



Tynwald Commissioner for Administration Financial Plan 2024/25

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1. Executive summary

- 1.1 This document describes the Business Case for the funding for the Tynwald Commissioner for Administration (“the TCA”) for the 24/25 financial year.
- 1.2 The TCA was set up by the Tynwald Commissioner for Administration Act 2011 (the Act) which came into operation on 1 January 2018 as a consequence of the Appointed Day (No 1) Order 2017. Initially, the TCA function was funded by the Cabinet Office, but with effect from 2020/21 the funding was transferred to the Clerk of Tynwald’s Office (“COTO”) which holds the “ring-fenced” budget and authorises payment on the instructions of the TCA. The Commissioner has been in post since February 2019 and her 3-year contract was extended in February 2022 to expire on 31 October 2023 Her successor has been appointed and is working with the TCA to ensure a smooth handover. He has been consulted about the preparation of this Plan and it reflects his vision for delivery of the service going forward.
- 1.3 The work of the TCA has increased steadily since the inception of the office on 7 January 2018. The legislation was implemented incrementally but since July 2020 all the listed authorities specified in Schedule 2 to the Act have been brought within the TCA’s jurisdiction. This had an impact, not only in increasing the number of complaints received but also in advising and supporting local authorities, some of whom had only a rudimentary complaints procedure and whose staffing levels are such that a structured three-tier complaint process is difficult. The appointment of an Assistant Commissioner was extremely helpful in reducing the administrative work which the TCA had to undertake, and she has also taken the lead in supporting the local authorities. The TCA designate has decided to dispense with an Assistant and does not propose to engage with listed authorities to provide assistance and advice on their complaints procedures. Despite the support provided to listed authorities, the backlog of cases has increased and as at 1 August 2023 there are 6 cases where the investigation is complete but the reports need to be written, and 3 further cases in which reports have been circulated to the parties prior to their being lodged with Tynwald in time for the October sitting. The priority is the completion of the Reports and the preparation of 2 section 14 statements (reasons for the refusal to investigate) The process is time-consuming, and the TCA will be hard-pressed to complete them before retiring at the end of October. Her successor will have to take forward 4 further complaints which await investigation. The TCA designate will dispense with the circulation of draft reports to the parties. Instead, a statement of the facts forming the basis on which the decision is to be made will be circulated.

2. Background

- 2.1 The TCA was created by statute and is an officer of Tynwald. By its nature it has to be independent of government, as its function is to hold government to account.
- 2.2 The budget for 2023/24 was set at £32,201 and by 30 June 2023 nearly £11,000 has been expended. In financial year 22/23, the budget was exhausted by February 2023, which prevented Reports being progressed before the start of the 23/24 financial year.
- 2.3 In order to be able to meet the requirement to deal with complaints expeditiously, and given the quarterly expenditure breakdown, the TCA calculated that there would need to be an increase in the budget. As the service is demand-led, any contingency funding would be drawn down only when work required it. In order to reduce costs, the TCA-

designate proposes streamlining the work of the TCA and withdrawing from all peripheral activities. He has also indicated that he would not charge for administrative activity, including contributing to the proposals for amendments to the Tynwald Commissioner for Administration Act 2011. COTO has provided accommodation for meetings and also storage facilities and this will continue. There is still an urgent need to develop a more user-friendly website. The TCA designate considers that an upgrade to the website is needed, but is looking at the HSCOB site as a model. He is discussing lowest cost options with COTO. A user-friendly website providing clear guidance is an essential tool in streamlining the process and reducing costs.

