



# **DEPARTMENT OF INFRASTRUCTURE**

## **Local Government Handbook (for Members and Officers of Local Authorities)**



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This document replaces the document entitled “ General Information for Members and Officers of Local Authorities” previously provided to all Local Authorities and set out on the Local Government Team’s page on the Department’s website and referred to colloquially as the Local Government Handbook.

That document was dated August 2011 and this document therefore updates and modernises the guidance for local authority Members and Officers. It is intended that this will be a living document and therefore will be updated further in the future. Users are advised to consult the Government website to ensure that they are using the most up to date version of this document.

Throughout this document there are a number of external hyperlinks (highlighted in blue) which are provided for information only. The Department cannot accept responsibility for contents or reliability of sites linked to, or the information found there. For ease of navigation within the Handbook, we have also created internal links from the contacts page.

If you have any issues with the information provided, or if you find a broken link, please contact the Local Government Team in the Department of Infrastructure.

## **Introduction**

This document is designed to give an overview of the role and responsibilities expected and the key background knowledge that Local Authority Members and Officers should bear in mind when carrying out their role.

It is recognised that this does not cover all aspects of a local authority member or officer's role. It does seek to capture a broad base of the key aspects of local authority life.

We recognise there are many challenges associated with a local authority on the Isle of Man in the 21<sup>st</sup> Century, these include new responsibilities such as Data Protection and Freedom of Information considerations. This overview hopefully helps to capture these challenges and in many cases point the reader to where further information can be sought.

The local government sector in the Isle of Man is varied and complex and like many sectors experiencing constant change and therefore this guide will hopefully change too. For example the Local Government Amendment Bill will mean, if enacted, that there will be new aspects to the role of local authorities that will require new ways of working, this guide will in time be amended to reflect that new reality.

In the meantime it is hoped this revised handbook can assist both new Members and more experienced members and serve as a guide to key aspects of local authorities for Officers too.

This document should continue to be used as a reference in conjunction with the document entitled

**Corporate Governance Principles and Code of Conduct.**

## **Thanks**

The Local Government Team would like to thank colleagues and former colleagues in Estates & Housing, Information Governance, the Cabinet Office, Douglas Borough Council and the office of Tynwald Commissioner for Administration for their assistance with the Handbook and for providing information to include within this document.

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# Part 1

## **INTRODUCTION TO LOCAL GOVERNMENT**





## **1. Role of Commissioner/Councillor**

As a local authority commissioner/councillor you have the opportunity to make a difference to people's lives and bring about changes for the good of your local area.

Your role involves engaging with residents, local interest groups and businesses to balance their needs and bring any issues to the attention of the local authority with a view to finding solutions which benefit the local community.

You will be involved in setting the strategic direction and agreeing the policies of your local authority, alongside rate and budget setting, and attending various meetings of the authority including any others meetings where required.

Being a commissioner/councillor requires a lot of effort and commitment and numerous demands will be made on your time, but it is a very rewarding role and a great sense of satisfaction can be achieved in working together to further improve and enhance your local area and the services it provides.

## **2. Clerks and Officers of Local Authorities**

A good clerk is an essential asset to every local authority and their role primarily involves administering the authority's business and taking action to implement decisions made by the authority. The clerk is the first point of contact for ratepayers and in most cases all correspondence should be referred through the clerk.

Clerks and officers are paid employees of the authority and have a duty to support the authority as a whole. They are responsible for the day to day operation of the authority and for delivering its policies.

Some of the core duties of the clerk include:

- administration of meetings;
- preparation of accounts (in conjunction with the Responsible Financial Officer – if this role is not undertaken by the clerk);
- compliance with legislation;
- organisation of refuse collection and annual collection of rates (in some authorities) etc.

Members seeking advice on matters relating to their authority's functions should approach the clerk in the first instance. The clerk provides advice and guidance on

local authority matters and is to give sufficient information to the Board in order that it can make reasoned decisions.

In particular the clerk can advise with regard to:

- minutes;
- accounts;
- standing orders;
- agenda items;
- correspondence;
- byelaws;
- finance;
- legislation etc.

