council is set out in an order paper, decisions are recorded in the votes and proceedings and the full record of everything said is set out in the Official Report - Hansard. For documents

from the current Parliamentary session go to Business. To search older documents use the links at the foot of the page.

The procedure in the Legislative Council is controlled by the President in accordance with Standing Orders, on which her interpretation is authoritative.

3. LEGISLATIVE COUNCIL

The constitution of the Legislative Council is set out in the Isle of Man Constitution Amendment Act 1919, section 7, [1] which states:

Constitution of Council

Notwithstanding any law or custom to the contrary, the Council shall, from and after the appointed day, be constituted in the manner herein provided:

(a) It shall consist, and consist only, of the following members, that is to say:-

(1) Two ex officio members, viz., the Bishop and the Attorney-General (such members being hereinafter referred to as the 'ex officio members').[2]

(2) Eight members to be elected by the House from their own members or otherwise (members so elected being hereinafter referred to as 'the elected members').[3]

(3)The President of Tynwald.[4]

The Bishop and the eight elected Members have a vote, while the President has a casting vote. The Attorney-General cannot vote.

a. The Work of the Legislative Council

In order to gain a full understanding of the work of the Legislative Council the information in this chapter should be read in conjunction with chapters: 5. Committees of the Legislature, 6. Business and Procedures of the Three Chambers, and 7. Making Legislation.

i. Procedure

Procedure in the Legislative Council is controlled by the President of Tynwald in accordance with the Standing Orders of the Legislative Council.[5]

The Legislative Council normally sits alone each Tuesday, from the fourth Tuesday in October to the last Tuesday in June, except for the third Tuesday in the month, when it sits in Tynwald Court.[6] All Members must attend unless leave of absence has been granted by the President.[7] The Council normally sits from 10.30am until its business is concluded.[8]

Before a sitting Members, and public attending,[9] take up their seats ahead of the arrival of the President of Tynwald and the Clerk of the

Legislative Council.[10] The Clerk and President process into the chamber, all present stand until the President is at his or her place, after which the Lord Bishop leads the Members in prayers.[11]

Members address all remarks to the President,[12] who controls proceedings invoking Standing Orders as necessary, but there is a degree of informality as may be expected in an assembly with a small number of Members.

ii. Business of the Branch

The business to be dealt with is set out on an Order Paper.[13] These are available from midday on the previous Thursday at the Tynwald Library and the Tynwald website www.tynwald.org.im and on the sitting day from the Chambers entrance lobby.

The Legislative Council is largely concerned with the consideration of draft primary legislation, Bills, but on occasion the sitting may begin with tabled Questions.

Bills may originate in the House of Keys or the Legislative Council but the former is more usual. Bills are considered in four stages: first reading, second reading, clauses stage and third reading.[14] Unlike in the House of Keys the first reading is debated and the second reading and clauses stage are normally taken on the same day.[15] Each of the three readings, and each clause or group of clauses, at clauses stage, must be carried by a simple majority of voting Members present.

At the end of a debate on a motion, the President puts the motion to the House. The Members say firmly together either 'Aye' or 'No' and the President announces the result on the basis of the oral response.[16] Any

Member may then call for a division which is taken by the Clerk of the Council calling on each Member by name to say “for” or “against” and recording the votes.[17] The Attorney-General does not vote.[18] The President only has a casting vote and this is usually exercised to preserve the status quo.[19]

Other motions and statements, though rare, may also occur. The Legislative Council may also resolve to sit in private, when all members of the public must withdraw.

Unlike the House of Keys, the Legislative Council is never dissolved, thus its business does not terminate. It continues to sit as normal and may consider Bills sent to it by the dissolved House of Keys. A Bill considered by the Council after the dissolution of the Keys, would have to be re-considered by the new House of Keys before it could be signed in Tynwald.

iii. Records

The Clerk keeps a record of the motions and any amendments moved, and whether these are approved or not. This information is issued as Votes and Proceedings.[20]

An ‘essentially verbatim’ record of the proceedings is produced by staff of the Official Report (Hansard). Since 2010 this has been produced using Voice Recognition technology. As soon as sufficient text is checked and passed for publication – often within hours of the start of the sitting – it is made available on the Tynwald website.

b. Members and Officers

This section outlines the roles associated with the Legislative Council. Details of the current post holders may be found in chapters: 8. Members of Tynwald and 12. The Clerk of Tynwald's Office.

i. The President

The President of Tynwald is elected by and from Tynwald, serving for a period of five years.[21] He or she presides at both at Tynwald and Legislative Council sittings.

The President, as the presiding officer,[22] usually remains impartial but in the case of a tied vote on a division does have a casting vote. The President is responsible for controlling the procedure of the Council and for the authoritative interpretation of its Standing Orders. He or she also has the duty of nominating the Member of the Council to be responsible for promoting each Bill which is to come before Council.

ii. Members

The eight 'elected members' of the Legislative Council carry out the work of the Council, debating and voting on primary legislation and occasionally posing and answering questions.

Most Members have one or more roles within the Isle of Man Government and serve on Committees of Tynwald.

Members of the Legislative Council do not formally represent constituencies in the same way as Members of the House of Keys. Nevertheless, Members of the Legislative Council are able to act as an

alternative conduit for public concern and in a similar advocacy-type role on behalf of individuals and groups.

iii. The Bishop of Sodor and Man

The Lord Bishop, of the Church of England Diocese of Sodor and Man occupies his seat on the Legislative Council by virtue of his position (ex officio) for as long as he holds office. He may both speak and vote.

iv. The Attorney-General

HM Attorney-General occupies his seat on the Legislative Council by virtue of his position (ex officio) for as long as he holds office. He may speak but not vote.

v. The Clerk of the Legislative Council

The Clerk of the Legislative Council is responsible for advising the presiding officer, and other Members, on the business of the House and on the interpretation of its Standing Orders.