2.5 The specific challenges which need to be addressed are set out below.

- i The number of complaints made to the TCA has not declined and their complexity has increased. Where a case is rejected as being outside jurisdiction, the disappointed complainant enters into correspondence seeking to persuade the TCA that, somehow, the complaint can be investigated. The TCA-designate has indicated that he will not engage in such correspondence, and that once a complaint has been rejected, the matter will be closed. The number of cases rejected for jurisdictional reasons in 2021/22 was 12. It increased to 15 in 2022/23 and is currently running at 3 (out of a total of 12 complaints received) in 2023/24
- ii At the time of writing, there are 6 cases ready to report which are likely to take over 120 hours to complete, and they will reduce the available budget to a parlous level if the work involved is charged in full. In addition, there are 5 cases either under investigation or awaiting the commencement of an investigation. The need for additional funding remains if the backlog in cases is to be cleared and an efficient service maintained. In time the proposed streamlined service may reduce these costs(although this is dependent on increasing demands placed upon the service).
- iii Previous Financial Plans discussed the possibility of sharing facilities with the Tynwald Auditor General (“the TAG”) when that office came into being. The TAG has now been appointed, and the TCA met him. The model which he proposes would increase the cost burden on the TCA budget and has other drawbacks. The TCA designate has confirmed that he will not co-locate with the TCA, nor does he see any areas of common functions which require engagement with the TAG.
- iv Amendments are needed to the 2011 Act to correct certain anomalies. An amending Bill is in the Legislative Programme for 2023/24. It is inevitable that some TCA time will be required to respond to issues arising during the drafting process and during the consultation on the draft Bill, but the TCA-designate does not intend to charge for the time engaged in doing this.

3. Overview of funding assessment

3.1 Strategic Context:

- i The contribution of the TCA role is already established under the Act and this Financial Plan case links that contribution to the principles set out in Our Island

Plan 2022. The Commissioner provides dissatisfied members of the public with an entirely independent service investigating complaints in respect of alleged actions or service failures by public authorities. This holds government to account, requiring the listed authority to justify their actions and how they are serving their customers.

- ii The focus on the needs of customers and being answerable to an independent Ombudsman reinforces the need to focus on delivery and assists in establishing the importance of performance management, making government more accountable.
- iii. The cases investigated are reported in an anonymised form and so failures of listed authorities and examples of good practice are publicised.

3.2 Expansion of Services

No specific expansion of service is contemplated. The Manx Care complaints procedure is now established, and the Health and Social Care Ombudsman Body (“HSCOB”) came into being in October 2022. HSCOB is independent of Manx Care, is not a Statutory Board, and is separate from but operates alongside TCA. The TCA designate will refer all Manx Care related complaints received by him to HSCOB, a procedure which he interprets as being in accordance with the will of Tynwald as expressed in the relevant primary and secondary legislation.

An efficient and effective independent service investigating complaints from the public regarding alleged actions and service failures within the listed authorities is implicit in the Our Island Plan 2022 delivering a “secure, vibrant and sustainable future for our Island nation”.

The TCA believes that the role’s contribution to that stated strategic objective is best secured by improvements outlined above including enhancements to the website whilst ensuring that access to the service is inclusive.

The TCA believes that it is important to be able to complete referrals timeously and within 12 months in the majority of cases and that meeting the demand for an independent investigation of complaints thus ensuring confidence in the process, is a fundamental contribution the Our Island Plan 2022 objectives.

The legal framework is the 2011 Act, which has now been finally implemented but as explained above, it requires some amendment.

4. Costs and savings analysis

4.1 Options Appraisal:

- i Option 1 – Do Nothing

The do-nothing option would require the TCA to continue with a budget of £32,000 with the hours to be worked limited by the budget. There would be no possibility of increasing the number of cases investigated so arrears would continue to grow and valid complaints would not be investigated. This would result in increased dissatisfaction and loss of confidence in the process by members of the public and their political representatives.

ii Option 2 – Co-locate TCA with the TAG

While co-locating the TCA and TAG had been considered an option, the model selected by the TAG is not a viable option for the TCA because of the costs involved.

iii Option 3 – Continue in co-operation with COTO. Provide statutory functions and introduce streamlined processes

The TCA-designate will work from home as the TCA has done and will benefit from the facilities afforded to him under the Memorandum of Understanding entered into between the TCA designate and the Clerk to Tynwald dated 26 June 2023, sight of which Tynwald has had when confirming his appointment by its resolution dated 20 June 2023.