Local authorities who operate on a larger scale employ greater numbers of staff to assist them in carrying out their functions. For example, in addition to the position of clerk, local authorities may also employ a finance manager and any administrative and secretarial support staff as may be required. This can include staffing for managing and maintaining its housing stock (for those local authorities who act as a housing authority), maintenance of parks and gardens, the provision of a local library service, and byelaws officers etc. In addition, local authorities provide play areas, street lighting, tourist facilities, community halls, car parks and a range of other functions which can require employing staff whether on a full time or part time basis.

In some of the smaller local authorities the clerk may often be the only employee, although it should be borne in mind that legislation stipulates a local authority **shall** appoint a **Clerk, Responsible Financial Officer (RFO)** and **Litter Officer** so consideration needs to be given to the suitability of a clerk being capable of undertaking all these roles.

Since the **1st January 2018** all local authorities have been subject to the requirements of the Freedom of Information Act 2015 and therefore it is important for each local authority to ensure that they have the appropriate staffing arrangements/resources in place to respond to Freedom of Information requests. (See **Part 4** of this guide for more information on Freedom of Information)  
A guide on the recruitment of staff has been prepared and can be found as a separate document entitled Local Government Handbook Guide – Employment of Staff <https://www.gov.im/media/1375469/local-government-employment-of-staff-guide-2022.pdf>

### 3. Local Authorities

The Island's local authorities comprise town district, village district, and parish district authorities:

<b>Town Districts:</b>	Castletown Douglas* Peel Ramsey
<b>Village Districts:</b>	Michael Onchan Port Erin Port St Mary
<b>Parish Districts:</b>	Andreas Arbory & Rushen Ballaugh Braddan Bride Garff German Jurby Lezayre Malew Marown Patrick Santon

The full contact details of the above local authorities can be found on the Department of Infrastructure's website. See **Part 6 of this guidance** entitled '[Useful Contacts & Other Resources](#)' for a web-link

The local authority for each town district (except Douglas), village district and parish district is the body of commissioners elected by the local government electors of the district. The Commissioners are a **"body corporate"**, i.e. a legal person separate from the individual commissioners<sup>1</sup>. Individual commissioners have no authority except as members of the body corporate. Commissioners have no power or authority to act individually, except at meetings of the commissioners, when corporate decisions are made, or when they are elected as a member of a joint board.

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<sup>1</sup> Local Government Consolidation Act 1916 s.7(1)

\*The local authority for the town district of Douglas is the municipal corporation<sup>2</sup>, Douglas Corporation. The Corporation acts through the Borough Council, which consists of the mayor and the elected councillors (and is not itself a body corporate)<sup>3</sup>. References in Legislation are often to the municipal corporation but Douglas refer to themselves in official documents as Douglas Borough Council.

#### **4. Committees and Boards**

In addition to the local authorities, there are also a number of **joint boards and committees** comprising the districts of 2 or more local authorities. They are bodies corporate, consisting of members appointed by the constituent authorities, and are responsible for specific functions – refuse collection, civic amenity sites, housing for elderly persons or the provision of swimming pools.

A map of all the boards and committees and the constituent local authorities of each are set out at [Appendix A](#).

The current list of boards and committees comprises:-

<b>Swimming Pools:</b>	Northern Swimming Pool Board Southern Swimming Pool Board Western Swimming Pool Board
<b>Elderly Persons Housing:</b>	Southern Sheltered Joint Housing Board Peel & Western District Housing Committee Ramsey & Northern Districts Housing Committee
<b>Refuse &amp; Civic Amenity Sites:</b>	Eastern District Amenity Site Joint Committee Northern District Civic Amenity Site Joint Committee Northern Parishes Refuse Collection Board Southern Civic Amenity Board Western Civic Amenity Board

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<sup>2</sup> Douglas Municipal Corporation Act 1895 s.9