The following are the duties of the Clerk of the Legislative Council as per the Standing Orders of the Legislative Council:

(1) The Clerk of the Council shall keep the Minutes of the Proceedings of the Council and of Committees of the Council.

(2) The Minutes shall record the names of the members attending and all decisions of the Council and of Committees of the Council.

(3) In the case of a division of the Council or a Committee of the Council, the Minutes shall include the numbers voting for and against the question, and the names of the members so voting.

(4) The Clerk shall be responsible for the custody of the records, Bills and other documents laid before the Council, which shall be open to inspection by members of the Council and other persons under such arrangements as may be sanctioned by the President.

(5) The Clerk shall transmit to the House of Keys Bills which have been introduced into and passed by the Council or Bills which have come from the House of Keys and been amended by the Council.

vi. Messengers

The Messengers carry out the duties prescribed by the President. Their routine duties include conveying written and oral messages between the Members and the officers of the House.

vii. Seating Plan

In the Legislative Council, the Members sit on the outer curve of a semi-circular table, with the President's chair in the middle. To the immediate right of the President sits the Lord Bishop of Sodor and Man, to the immediate left HM Attorney-General for the Isle of Man. The remaining eight Members are seated in order of seniority of service outwards on both sides from the centre, the more recently elected Members sitting furthest from the President on both sides. The table has been in place at least for the last century.

[Click here to view the most recent seating plan.](#)

c. Elections to the Council

Eight Members of the Legislative Council are elected by the Members of the House of Keys for terms which end on the last day of February following the fourth anniversary of their election, [23] a maximum of five years, less if a Member does not complete a full term for any reason. The Members are elected in two groups of four in different years, to provide continuity of membership.

The process by which Members of the House of Keys elect Members of the Legislative Council is regulated by Acts of Tynwald [24] and the Standing Orders of the House of Keys.[25] For more details see the House of Keys chapter.[26]

d. New Members of the Legislative Council

Newly elected Members of the Legislative Council must enrol their commissions or certificates of appointment in the General Registry, and take the Oath of Allegiance to Her Majesty and the oath for the performance of their duties.[27]

The oaths must be sworn before taking up their seat, regardless of whether or not they have taken them before in assuming present or past official or elected positions.

The practice is that the First Deemster and Clerk of the Rolls calls on the Member(s) to take the oaths, administers the oaths to the Member(s) and

duly witnesses the signature of the Member in the Liber Juramentorum or Book of Oaths which carries details of all people who have been sworn into official office and taken the oaths since 1649. The President is given a copy of the warrant of election, then welcomes the new Member(s), and presents them with a copy of the Standing Orders of the Legislative Council. The Member is escorted to his or her seat.[28]

A short ceremony for taking the oaths may occur in private in the Deemster's Chambers. More recent practice has seen it carried out in public in the Legislative Council chamber, allowing for family and supporters to witness it. The First Deemster and Clerk of the Rolls is accompanied by the Chief Registrar who brings the present volume of the Liber Juramentorum.

The oaths are:

"I, (full name), do swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors.

So help me, God."

"You shall well and truly serve as a member of the Legislative Council of this Isle, according to the statute in that case made and provided. You shall use your best endeavours to maintain the laws and customs of this Isle, and shall justly and truly deliver your opinion and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof, but in all things you shall deal uprightly and justly and do wrong to no man.

So help you, God.”

The oaths may also be taken in Manx.

Ta mish loo liorish Jee Ooilley-niartal dy bee'm firrinagh as dy feer ammyssagh da e Hooashley Reeoil y nah Ven-rein Elizabeth, chairn Vannin.

As ayns shoh dy gooin Jee lhiam.

Nee oo dy mie as dy firrinagh shirveish myr Oltey jeh Coonceil Slattyssagh yn Ellan shoh cordail rish yn Clattys jeant as currit magh ayns y chooish shen.

Gys rere dty phooar nee oo cummal seose Leighyn as Cliaghtaghyn yn Ellan shoh, as nee oo dy cairagh as dy firrinagh dty vriwnys y livrey, as cairys y yannoo ayns dy chooilley chooish hed er soigaghey kiongoyrt rhyt, gyn foayr ny kenjallys, gyn cleunys ny mooinjerys, gyn graih ny aggle, gyn leagh ny cosney ny jerkal erbee rish lheid y red shen, agh ayns dy chooilley nhee nee oo dellal dy ynrick as dy cairagh, gyn aggair y yannoo da dooinney erbee

[1] Extract as at 31 Jan 2011

[2] Sub-paragraph (1) amended by the Isle of Man Constitution Amendment Act 1965, section 1 and by the Isle of Man Constitution (Amendment) Act 1975, section 1

[3] Sub-paragraph (2) amended by the Isle of Man Constitution (Amendment) Act 1975, section 1

[4] Sub-paragraph (3) added by the Constitution Act 1990, Schedule 1

[5] Available from the Tynwald Library and www.tynwald.org.im

[6] Standing Orders of the Legislative Council, 1.1

[7] Standing Orders of the Legislative Council, 3.1

[8] Standing Orders of the Legislative Council, I

[9] Standing Orders of the Legislative Council, 3.11

[10] Standing Orders of the Legislative Council, 3.2

[11] Standing Orders of the Legislative Council, 3.4

[12] Standing Orders of the Legislative Council, 3.10(1)

