



**Isle of Man
Government**

Reillys Ellan Vannin

IMPACT ASSESSMENT

IMPACT ASSESSMENT OF: **TYNWALD COMMISSIONER FOR ADMINISTRATION BILL**

DEPARTMENT: **COUNCIL OF MINISTERS**

DATE: **SEPTEMBER 2010**

VERSION NUMBER: **2**

RELATED PUBLICATIONS: **Council of Ministers Report 'Review of the Current Standardised Complaints Procedure and Case for the Establishment of an Ombudsman'.**

Responsible Officer: Alice Martin, Director of Performance and Delivery, Chief Secretary's Office
Rose Dawson, Policy and Research Officer, Chief Secretary's Office

Email Address: rosemarie.dawson@gov.im

Telephone number: 01624 685037

SUMMARY: INTERVENTION AND OPTIONS

What is the Bill intended to do

The Isle of Man currently lacks a formalised independent system whereby complaints can be addressed, and the processes and decisions of authorities thoroughly investigated, by a person or body external from Government.

Most Western democracies have a system where an independent, non-government official will investigate complaints from the public about the administrative actions of public authorities (including government departments, boards and offices and agencies funded by government). The proposed Bill will introduce this system to the Isle of Man and will provide for an impartial form of alternate dispute resolution which will be flexible and accessible.

Nature of Problem

There is a need for the Isle of Man to demonstrate publicly that it requires its public authorities to be open to independent scrutiny of their administrative processes and decisions and this can be best done by an Ombudsman who would be known as the Tynwald Commissioner for Administration (the Commissioner).

The majority of the time public authorities deal with the public in a satisfactory and efficient manner. However, there are times when the system does not operate in a correct manner and

a person might need the help of the Commissioner to put things right.

The Commissioner could only investigate after a listed authority (see page 2 for listed authorities) has exhausted its internal complaints system.

The average number of complaints received against Departments and Offices, annually between 2002 and 2009, is 57. Complaints against Statutory Boards, Local Authorities and other bodies will increase this number. It is also likely that the amount of complaints received could rise once the public and Officials know that the Commissioner is available to assist.

Purpose of Proposal

The Commissioner would be a fully independent, non-Governmental official created for the purpose of resolving complaints about the delivery of public services.

The Commissioner would investigate any matter if it consists of action taken by or on behalf of the following listed authorities -

- (a) Departments;
- (b) Statutory Boards;
- (c) local authorities;
- (d) a joint committee of two or more local authorities;
- (e) a joint board being a body corporate established under an enactment and consisting of members appointed—
 - (i) by 2 or more local authorities; or
 - (ii) by the Department of Infrastructure and one or more local authorities;
- (f) the Manx Museum and National Trust;
- (g) the Civil Service Commission;
- (h) the Attorney General's Chambers;
- (i) the General Registry;
- (j) the Chief Secretary's Office;
- (k) Industrial Relations Officers appointed under section 5 of the Trade Disputes Act 1985; and
- (l) Laxey Glen Flour Mills Ltd.

A person is also a listed authority if he or she is for the time being specified in section 3 of the Personal Liability (Ministers, Members and Officers) Act 2007 except—

- (a) the Chief Minister;
- (b) a Minister;
- (c) a Member of a Department;
- (d) the Clerk of Tynwald and any officer serving in the Clerk of Tynwald's Office;

The Commissioner would investigate any administrative action of an authority for the purpose of deciding whether there is evidence of maladministration; to mediate complaints; to review, and to suggest improvements to, administrative practices and procedures.

The existing standardised complaints procedure within public authorities would be retained as the first stage in resolving grievances at line manager or chief officer level. Introducing this further stage should ensure that complaints are dealt with without recourse to other more complex formal procedures such as Tynwald Select Committees, Petition of Doleance to Court or Petition for the redress of Grievance.

The role of the Commissioner would be to:

- a. Make their service available to all members of the public.
- b. Be open, fair, and transparent.
- c. Take complaints and investigate them impartially and provide recommendations when applicable.
- d. Promote awareness and improvement in the Public Services.

The Bill would allow the Commissioner to appoint staff and other persons to provide services and/or advice.

The Commissioner should have appropriate knowledge and experience of the law. The Commissioner should also be a person of such standing within the community as to enjoy the confidence of the public and the Legislature.

Means by which it is to be achieved

Option 1 Do Nothing

The option of retaining the status quo may lead to the Isle of Man being perceived as falling behind other Western democracies in being open to public inspection and censure.

Option 2 Introduce Tynwald Commissioner for Administration by Statute

Option 2A Establish a full time office of the Tynwald Commissioner

There would be a full time salary for the Tynwald Commissioner and possible salaries for administrative support staff.

There could be ongoing office costs comprising of office rent and services; communications; miscellaneous expenses dependent on where the Office was based.

There could be one off costs for the purchase of equipment and furniture.

Option 2B Establish a contracted Tynwald Commissioner with no office support

Although it is impossible to fully gauge the volume and nature of the complaints which will go to the Commissioner it may be that there would be insufficient volume of complaints to merit the appointment of a Commissioner on a full time basis with independent administration staff.

Option 2B proposes that the Commissioner would be contracted for a certain amount of hours per month at an hourly rate with the flexibility for additional hours if it should prove necessary, dependent on workload etc.

Dependent on whether the Commissioner worked from home or within an Office costs would include -

- one off costs of computer equipment and a mobile phone;
- on-going costs associated with salary and office supplies.

This situation would be closely monitored and the Bill would provide for the Commissioner to be appointed full time and for the Commissioner to appoint staff and persons to provide services and/or advice.