<sup>3</sup> Ibid. s.12

## 5. Functions of Local Authorities

FUNCTION	NATURE OF SERVICE
Refuse collection	Collection of household and commercial waste; administration of civic amenity sites; recycling
Street lighting	Provision and maintenance of street lighting
Public toilets	Provision and maintenance of public toilets
Planning	Power to appeal against a planning decision made within their district. Local authorities are also consulted on any designation of a conservation area or registration of a building affecting their district and on the preparation of the development plan for their area.
Trees and high hedges	Local authorities have the power to act in relation to complaints about trees and high hedges
Certain highway services functions	Local authorities are responsible for hedge cutting, street sweeping, gully clearing and weed spraying within their districts. The Department of Infrastructure retains responsibility for these functions on strategic routes
Litter	Local authorities must designate a Litter Officer to enforce the Litter Act 1972. Some authorities also provide and empty litter bins
Removal of vehicles	Local authorities have the power to remove a vehicle from any road in its district if it is: (a) Parked in contravention of a traffic regulation order; (b) Causing an obstruction; or (c) Likely to cause danger The Authority also has powers to remove a vehicle from any land if it appears to be abandoned.
Leisure facilities	Provision of recreational and entertainment facilities, including parks and playgrounds

Car parking	Provision of off-street and short-stay disc parking
Control of dogs	Enforcing byelaws made by the Authority
Anti-Social Behaviour	Enforcing Byelaws made by the authority to deal with various types of anti-social behaviours within the Local Authority area such as excessive noise nuisance or other behaviours which could cause danger or obstruction or give reasonable grounds for annoyance to any person.
Public info and advice	Point of contact for information on local and central government matters
Libraries and museums	Provision of public libraries and museums

Summary of the functions carried out by local authorities with the assistance of central government:

<p><u>ENVIRONMENTAL HEALTH</u></p> <p>Enforcing legislation relating to environmental health, including statutory nuisances, verminous premises, unsanitary and unfit housing, regulation of flats, prevention of overcrowding, dangerous/ruinous buildings and unsightly land<sup>4</sup>, and unsanitary drainage. All of these functions are in the main undertaken on behalf of Local Authorities by officers of the Department of Environment, Food and Agriculture.</p>
<p><u>HOUSING</u></p> <p>Provision of public sector housing in their districts. The Department of Infrastructure's Housing Division provides public sector housing in other districts. Sheltered accommodation for the elderly can also be provided. (Government meets 100% of the housing deficiency on the Island).</p>
<p><u>BUILDING CONTROL</u></p> <p>This function is currently undertaken by Douglas and Onchan for their districts; elsewhere the Department of Environment, Food and Agriculture is the Building Control Authority.</p>

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<sup>4</sup> These functions (dangerous/ruinous buildings and unsightly land) are carried out by Douglas Borough Council by their own officers

## **6. Housing Provision**

The Housing Section of DOI's Public Estates and Housing Division is responsible for the operation of the Department's own housing stock of approximately 1,200 homes, located around the island where there is no functioning housing authority.

In addition, it carries out a number of other housing-related functions including the management of:

- The Housing Deficiency Funding Arrangement
- Local Authority Housing Standards of Performance
- Annual Rental Setting for public sector homes
- First Time Buyer and Mid Rent Housing Schemes
- House Improvement (Adaptations) Scheme
- Voluntary Landlord Registration Scheme (which will eventually become mandatory in 2022)

The Division also works in partnership with local housing authorities to work together on development of public sector housing policy and operational guidance and procedure notes via regular quarterly meetings with officers and by consultation with Board and Committee Members where appropriate.

### **The Housing Deficiency Funding Arrangement**

A deficiency arises when there is a shortfall between the amount of rental income a housing provider receives and the total cost of their annual housing capital loan repayments. DOI, with the approval of Tynwald, provides financial support to cover the full annual deficiency incurred by each Local Housing Authority.

The deficiency payment system, monitored by DOI's PEHD ensures Local Authority Housing providers are able to invest capital in new developments and refurbishment works in line with need, whilst ensuring that the rental system is such that it remains affordable for the tenant.

### **Local Authority Housing Standards of Performance**

All housing providers (including the Department) are required to submit standards of performance ('SOP') data to the Department's Public Estates and Housing Division on a quarterly basis as part of the funding arrangements for public sector housing (Housing Act 1955 and Local Government Act 1985).