[13] Standing Orders of the Legislative Council, 2.1–2.2

[14] See chapter 7. Making Legislation

[15] Standing Orders of the Legislative Council, 4.3

[16] Standing Orders of the Legislative Council, 3.8(1)

[17] Standing Orders of the Legislative Council, 3.8(2)

[18] Isle of Man Constitution Act 1971

[19] Standing Orders of the Legislative Council, 3.8(3)

[20] Available from the Tynwald Library and www.tynwald.org.im

[21] Constitution Act 1990, section 2, section 3

[22] Constitution Act 1990, section 4(2)

[23] Isle of Man Constitution (Amendment) Act 1991, section 7(as amended)

[24] Isle of Man Constitution (Elections to Council) Act 1971 which shall be construed as one with the Isle of Man Constitution Acts 1919 to 1971 and those Acts and this Act may together be cited as the Isle of Man Constitution Acts 1919 to 1971, as amended.

[25] Available from www.tynwald.org.im

[26] See chapter.4e. Elections to the Legislative Council

[27] Standing Orders of the Legislative Council, 6.1

[28] See chapter 3b.vii. Seating Plan

5. COMMITTEES OF THE LEGISLATURE

An important feature of the Legislature is the work carried out by the Committees of Tynwald and its Branches, the House of Keys and the Legislative Council.

Much of the detailed work of parliament is done in committee as matters before them can be explored to a level of detail which would not be possible during the normal business of a sitting.

The procedures for the operation of a Committee are set out in Standing Orders.[1] Unless the Standing Orders provide who is to be Chairman of the Committee, the Committee itself chooses one of its members to take this role. A Clerk of the Committee is nominated by the Clerk of Tynwald and, with the assistance of staff of the Clerk of Tynwald's Office, they support the Committee with administration, research and report writing.

Committees usually have the authority to call for papers, submissions, and witnesses [2] for examination. They may hold private and public sittings [3] to discuss the information they have gathered and question people who may have detailed knowledge about the matter being explored. Isle of Man Government Ministers and civil servants often appear before those parliamentary committees whose remit includes scrutiny of government.

At the conclusion of an investigation, or sometimes as work progresses in lengthy investigations, or at intervals determined in the committee remit, Committees produce reports. These reports, and any recommendations made therein, are usually laid before the Chamber by which they were appointed, and may be debated and voted upon.

Committees of Tynwald Court and its Branches are of the following kinds:

Standing Committees are permanent committees constituted under the Standing Orders of Tynwald and its Branches and they have a continuing remit. A Standing Committee of Tynwald or the Legislative Council remains in being notwithstanding dissolution of the House of Keys. Elections for Keys members of Tynwald and House of Keys Standing Committees are held after each General Election and members then generally serve for the full term, unless their parliamentary position alters in such a way as to cause them to resign. Similarly when an elected Legislative Council Member's term of office ends, and an election has been held, elections for the Council members of Tynwald and Legislative Council Standing Committees are held.

Select Committees may be established by Tynwald or the Branches if a motion on the Order Paper calling for a committee to investigate a topic is approved. In the Branches they may also be set up to consider Bills in more detail.

The members are elected when the Committee is formed and normally serve for the life of the Committee.

Joint Committees are Committees with members from each of the Branches, the House of Keys and the Legislative Council, and not of Tynwald Court. They are appointed by the Council and Keys, by consent of

both Branches, when sitting separately. Their reports are presented to the Branches separately.

On rare occasions Tynwald may establish a Joint Committee to investigate a Bill, usually where the Branches are unable to investigate matters relating to a Bill separately or together.

Information about the Committees that have operated since the General Election of 2006 is set out below. The name of the Committee appears first followed, in brackets, by the name of the Clerk of the Committee. The names of the members of the Committee follow. The remit of the Committee as resolved by the Chamber by which it was constituted is shown in italics and finally the Reports Issued section lists the reports issued by the Committee since 2006, along with the result of any decision on conclusions and/or recommendations.

Following resolutions of Tynwald in January and May 2011, the system of Standing Committees is being reformed with effect from October 2011. Three Standing Committees are being abolished, and three new Standing Committees are being established. The three Committees being abolished are:

Constitutional Matters

- Economic Initiatives
- Scrutiny

The three new Committees are:

- Economic Policy Review
- Environment and Infrastructure Policy Review
- Social Affairs Policy Review

a. Elections to Committees of the Legislature

i. Tynwald

Members are eligible to serve on committees, except for the President of Tynwald who sits, *ex officio*, only on the Tynwald Management Committee, the Tynwald Ceremony Arrangements Committee, the Tynwald Honours Committee and the Tynwald Members' Pension Scheme Management Committee.

After a General Election of the House of Keys or when occasional vacancies occur and when temporary Select Committees are set up, Members nominate fellow Members, each nomination being seconded, to serve on the various committees detailed later in this chapter.

If there are more nominations than positions to fill, Members vote on those nominations as one body by ballot. Members must receive a majority of the votes cast to be elected to serve on a committee.

In the event of any Member ceasing to be a Member of a Branch, vacancies occur in any committees of which they were a Member. However, the existing member continues until a successor is elected, and may be re-elected to the committee through the usual nomination process if he becomes a member of either Branch before the vacancy has been filled.[4]

ii. House of Keys

All Members of the House of Keys except the Speaker are obliged to serve on committees if elected.