Since the inception of the TCA in 2018, the office holder has engaged with listed authorities as they developed their procedures, in order to ensure that they were compatible with the legislation and to improve understanding of the legislative provisions governing TCA complaints and of the TCA's requirements in relation to information and documents. As the jurisdiction extended to more listed authorities, this work increased, particularly as some local authorities had no formal complaints procedure. The TCA has also been a participant in some consultative initiatives, particularly the options for an independent complaints authority for Manx Care. After more than 5 years of operation, the listed authorities should be well aware of the TCA's functions and requirements. The TCA-designate does not interpret the Act as empowering the TCA to support listed authorities (which he notes have access to legal advice) in this way and so the practice will be discontinued. As explained above, he intends to streamline the process, and he intends to be more forceful in closing down complaints. In this way, he believes that he will be able to concentrate on the complaints which are to be investigated, preparing decisions and reporting to the parties and to Tynwald in accordance with the Act. It is hoped therefore that this will stabilise overall costs of the TCA operation. An empirical review of the adequacy of the funding granted in 2024/2025 will be made when casting the budget for 2025/2026.

4.2 Background

The TCA service is a cost head and there is no scope within the Act for charging or generating other income for the use of the service to offset cost. The TCA has considered whether to charge listed authorities for investigations but has concluded that it is merely moving funds within the same government pot and would be inappropriate given that in most investigations maladministration is not found. There is no ability under the Act to recover costs from a complainant. Furthermore, with the current arrangement where both the TCA and the assistant work from home, as the TCA designate will also do, there are no accommodation and other associated costs, the service will continue to be funded purely on a time spent basis with little additional cost, except for the initial cost of setting up the office requirements of the designated TCA and the cost of servicing the home office.

4.3 Recommendation

The present Financial Plan commences after the TCA designate takes office and Option 3 above reflects his views and should be adopted.

5. Summary of expected benefits

The following table sets out the tangible (Cheaper/faster) and intangible (Better) benefits of the proposed increase of budget.

Initiative	Hard £ benefits (Cheaper)	Productivity improvements (Faster)	Qualitative change (Better)
A streamlined process	This would enable more time to be spent on core activities, thereby increasing throughput and customer satisfaction.	This will reduce the backlog in dealing with cases	<p>Complainants would receive a speedier resolution to their complaints, even if the matter is not resolved in their favour.</p> <p>Listed authorities will have certainty and clarity earlier and the opportunity to improve practices where these are found wanting.</p> <p>Improved confidence in a process which is responsive and fit for purpose.</p>
Increased visibility resulting from improvements to website content	A better-developed website would provide more information and guidance to potential complainants and hence reduce correspondence	Potential complainants will be able to consider more fully whether they should lodge a complaint and better understand the process thereafter. Better informed complainants will more fully understand the process, which as a result will operate more smoothly.	Complainants will be better informed and so will have a clearer understanding of the process and the implications for their situation. This is particularly important in relation to confidentiality ¹ , the remedies available and alternative routes to resolve the issues.

NB A paper-based guide and application form will also be available in order to avoid digital exclusion. Mindful of the need to ensure equality and to minimise discrimination, the TCA

¹ Despite the best endeavours of the TCA, the size of the Island and the nature of some of the issues complained of mean that even without being named, a complainant may be readily identifiable.

designate will, upon taking office, seek guidance from HM Attorney General on whether there is any statutory duty placed upon the TCA to provide complainants with guidance in any language other than English or to assist a complainant in procuring bespoke translations.

6. Total funding request

As indicated in paragraph 2.3 above, the proposed changes in the way the TCA operates are intended to eliminate the TCA’s work on peripheral matters and to allow him to concentrate on his statutory responsibility of investigating complaints and reporting both to the parties and to Tynwald. The intention is to provide a more efficient service by excluding cases which fall outside the Commissioner’s jurisdiction at an early stage, so the changes to website represent a vital step in keeping costs down. It is hoped that much can be achieved within the existing budget and the small uplift for all budgets agreed by the Treasury, but this cannot be certain until the TCA designate is in post and has obtained detailed costings.

7. Approvals

Approval of the document by TCA, TCA Designate and Clerk of Tynwald

Tynwald Commissioner for Administration

Name:	Angela Main Thompson OBE
Title:	Tynwald Commissioner for Administration
Date:	31 July 2023
Signature:	[Signature redacted]

Tynwald Commissioner for Administration - Designate

Name:	PAUL R. BECKETT
Title:	Tynwald Commissioner for Administration - Designate
Date:	31 JULY 2023
Signature:	[Signature redacted]

Clerk of Tynwald

Name:	JONATHAN KING
Title:	Clerk of Tynwald
Date:	3 rd AUGUST, 2023
Signature:	[Signature redacted]