The four SOP areas reported on are:

- Finance
- Maintenance and Repairs
- Estate and Tenancy Management
- Tenant Satisfaction

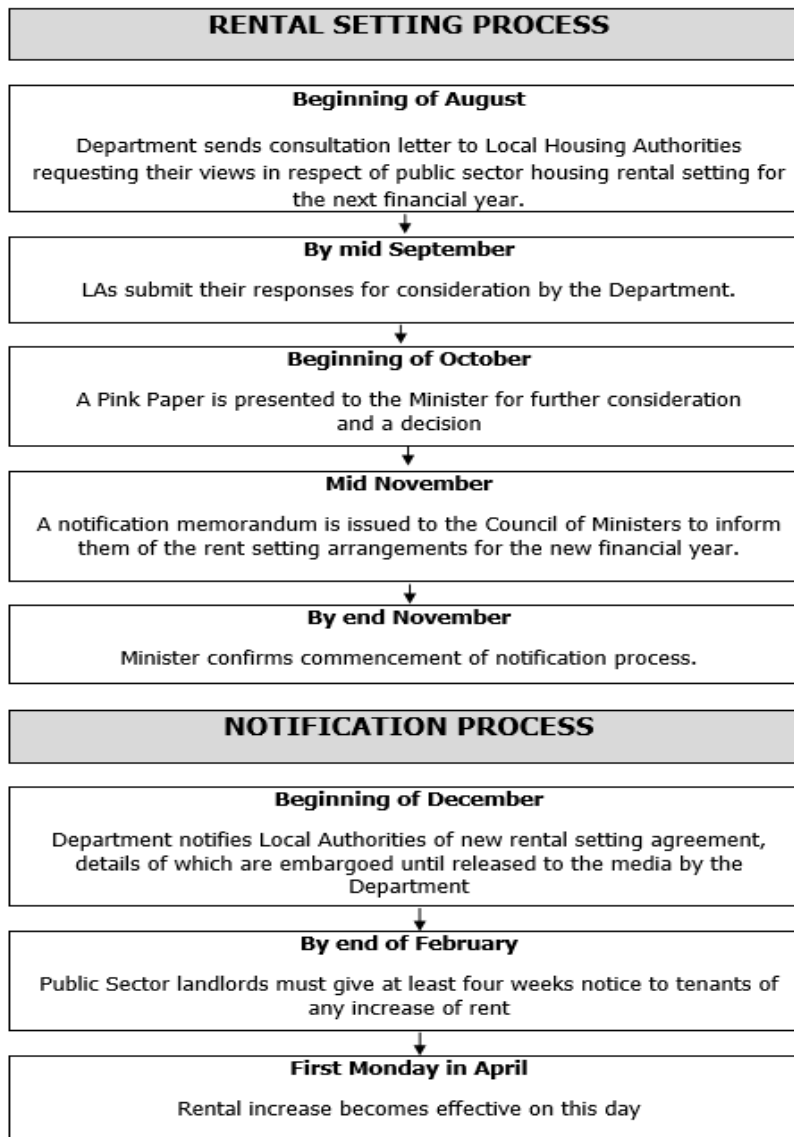


Performance reporting provides an overall snapshot of how the sector is performing using a limited number of Key Performance Indicators commonly used across public rental housing as a benchmark and to highlight opportunities for improvement, areas which require corrective action and performance areas which may require wider reform.

## Annual Rental setting

The Department has no direct vires to set rents centrally but equally, Local Authorities cannot set a rent without the Department's approval.

In light of this and to maintain common terms for public sector tenants, under the housing deficiency arrangement and following a period of consultation with the local housing authorities, the Department will review rent charges and allowances retained by the authorities on an annual basis.



## **First Time Buyer and Mid Rent Housing Schemes**

The Department can provide financial assistance to eligible First Time Buyers via two shared equity schemes:

- First Home Fixed – applies to new ‘approved’ first time buyer and buy-back properties which are on developments undertaken by the Department or private developers that are allocated directly by the Department to applicants on the Register of First Time Buyers
- First Home Choice – applies to properties on the open market and allows higher levels of income and purchase prices to enable greater flexibility in purchasing properties on the open market

The Department is currently conducting a pilot mid-rent housing scheme in the south of the island and is developing an allocation policy which, subject to Tynwald approval, will lead to the addition of Mid-Rent as an affordable housing option.