After a General Election and where vacancies occur, and where temporary Select Committees are set up, Members nominate fellow Members, each nomination being seconded, to serve on the various committees detailed later in this chapter.

If there are more nominations than positions to fill, then an election is held by ballot. Members must receive a majority of the votes cast to be elected to serve on the committee.

The process is also used to place Members on committees where a vacancy occurs, or when a Member ceases to belong to the House of Keys.

iii. Legislative Council

All Members of the Legislative Council are eligible to serve on committees of the Council.

As the Legislative Council is in continuous existence it has vacancies in its Standing Orders Committee only when members cease to belong to that Branch. The Council has no other Standing Committees.

The Standing Orders of the Legislative Council do not lay down specific procedures for electing Members to committees. Such elections are seldom contested.

b. Standing Committees of Tynwald

- Ecclesiastical Committee

- Economic Policy Review Committee
- Emoluments
- Environmental and Infrastructure Policy Review Committee
- Members' Pension Scheme Management Committee
- Public Accounts Committee
- Social and Policy Review Committee
- Standards and Members' Interests Committee
- Standing Orders Committee
- Tynwald Ceremony Arrangements Committee
- Tynwald Ceremony Arrangements Committee - Tynwald setting Enhancements Sub-Committee
- Tynwald Ceremony Arrangements Committee - Sub-Committee on Procedure
- Tynwald Honours Committee

c. Select Committees of Tynwald (in order of date constituted)

- Manx Electricity Authority
- Local Authorities: Members' Interests (Petition for Redress of Grievance)

d. Joint Committees

- Tynwald Management Committee

e. Standing Committees of the House of Keys

- Management and Members' Standards Committee

•Standing Orders Committee

f. Select Committees of the House of Keys

There are currently no Select Committees of the House of Keys.

g. Standing Committees of the Legislative Council

•Standing Orders Committee

h. Select Committees of the Legislative Council

There are currently no Select Committees of the Legislative Council.

[1] References to Committees appear throughout the Standing Orders of Tynwald Court and the Branches but specifically: Standing Orders of Tynwald, 4.7-4.8 and V; Standing Orders of the House of Keys, VI

[2] Standing Orders of Tynwald 10.13-10.15; Standing Orders of the House of Keys, 6.14 (2)(a)–(b) and 10.4–10.8

[3] Persons interested in the oral proceedings held by committees should refer also to the Tynwald website www.tynwald.org.im

[4] Standing Orders of Tynwald, 5.5

6.THE BUSINESS AND PROCEDURES OF THE THREE CHAMBERS

The main business of the House of Keys and Legislative Council sitting separately is the consideration of primary legislation. The main business of Tynwald Court is policy, finance and secondary legislation, although Tynwald Court also has a role in the enactment of primary legislation. [1] Questions are asked and answered in all three Chambers.

a. Standing Orders

Each Chamber has its own Standing Orders, a set of rules which sets out the procedures which must be followed. The Standing Orders may be obtained from the Tynwald Library or the Tynwald website www.tynwald.org.im.

Procedure in each Chamber is controlled by the presiding officer in accordance with the appropriate Standing Orders. In each case the presiding officer's interpretation of the Standing Orders is authoritative.

Each Chamber has a Standing Orders Committee responsible for keeping the Standing Orders under review. Standing Orders can be amended by a resolution of the relevant Chamber, usually on a recommendation put forward by its Standing Orders Committee.

b. Order Papers and the Tynwald Question Paper

The business to be discussed in each Chamber is set out in an Order Paper. For the House of Keys and Legislative Council, Questions are included on the Order Paper. In Tynwald Court a separate Question Paper is produced in addition to the Order Paper. These papers are prepared in

each case by the Clerk or Secretary and issued under the authority of the presiding officer.

The timings of submission of items for the Order Papers and Tynwald Question Paper, and the timings for the distribution of these papers, are governed by Standing Orders as set out in the following table:

Tynwald Court

Legislative Council

House of Keys

Submission of items for Order paper

at least fourteen clear days before the sitting [2]

In writing not less than five days before the sitting [3]

By 5.00 pm six working days before the sitting [4]

Submission of items for Question Paper

at least seven clear days before the sitting [5]

Order Paper distributed to Members.

So as to be received at least five clear days before the sitting [6]

In practice on Wed 13 days prior to the Tue sitting

As early as conveniently may be before the date of the sitting [7]

In practice the Wed prior to the Tue sitting

So as to be received at least three clear days before the sitting [8]

In practice the Wed prior to the Tue sitting

Order Paper distributed to public

12.00 on Thu 12 days prior to the Tue sitting

12.00 on the Thu prior to the Tue sitting

12.00 on the Thu prior to the Tue sitting

Question Paper distributed to Members

So as to be received at least three clear days before the sitting [9]

In practice the Wed prior to the Tue sitting

Question Paper distributed to public

12.00 on the Thu prior to the Tue sitting

For a Budget sitting of Tynwald a separate Order Paper is prepared, known as "Order Paper No 2". This Order Paper and the associated papers are provided to Members and to the Clerk and Deputy Clerk of Tynwald at least five clear days before the sitting but are treated as strictly confidential until the presentation of the Budget. [10]

For the House of Keys and Legislative Council, the normal order of business is:

- Questions for oral answer;

- Questions for written answer;

- Statements;

- Bills.