Option 2C Establish a part time Tynwald Commissioner office with retained staff

As Option 2B but with a Caseworker and an Administrative Officer who would be paid a retainer based on a certain amount of hours worked.

Consideration would need to be given to providing office space for the limited term it would be used. Would have to be independent of Government and provide a cost effective answer.

There would be ongoing salary costs, office costs comprising of office rent and services; communications; miscellaneous expenses. There would be one off costs for the purchase of equipment and furniture dependent on where the Office was based.

Preferred Option

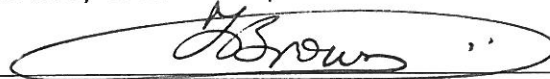
Tynwald will need to consider the economic challenges facing the Island at the time the Bill receives Royal Assent. It may be that the Bill sits on the Statutes and only brought in when the Island can afford to support the Tynwald Commissioner for Administration.

There may be potential for the Commissioner to be housed and supported within the Legislative Buildings however this needs to be further investigated and discussed with the Clerk of Tynwald's Office.

Ministerial sign off for Options stage

I have read the Impact Assessment and I am satisfied that given the available evidence, it represents a reasonable view of the likely costs and impact.

Signed Responsible Minister



Hon J A Brown MHK

Date

15th October 2010

SUMMARY: ANALYSIS AND EVIDENCE
IMPACT OF PROPOSAL
Resource Issues - Financial (including manpower)
<p>Statement</p> <p>It is not possible to know the number of complaints that the Commissioner may investigate during a year at this time. All that can realistically be done at this stage is to give an overall estimate of the potential cost.</p> <p>The costs would depend on how the Office is set up and under what terms and conditions the Commissioner is appointed. However it is estimated that costs could be in the region of £108,000 per annum for a full time Commissioner and pro rata for a part time Commissioner depending on the amount and complexity of complaints received.</p> <p>The option of the Commissioner being housed and supported within the Legislative Buildings is to be further investigated.</p>
<p>Option 2A Full Time Office</p> <p>Likely Financial Costs £108,000 per annum and possible salary costs for staff.</p> <p>One Off Not known but will include IT costs, office supplies, mobile telephone.</p> <p>Average Annual (excluding one off) Not Known.</p>
<p>Option 2B Part Time</p> <p>Likely Financial Costs £18,972 working 26 hours per month</p> <p>One Off Not known but will include IT costs, office supplies, mobile telephone.</p> <p>Average Annual (excluding one off) Not Known.</p>
<p>Option 2C Part Time with Retained Staff</p> <p>Likely Financial Costs £18,972 working 26 hours per month and salary costs for staff.</p> <p>One Off Not known but will include IT costs, office supplies, mobile telephone.</p> <p>Average Annual (excluding one off) Not Known.</p>
<p>Likely Financial Benefits Unknown however there will be savings from Government Officials and Tynwald Members not being involved in a continuing process.</p> <p>There may be savings from improved administration practices and procedures.</p> <p>The Commissioner may also be used to lead public Inquiries.</p>

If the proposal introduces provisions that will require enforcement or monitoring who will undertake this and what is the likely annual cost

The Commissioner will have the same powers as the High Court in respect of the attendance and examination of witnesses and the production of documents. The High Court may inquire into the matter and deal with the person as if he had committed contempt of court.

There is a penalty for obstruction of the Commissioners functions.

Are there any costs or benefits that are not financial i.e. social

Improved administration practices and procedures leading to customer satisfaction.

Introducing this further stage should ensure that complaints are dealt with without the public needing to pursue more complex formal procedures such as Tynwald Select Committees, Petition of Doleance to Court or Petition for the Redress of Grievance.

Has Treasury Concurrence been given for the preferred option

Yes. Treasury concurred with the Tynwald Commissioner for Administration Bill being introduced into the Branches subject to the caveat that the subsequent operational establishment of the office will be conditional on affordability criteria and budget allocation to be agreed by the Treasury.

Date of Treasury Concurrence 25 August 2010

Approximate date for legislation to be implemented if known

Not known

Link to Government Strategic Plan

Legislation and Regulation

To provide a comprehensive social legislation programme

Government Spending and Revenues.

Aim to provide high quality public services at maximum efficiency

Link to Department/Statutory Board/Office Aims and Objectives

Actively encourage improved efficiency within Departments, Boards and Offices.

Progress legislation sponsored by the Council of Ministers.

SUMMARY: CONSULTATION

Consultation in line with Government standard consultation process Yes/No

Consultation exercise from 6 August 2009 with an extended deadline for responses of 16 October 2009.

The consultation document was issued to all Government Departments, Statutory Boards, Offices, local authorities and other interested parties such as Ombudsmen from other small jurisdictions. Thirty one responses to the consultation document were received some of them very detailed. The Council of Ministers welcomed the responses and considered each comment made in the final drafting of the Bill. On the whole the responses received were supportive of the need for the appointment of a Tynwald Commissioner for Administration.

EVIDENCE BASE

In 2004 the Council of Ministers Report 'Review of the Current Standardised Complaints Procedure and Case for the Establishment of an Ombudsman' was received by Tynwald and its recommendations adopted.

A principle recommendation contained within the Report was that there is merit in establishing an Ombudsman Scheme to provide a fair and impartial assessment of complaints which is divorced from either political or administrative involvement.

Consideration has been given as to whether the Commissioner should be given a wider jurisdiction encompassing Police complaints and complaints against the Health Service. However such a broad jurisdiction would require legislation of some complexity and require an office and a large number of staff. The Commissioner and staff would be required to obtain a sizable knowledge about the different processes.

It is felt that the investigation processes for the civil service, health service and the Constabulary are by their very nature different.