## **House Improvement (Adaptations) Scheme**

The Division is responsible for administering the Home Improvements (Adaptations) Scheme in partnership with DHSC’s Occupational Therapy.

The Scheme provides financial assistance to eligible applicants in acquiring specialist equipment and structural adaptations to their homes.

## **Voluntary Landlord Registration Scheme**

The Landlord Registration (Private Housing) Act is due to receive Royal Assent following its approval in Tynwald in June 2021.

The Department aims to make the transition to mandatory registration as smooth as possible by introducing a voluntary registration scheme, including publishing guidance to landlords to inform them of their obligations.

## **[7. Main Local Government Legislation](#)**

There are a number of Acts of Tynwald that cover local government on the Island. The main one being the Local Government Act 1985, this replaced in the most part the Local Government Consolidation Act 1916.

In 2006, the Local Government Act 2006 was introduced. This brought in a number of amendments to the Local Government Act 1985. The amendments were mainly around granting the Department some additional powers around

governance and financial matters. These changes updated the existing local government legislation.

There are also various other Acts which relate to aspects of local authority legislation.

The Department of Infrastructure advises local authorities to keep copies of the legislation listed below for reference –

- **Audit Act 2006**
- **Accounts and Audit Regulations 2013** (please note that these Regulations should be read in conjunction with the **Accounts and Audit (Amendment) Regulations 2016**)
- **Highways Act 1986** (Note: some provisions of this Act are relevant to the local authorities)
- **Housing Act 1955**
- **Housing (Miscellaneous Provisions) Act 1976**
- **Housing (Miscellaneous Provisions) Act 2011**
- **Dogs Act 1990** (Note: this Act applies to those local authorities who have dog byelaws)
- **Landlord and Tenant Act 1954**
- **Landlord and Tenant (Miscellaneous Provisions) Act 1976**
- **Local Government Act 1946**
- **Local Government Act 1963**
- **Local Government Act 1985**
- **Local Government Act 2006**
- **Local Government Consolidation Act 1916**
- **Local Government (Entertainments) Act 1950**

- **Local Government (Miscellaneous Provisions) Act 1976**
- **Local Government (Miscellaneous Provisions) Act 1984**
- **Local Government (Rating) Act 1971**
- **Pedlars and Street Traders Act 1906** (Note: some provisions of this Act are relevant to the local authorities)
- **Public Health Act 1990** (Note: some provisions of this Act are relevant to the local authorities)
- **Recreation and Leisure Act 1998** (Note: this Act applies to the majority of local authorities).
- **Trees and High Hedges Act 2005**
- **Tenancies (Implied Terms) Act 1954**

The above Acts can be found on the Isle of Man Government's website, along with **Health and Safety** legislation and legislation governing the **local authority elections**. (See **Part 6** of this guidance entitled '[Useful Contacts & Other Resources](#)' for web links to these areas on the Isle of Man Government's website.

**Please note that local authorities are responsible for obtaining their own legal advice on any matters where they feel further clarity is needed within their own authority, and in particular surrounding the interpretation of any legislation they are bound by.**

## **8. [Declaration of Acceptance of Office](#)**

You cannot act as a commissioner/councillor until you have signed a formal declaration of acceptance of your office. You must sign it at or before your first meeting following your election in the presence of at least 2 members of the authority or the clerk to the authority or a justice of peace or magistrate in the Island, the United Kingdom or the Channel Islands; or a commissioner for oaths. A declaration must be made within 1 month from the day of the election and delivered to the clerk of the authority. If such a declaration fails to be made within the appointed time that office of the person elected shall expire and be declared vacant.

## 9. Meetings

Each authority must hold an annual meeting in May (at which the Chairman or Mayor is elected and appoint committee/board members and representatives). In addition to the annual meeting, local authorities must also hold at least one meeting in each quarter. Other ordinary meetings are at the discretion of the authority. The clerk or chairman may summon an extraordinary meeting, and the chairman must do so on a requisition of one-third of the members. At least 3 days' notice of a meeting, with the agenda, **must** be given to every member. Provision is also made for the quorum of meetings, majority voting and the keeping of minutes.