In Tynwald Court the order of business is laid down in Standing Orders.
[11] Most Order Papers include:

- Laying of papers;

- Questions;

- Statements;

- Financial motions;

- Reports of Government Departments;

- Reports of Tynwald Committees;

- Other motions.

Further business not contained in the Order Paper may only be considered with the approval of Tynwald, and would be included in a Supplementary Order Paper.

Not all papers laid before Tynwald Court are debated. Common examples of papers which are laid, but not debated, are reports of Government departments and certain types of secondary legislation.

Every Member receives a hard copy of every document associated with an Order Paper.

Documents listed in the Tynwald Order Paper are accessible electronically via the Order Paper on the Tynwald website www.tynwald.org.im. Papers are also available from the Tynwald Library.

Documents are often supplied by Isle of Man Government Departments. Guidance to assist staff with this process is produced by the Chief Secretary's Office. [12]

c. Questions [13]

A Question may be addressed to any Member. Many Questions in Tynwald Court and the House of Keys are addressed to Ministers or Chairmen of Statutory Boards. In the Legislative Council, where Ministers are scarce, Questions are normally addressed to "a representative of..." the relevant Department.

In Tynwald Court and the House of Keys, Questions are governed by rules set out in Standing Orders. [14] These rules exclude the possibility of questioning, for example, which:

- repeats in substance a Question which has been answered within the past six months;

- refers to a matter which is sub judice;

- makes or implies a charge of a personal nature.

Members table Questions by submitting them in writing to the relevant Clerk or other designated officer, specifying whether the Question is for oral or written answer. The Clerk examines tabled Questions to ensure that they conform to Standing Orders.

i. Tabled oral questions

Oral Questions are taken in Question Time, which normally begins shortly after the beginning of the sitting. They are taken in the order on which they appear on the Order Paper or Question Paper.

On being called to ask the Question by the presiding officer, the Member rises in his place and says "I beg leave to ask the Question standing in my name." Once the Question has been asked in this way the presiding officer will invite the Member to whom the Question was addressed to reply.

If the Member who is to ask the Question is absent from the chamber when the Question is reached, the Question may be deferred, asked by another Member (with the original Member's agreement), or answered in writing.

ii. Supplementary oral questions

Supplementary questions may be asked by the Member who has tabled a Question or any other Member. Normally, the Member who has tabled the Question will be called first to ask a supplementary Question. Other Members need to catch the eye of the presiding officer to be invited to ask a supplementary Question. The number of supplementary Questions permitted following a tabled Question is at the discretion of the presiding officer. Supplementary Questions must relate to the original Question.

iii. Tabled Questions for written answer

Where a Question is tabled for written answer this is circulated to all Members and made available to the public by 1pm on the day of the sitting. It appears as part of the Official Report (Hansard) on the Tynwald website and is available from the Tynwald Library.

v. Written answers to oral questions not reached

Unless Standing Orders are suspended, oral questions continue in the House of Keys until 11am and in Tynwald Court until 1pm. Where a Question is tabled for oral answer but is not reached, a Written Answer is provided. These may take up to 48 hours to be available on the Tynwald website and the Tynwald Library.

d. Statements

Ministers or Committee Chairman may make statements concerning matters for which they bear a responsibility. In most cases Members may ask questions arising from the statement. However, no questions may be asked on a personal statement.[15]

e. Motions and Amendments [16]

A motion is a proposal made by a Member that a Chamber:

- do something;

- order something to be done; or

- express an opinion.

A motion which is the same in substance as one which has already been resolved during the same session (i.e. parliamentary year) is out of order. [17]

In Tynwald Court it is out of order for a motion to refer to a Bill which is being considered by either the House of Keys or the Legislative Council. [18]

Under the Treasury Act 1985 no Member may move any resolution seeking to increase public expenditure or reduce public income without the prior concurrence of the Treasury.

When a motion or amendment has been moved and seconded it cannot be withdrawn without leave. It is in order for any Member to speak to the motion or move an amendment to it.

An amendment is a special type of motion proposing an alteration to a substantive motion. It must be relevant to the motion to which it refers. It is permissible, by way of amendment, to leave out all the words of a motion except the initial word "That" and substitute other words relevant to the motion.

In Tynwald Court and the Legislative Council, no notice is required of an amendment, but a Member wishing to move an amendment should submit it to the relevant Clerk in writing and signed. This should be in sufficient time to enable it to be checked for compliance with the Standing Orders, and reproduced in hard copy for circulation to Members at the appropriate time. The Member proposing to move an amendment may determine the time at which he would wish copies of the amendment to be circulated.

In the House of Keys, amendments to Bills must be tabled six days in advance of the sitting. [19]

f. Secondary legislation and other items for approval

Secondary legislation is made under powers conferred by primary legislation on Ministers and others. Items of secondary legislation are known as Statutory Documents (SDs). An individual SD may also be described as an Order, a set of Rules or a set of Regulations.

In each case, the primary legislation setting out the power to make the SD will also set out any Tynwald procedure which is to be applied.

Unless a statute provides otherwise, there is no power to amend secondary legislation where this comes before Tynwald Court. Members can only vote for or against the motion.

Certain documents made by Ministers or the Council of Ministers are put before Tynwald for approval even though they are not made under a power in primary legislation. These are normally numbered as Government Circulars (GC) or Government Documents (GD).

g. Rules of debate

During a debate Members may only speak when called upon by the presiding officer. Members may indicate that they wish to speak by rising or by catching the eye of the presiding officer. In Tynwald Court Members rise to speak. In the Legislative Council Members remain seated when speaking. In all three Chambers all remarks must be addressed to the chair ("Madam President" or "Mr Speaker").

Members are called to speak in the following order:

- the proposer of the motion;

- the seconder of the motion;

- other Members;

- the proposer to reply to the debate.

In Tynwald Court no Member may speak more than once except that a right of reply is given to the proposer of the motion, or to a Member who has proposed an adjournment. [20] The seconder of a substantive motion may, when seconding, “reserve his or her remarks”. This means that he or she delays any substantive contribution to a later stage in the debate. However, a Member moving an amendment or procedural motion may not reserve his or her remarks. [21]

Similar rules apply in the House of Keys except that a right of reply is also given to a Member who has moved an amendment. [22]

In the Legislative Council Members may speak more than once on any matter. [23]

In Tynwald Court and the House of Keys there are a number of further rules of debate designed to ensure courteous and orderly conduct of proceedings. [24]

h. Voting [25]

i. General principles

The general principle is that when a vote arises in any of the three Chambers, every Member present is required to vote either for or against the motion. The exceptions are that:

- in the House of Keys, the Speaker may abstain, [26]

- in Tynwald Court and the Legislative Council, HM Attorney-General cannot vote. [27]

ii. Procedure for public votes

Most questions are determined by a public vote. At the end of any debate the presiding officer puts the motion to the Chamber. In some circumstances a bell may be rung in other areas of the Legislative Buildings to alert Members who may have temporarily left the chamber that a vote is to occur.

The presiding officer says "Those in favour say aye" and then pauses for Members to respond; then "Those against say no", pausing for Members to respond. The presiding officer then gives an opinion on the response, either "The ayes have it" or "The noes have it". If the presiding officer states this opinion twice without being interrupted, the voting procedure is concluded.

If any voting Member disagrees with the presiding officer's opinion and wishes the matter put to a recorded vote, they may call "Divide". This must be done before the presiding officer states his or her opinion for the second time.

If a division is successfully called, the Members vote:

- in Tynwald Court, using the electronic voting system;

- in the House of Keys, using the electronic voting system; and

- in the Legislative Council, by means of a called vote.

The presiding officer announces the result of the division. Where the electronic voting system is used, a Member may ask the Clerk to read aloud the names of the Members voting for or against. Members may also request a printout of the results. The complete results of all divisions are also be included in the Official Report of the debate.

iii. Procedure for secret ballots

Certain procedures require a secret ballot. These include:

- in Tynwald Court, the election of the President and Chief Minister;

- in Tynwald Court, the election of Members to Committees;

- in the House of Keys, the election of Members of the Legislative Council;

- in the House of Keys, the election of Members to Committees.

The electronic voting system can be used both in Tynwald Court and in the House of Keys for the election of Members to Committees. However, for the other elections mentioned above a paper ballot is used. Tellers are appointed who, together with the Clerk or Secretary, count the voting slips. The result is handed to the presiding officer and announced.

iv. Voting by the Branches in Tynwald Court

In Tynwald Court the Branches vote simultaneously but their votes are counted separately. In most circumstances, for a motion to be carried it must be carried in both the Keys and the Council.

In certain circumstances, however, which are laid down in primary legislation and/or Standing Orders, Tynwald votes as one body. These circumstances include:

- the election of the President of Tynwald; [28]

- the election of the Chief Minister; [29]

- a combined vote called for by the mover of a motion which has been carried in the Keys but defeated in the Council. [30] (Such a vote must take place at a subsequent sitting.)

v.Higher majorities required for particular motions

In most circumstances a motion is carried if a simple majority of Members present and voting is in favour, however there are some exceptions. These include:

- in Tynwald Court, a combined vote may be called for by the mover of a motion which has been carried in the Keys but defeated in the Council. When such a vote is held at a subsequent sitting it requires 17 votes. [31]

- in the House of Keys, a motion to elect a person to the Legislative Council requires 13 votes. [32]

- in the House of Keys, a motion that a Bill not passed by the Legislative Council is to be laid before Tynwald for signature requires 17 votes. [33]

- in the House of Keys, a motion for the withdrawal of a Bill after first reading, or for the third reading of a Bill, requires 13 votes. [34]

vi. Casting votes

In Tynwald Court, when the Branches vote separately:

- if there is an equality of votes in the Keys the motion is lost; [35]

- if there is an equality of votes in the Council the President has a casting vote but only exercises it to ensure that the vote of the Council is the same as that of the Keys. [36]

In Tynwald Court, when Tynwald votes as one body (other than by ballot), the President has a casting vote. [37]

In the House of Keys the Speaker has a casting vote. [38]

In the Legislative Council the President has a casting vote. [39]

Other than the provisions described above relating to a separate vote in Tynwald Court, Standing Orders are silent on how a casting vote is to be exercised. It is often used either to preserve the status quo or to maintain the possibility of continued debate.

i. The Sub Judice Rule

The legislature has a right and duty to consider any public matter. However, in the case of a matter awaiting or under adjudication in Manx

legal proceedings, there is a restriction to avoid parliamentary proceedings becoming an alternative forum to the Courts of Justice or any Tribunal, and to ensure that the parliamentary proceedings do not interfere with the operation of those bodies. This restriction is referred to as the sub judice rule.