Schedule 1 to the Act, setting out the statutory requirements as to meetings, is annexed at [Appendix B](#); the authority's standing orders<sup>5</sup> will make further provision as to the conduct of meetings (see [Appendix C](#)). Individual commissioners can only exercise their powers at meetings of the commissioners in accordance with Schedule 1 to the 1985 Act.

It is very important that local authorities conduct their business in a structured manner which is agreed and fully understood by all members.

### **Public Attendance**

Local authorities are encouraged to hold their meetings in public, unless the nature of the items to be discussed requires the proceedings to be held in private session. Further guidance on public and private sessions can be found in the section entitled 'Minutes'.

### **Preparation for meetings**

Members receive a summons to attend a meeting **at least 3 clear days** before a scheduled meeting of the authority. That summons should specify the business proposed to be transacted, be signed by the clerk or Chief Executive of the authority and be left at or sent by post to the usual place of residence of every member of the authority.

Where possible, Clerks should be encouraged to send out meeting agendas electronically.

Before attending meetings, it is advisable that members allow adequate time to prepare for the meeting, including time to read the agenda papers and any accompanying reports. They may also wish to do the following:-

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<sup>5</sup> S.27(1) of the Local Government Act 1985 requires standing orders to be made

- Identify matters of particular interest to them or which may be contentious
- Identify any matters which may need clarification or additional information from the Clerk.
- Identify any agenda items that they may have a pecuniary interest in or where they may be conflicted.

Members may wish to allocate and schedule preparation time and under the guidance provided in relation to member’s allowances, an authority may agree a policy for Members to follow around how much preparation time can be included as “approved duty” and claimed under the Local Government (Member’s Attendance Allowances) Order 2013.

### **Chairing meetings**

At a meeting of a local authority the chairman, if present, shall preside. If the chairman is absent from a meeting the vice-chairman, if present, shall preside.

In a case where both the chairman and vice-chairman are unavailable another member of the authority chosen by the members of the authority present shall be chosen to chair that meeting. In the case of Douglas Borough Council where the Mayor is not present another member of the authority may be chosen to preside, this may be the Deputy Mayor or another member.

#### **IMPORTANT ATTRIBUTES OF A CHAIR –**

Each commissioner/councillor brings to the meeting their own individual personalities, strengths, specialisms and values. The Chairman has a duty to ensure that all business is considered properly in line with the authority’s standing orders and should also look to create a co-operative and inclusive atmosphere for debate and decision making. **It is good practice for the Chairman to refer to the Clerk for advice, if needed.**

Some key attributes to being a chair include the following:-

- Being fair and reasonable
- Objective/ impartial
- Firm but not overbearing
- Confident but courteous
- Tactful
- A quick thinker
- Someone who is knowledgeable on procedures and policies

## **DUTIES OF THE CHAIR –**

Preserve order and ensure proceedings are conducted according to the standing orders.

\* More information can be found in the Department's Corporate Governance Principles and Code of Conduct guidance.

## **Quorum**

One of the key aspects of a meeting is the need to ensure that the meetings taking place are legally constituted.

The quorum is the number of commissioners or councillors who must be present at a meeting for it to be legally constituted or 'quorate'. No business should be transacted at a meeting of a local authority unless at least one-half of the whole number of members of the authority are present. As examples for a Local Authority with Nine Standing Members, the quorum would be 5 Members and for a Local Authority with 5 Standing Members that quorum would be 3 Members.

Each authority's standing orders should stipulate its quorum. Should a commissioner or councillor be aware that they will need to leave a meeting early, then they should advise the clerk and chairman as soon as possible before the meeting, as it is for the clerk and chairman (if present) to ensure meetings remain quorate.

## **Majority**

All questions and items arising before a local authority shall be decided by a majority of the members of the authority present, a vote of those present should then take place and a majority determined by that method. If after the vote has taken place there is no clear majority (an equality of votes), the person presiding (chairman) shall have a second or casting vote.

## **10. Minutes**

### **Key Principles and Legislation**

Minutes of meetings are a record of what was done, not of what was said and accordingly they should be confined to the decisions taken, the reasons for the decision, and any supporting information but should not be a verbatim record of how the decision was arrived at.