In Tynwald Court the wording of the sub judice rule was revised in November 2009 when the following definition was adopted:

'sub judice' includes any civil case in which papers for the commencement of proceedings have been filed in the office of any court or tribunal, whether or not they have been served on or communicated to the other party or any criminal case where a person has been charged or summoned to appear at court. A case will remain sub judice until it is discontinued, or judgment has been or verdict and sentence have been delivered and until the time for appealing has expired; it will continue to be sub judice after papers for the commencement of any appeal have been lodged until judgment or discontinuance.

The same definition was adopted in the Legislative Council in April 2010 and in the House of Keys in March 2011.

j. Privilege

Although Tynwald and its Branches have inherent privileges, some of these have been codified in statute. The main provisions are:

- the Privileges of Tynwald (Publications) Act 1973, which provides for a stay of any civil or criminal proceedings commenced in respect of the

publication of any report, paper, resolution or proceedings of Tynwald or either Branch or a Committee; and

•the Tynwald Proceedings Act 1984, which provides that anyone giving evidence to Tynwald or its Branches or Committees has the same right or privilege as before the High Court; and that an answer to a question put by Tynwald or its Branches or Committees is not admissible in court.

k. Quorum

Business cannot continue in any Chamber if a quorum of Members is not present and if attention has been called to this. [40]

In the House of Keys a quorum is thirteen Members. [41]

The quorum provisions in Tynwald Court and the Legislative Council are designed to accommodate the fact that when Members retire from the Council, at the end of their five-year terms, the resultant vacancies must last at least at least six weeks and may last longer.

In Tynwald Court both Branches must be quorate for business to continue. The quorum of the Keys in Tynwald Court is thirteen. The quorum of the Legislative Council in Tynwald Court is a majority of serving Members who are entitled to vote. When there are no vacancies in the Council there are nine voting Members and the quorum is therefore five. At a March sitting of Tynwald Court immediately following a retirement of four Members of the Legislative Council, the number of serving Members falls to five and the quorum is therefore three. [42] As the vacancies are filled, the number of serving Members increases, and with it the quorum.

In the Legislative Council sitting alone, a quorum is normally five voting Members. Provision exists for it to be reduced in exceptional circumstances to four Members but this has not been used. The President and HM Attorney-General do not count towards the quorum. [43]

I. Petitions and Memorials

i. Petitions for Redress of Grievance

The Petitions for Redress (of Grievance) continues an ancient right of petition to the King or Lord, now Tynwald, to investigate a matter of concern to an individual that other avenues for redress e.g. the Courts, have been unable to resolve.

Petitions for Redress are handed to the Clerk of Tynwald at the foot of Tynwald Hill and then presented to the Lord of Mann or her representative during the annual sitting of Tynwald Court at St. John's on Tynwald Day. [44]

A Petition for Redress lies "on the table" for five years after being presented, during which time it may be picked up by any Member of Tynwald. [45] A Member picking up a Petition for Redress can table a motion relating to the Petition for debate in Tynwald Court. The motion is often that a Select Committee be formed to investigate. The report of such a Select Committee may contain recommendations to address the issue highlighted by the Petition. It should be noted, however, that neither such a Committee, nor Tynwald Court, can directly take action on the original case or set of circumstances, nor can it provide compensation. The effect of the procedure is to highlight situations within the purview of Tynwald in which either there are no legislative or administrative provisions in place, or existing legislation or administration is inadequate.

Each year the Clerk of Tynwald's Office issues a booklet, 'Notes on the Presentation of Petitions for Redress' [46] containing procedural and practical guidance to potential petitioners and a list 'Current Status of Petitions Redress', an update of progress in respect of petitions remaining "on the table".

ii. Public Petitions

Formal procedures for the presentation of Public Petitions exist in all three Chambers.

A Public Petition is a document produced by one or more petitioners who need not be Members of Tynwald, but presented by a Member who is not one of the petitioners. [47] The Member who presents the Petition can say from whom it comes and how many signatures are attached, and can read the Petition and its Prayer. The Standing Orders of Tynwald Court and the House of Keys specify that no debate is allowed but that a motion can be made that the Petition be printed with the minutes, i.e. the Votes and Proceedings. [48]

iii. Private Petitions

Formal procedures for the presentation of Private Petitions exist in all three Chambers. [49]

A Private Petition is a document presented by a public authority, corporate body, private association or individual in relation to:

- in Tynwald Court, local or private matters as to which the approval, ratification or sanction of Tynwald is required, or as to which a resolution of Tynwald is substituted for an Act; and

- in the House of Keys and the Legislative Council, a private Bill.

The procedures allow for the petition to be presented by the petitioner or his representative; and also for other interested parties to be heard.

iv. Memorials [50]

Formal procedures for the presentation of Memorials exist in all three Chambers. [51]

A Memorial is a document presented by a person who claims an interest distinct from the interests of the general public which is adversely affected by:

- in Tynwald, a motion on the Order Paper;

- in the House of Keys, a Bill for second reading;

- in the Legislative Council, a Bill at any stage.

In summary, the procedures provide that:

- the Memorial is submitted to the Clerk in advance;

- the presiding officer makes a determination whether the memorialist is entitled to be heard;

- the Chamber as a whole decides whether to hear the memorialist;

- the memorialist is heard, and answers questions;

- the business then continues with the motion or Bill concerned.

This procedure has been used three times in Tynwald Court since the 2006 General Election. In July 2007 Tynwald Court heard a Memorial from Mr John Maddrell, a resident of Port Erin objecting to a proposal that a café in a beauty spot be sold by the Port Erin Commissioners to central Government. In December 2009 Mr Peter Canipa objected to a proposed compulsory purchase from him of land needed for a road-widening scheme. In October 2010 Mr Stephen Hamer, as Chairman of Michael Commissioners, objected to a proposal to build a new doctor's surgery in the neighbouring local authority area, Jurby.

m. Records, Broadcasting and Visiting

i. Votes and Proceedings

Votes and Proceedings are the official record made by the Clerk or Secretary of papers laid and decisions made at sittings in each of the three Chambers.

The original motion from the Order Paper is included together with any amendment moved. The record shows whether a motion was approved; if amended how so; or lost. The Votes and Proceedings provide an accurate and easily found statement of the decision reached without having to piece together the wording from lengthy debates in the Official Report.

The votes cast by individual Members are recorded in the Votes and Proceedings of the Legislative Council but not of the other two Chambers.

The Votes and Proceedings are available on the Tynwald website under Official Papers.

ii. The Official Report

The Official Report, colloquially known in most parliaments after its historical predecessor in the Westminster Parliament as 'Hansard', has existed since the early days of Manx newspapers, from the 1860s. Reports of proceedings provided useful copy to fill editions, though reporting was not always in extenso. The Isle of Man (Weekly) Times reporters were more expert at recording proceedings in shorthand, and their reports were gathered together and published in one volume from 1888. These were

subsequently issued each year, covering the parliamentary session from October.

Tape recording of Tynwald was introduced in the 1960s using in-house parliamentary staff, and the use of the Weekly Times was dropped in the 1980s. This ensured the transcripts could now be produced 'essentially verbatim'. The tapes were sent to a team of home workers for transcription, before in-house staff carried out the editorial process, checking the text against the audio to ensure the text was accurately presented. Finally the Reports were passed for printed publication.

In April 2008, a unique voice recognition (VR) system was trialled in Tynwald, to produce text directly from Members even as they spoke. The trials were successful and resulted in much faster availability of transcripts together with significant cost savings, as all work could be done in house beginning minutes after the start of the live Tuesday sittings. Turnaround times for the published Hansard were cut from weeks and months to days, sometimes even hours.

By October 2010, the VR system had been rolled out for use in all three chambers, whereupon the Legislative Council chamber took on a second function as a venue for recorded public oral evidence hearings of committees, in order to make full use of VR.

Since October 1997, the Official Reports have been available on the Tynwald website and are searchable within each day's proceedings, though there is a general search facility as well. All transcripts are now published first as the rapidly available Rolling Hansards and completed Early Publications, found in 'Early Publications' on the Tynwald website; they are finally replaced on the website in fully formatted form, in 'Hansards'.

The Hansard format has evolved over time, as staff endeavour to improve their services to Members and the public. In 2001-02, priority was given to separate documents for Questions in Tynwald and the House of Keys to speed up their availability. Page numbering and a contents page were introduced to all the Reports, along with a more heavily punctuated style to make them more user-friendly. As technology was updated and working became more efficient, thereby enabling faster production, the Questions were subsequently subsumed back into the main Proceedings. The Early Publications on the website began in 2007-08, providing Hansard more quickly than ever; the Rolling Hansard began in 2009-10; since then, single column format with line numbering has also been adopted for the final Proceedings, after positive feedback from some Members on its usefulness.

The published volumes up to 1985-86 each have prepared indices (up to 1932 Reports of Government and Tynwald and the Branches were also included, becoming a separate series 1933-1965); the Tynwald Library has a database of items, questions and motions. A print edition of Hansard is still produced mainly for archive purposes; the Library can provide a photocopy or downloaded copy of any question, motion, or sitting since 1888.

While speech recognition is becoming ever more widely available, the Tynwald system is unique in that voice profiles – ‘harvested’ at the start of the parliamentary Session from each Tynwald Member reading aloud for five minutes – enable the computer to convert spoken words to written text automatically, via a single audio channel, directly as Members speak.

The text is then available to the Hansard editorial team within minutes of it being spoken. It requires thorough checking/correction against the original audio recording, to ensure accuracy of reporting. Headings, questions, motions, amendments, ballots and voting results are inserted; audible interjections are reported where possible; careful punctuation, paragraphing and correct grammar are applied and some direct repetition

is removed; other heavier editing does not take place. The team's aim is to produce an 'essentially verbatim' record, as accurately as possible, while also being a valuable, user-friendly tool to Members and the public.

Tynwald Members can directly help the team's efficiency by being 'Hansard aware' – i.e. being aware that the chambers are effectively live recording studios. The VR system transcribes clear, measured speech extremely well; it does not work with mumbling or gabbling. The sensitive microphones are permanently live, and will pick up coughs, sneezes, private whispering and conversations, rustling papers, etc, often at the expense of obliterating a speaker's words. Speaking notes or written statements are of great help to the Editors for the checking process – these can preferably be e-mailed, or handed to any Hansard team member.

iii. Broadcasting of sittings.

In Tynwald Court all proceedings are broadcast in full by Manx Radio on the 1368MW frequency. In the House of Keys, Question Time only is broadcast. No proceedings of the Legislative Council are broadcast.

A Twitter feed @tynwaldinfo was introduced in 2010 and provides progress of the sittings and other Tynwald news and information.

Tynwald Day has been broadcast on the radio since 1930, [52] then by BBC Radio and now Manx Radio, and has been streamed worldwide via the BBC website since 2009. Coverage is also fed back to large screens in St. John's during proceedings so everyone attending can see the whole ceremony.

The live feed is not provided to other media on the Island.