The minute should contain sufficient information so that at a later stage the content and decision arising from the minute is clear.

Members and officers must bear in mind that minutes:-

- can be used in legal proceedings, and
- may be inspected and copied by any local government elector<sup>6</sup>,
- be supplied to the relevant Department if requested (this provision includes Minutes of any joint committee or sub-committee of the authority)

so every care should be taken to ensure that decisions are accurately recorded in the minutes.

Minutes should be produced in the style of the Authority with a clear heading containing the time, date and venue of the meeting. It is good practice to set out the time the meeting starts and finishes.

Each minute should contain headings indicating what it is about and a narrative summarising the discussion that took place and the decision taken. For some items (perhaps commenting on planning applications) a narrative may not be required or necessary. Any narrative should be in the past tense ("reported speech") and should include references to reports that have been prepared and submitted where appropriate.

There is no distinction, in legal terms, between a "private" meeting and a "public" meeting and the Minutes of every meeting whether held in public or private session must be "signed at the same or next following meeting of the authority" under paragraph 9(1) of Schedule 1 to the Local Government Act 1985, and are subject to inspection under Section 34 of that Act.

Local authorities may wish to discuss 'sensitive' matters in private session of their meetings and for guidance the Department of Infrastructure would suggest that 'sensitive' matters include contracts, housing allocation, staffing matters, or whenever it is likely that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence.

An example of how a Local Authority determines what is sensitive may be the following:-

A Local Authority decides they wish to pursue the purchase or sale of a property in the area. A business case is prepared and helps to inform the members of the Local Authority. This is discussed in public. It is determined that certain aspects of the proposal are sensitive matters and those are determined only in private session. So for example buying a property for a large sum would not be a sensitive matter in itself but who they are buying from and some aspects of the deal may be deemed to be sensitive and should be dealt with in private session and minuted accordingly.

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<sup>6</sup> s.34 of the Local Government Act 1985



## Publication & Inspection of Minutes

Minutes should be produced as quickly as possible after the meeting by the Clerk or officer assigned to take minutes in order to circulate them to Members to check for accuracy, this should not be seen as an opportunity for a wholesale re-writing of the minutes. It would be good practice to circulate the draft minutes within 10 working days of the meeting but each LA may have their own standard on this.

Local authorities are encouraged to publish their minutes on their website (where they exist) and make them available to ratepayers on request.

Section 34 of the Local Government Act 1985 states ratepayers of the district are allowed to inspect the minutes and may make a copy of or an extract from those minutes. Also the Department of Infrastructure can, under the same legislation, ask for copies of local authority Minutes.

However for minutes of decisions taken in private session which contain 'exempt' information i.e. staffing, legal or contractual matters (or housing allocation for instance) then only a narrative summary need be publicly available. Local authorities should not use private sessions other than to discuss sensitive matters as described above.

### Guidance on Taking and Recording Minutes

A local authority, joint board or joint committee has a legal duty to keep records of its meetings which can then be used as evidence in a court of law (s.55 Local Government Act 1985).

Minutes become legal when they are approved by the local authority (joint board/committee) and they are signed by the chairman (or person presiding) as an accurate record. This normally occurs at the next meeting (Paragraph 9 of Schedule 1 to Local Government Act 1985).

In accordance with paragraph 8 of Schedule 1 to the Local Government Act 1985 (annexed at **Appendix 2**), the names of the members present at a meeting of a local authority shall be recorded.

A **Minute Book** must be kept and loose leaf minutes should be numbered consecutively and initialled by the chairman on every page. Minutes need a clear numbering system for easy reference. The most straight forward numbering system relates to the date a meeting is held. For example, the first item of a meeting held in June 2017 would be 17/06/01, the second would be 17/06/02 and so on. Minutes should be kept secure for an indefinite period of time.

The record of decisions must be absolutely clear. It is not necessary to record individual elected member's votes unless requested to do so. It is good practice to use the following phrase and to write it in bold:-

**It was resolved that .....**

**Resolutions: When a proposal has been agreed, it becomes a resolution.**

Minutes should be as concise as possible, but there is no specific agreement on the appropriate style!

Minutes are an historical record of local authority business and should be capable of being understood by anyone reading them.

Items in the minutes should match the items on the meeting agenda.

As a minimum the minutes must record the resolution on the decision but can also include a short summary of important points where this adds value. A detailed account of who said what is neither necessary nor advisable. It is not a good idea to record who said what unless the name of the speaker is significant. For example if the community police officer is invited to talk about traffic outside the local playground, then his/her comments should be attributed as this gives them authority. It is a good idea to record clearly any action that should follow from the discussion and who has agreed to undertake it.

Committees may exercise delegated powers, in which case their minutes record their decision as Resolutions. Where a committee does not have the power to take a decision, recommendations are made to the full local authority.

In addition to the minutes the clerk may also have to prepare an **action list** following the meeting. This document is circulated to all the relevant officers to ensure that prompt and appropriate action is taken as the preparation and clearance of the final minutes can take some time hence preventing delay on essential, urgent action.

## **11. Local Government Finance**

Local authority members and officers are responsible for public money. This can often be daunting but the role of the authority is not to take unacceptable risks with ratepayer's money. Your authority should ensure it has a risk management strategy setting out its risks. This includes the need to have insurance to protect employees, buildings and members of the public. Playgrounds and sports facilities for example would need to be inspected regularly and recorded as such so to protect the users and the Authority.

**As a member of a local authority you have collective responsibility for the management of your budget and the assets of the Authority.**

Under the Audit Act 2006 and the Accounts and Audit Regulations 2013, every Local Authority and Joint Board<sup>7</sup> is required to nominate an officer (following approval by the Department of Infrastructure) to carry out the role of Responsible Financial Officer (known as **RFO**), whose duty it is to ensure robust financial management systems are in place.

A local authority member should look to ensure that the RFO acts properly so that the Authority avoids the risk of loss, fraud or bad debt. It is important to have in place a robust financial management system. A local authority should have financial regulations setting out how the commissioners/council manages their finances. Each local authority must have Standing Orders; a part of those should be financial regulations. Your authority should operate a system of internal control in line with your authority's expenditure and functions carried out. As part of its system of internal control an internal audit should be carried out. This independent report gives the members the ability to monitor, alongside regular RFO reports, the financial health of the authority.

One of the main functions of a local authority is to set a rate for the district. This enables a local authority to obtain the funding it needs to be able to provide the required services to ratepayers.

When an authority fixes its rate and budget for the forthcoming year, it first estimates how much it will spend in that year to provide those services.

Any grants or income from other sources are deducted along with any changes in balances. The remaining sum is raised from local ratepayers through rates.

**Rates are a tax on occupation of property – not a payment for services. Ratepayers cannot seek to pay less on the basis that they do not use some of the Authority's services.**

Another role of the members of the authority is to monitor the authority's budget. By checking spending against budget plans on a regular basis at meetings, the commissioners/council controls its finances during the year so that it can confidently make progress towards its aims.

A further check on each authority's management of the public finances is through

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<sup>7</sup> section 68 of the Local Government Act 1985 explains that Joint Boards are to be treated as Local Authorities for the purposes of many of the Sections of the Local Government Act 1985.

the yearly external audit or inspection. All local authorities, boards, committees and burial authorities are required to produce annual accounts which are prepared and inspected in accordance with the Audit Act 2006.

## **12. Allowances**

Local Government membership is not a paid office, however, commissioners and councillors are entitled to an allowance.

Attendance allowances can be claimed as follows:

**Daytime rate:** £12.50 per hour (to a maximum of £50 per session).

**Evening rate:** £7.50 per hour (to a maximum of £30 per session).

The maximum allowances payable to a member per annum are **£3,600** for evening sessions or **£6,000** for daytime sessions (or both daytime and evening sessions combined).

Travel allowances can also be claimed.

Copies of the current Local Government (Members' Attendance Allowances) Order and the Local Authority Members (Travelling Allowances) Order can be found on the Department's website. (See **Part 6 of this guidance** entitled '[Useful Contacts & Other Resources](#)' for a web-link.)

## **13. The Isle of Man Local Government Superannuation Scheme**

### **A statutory scheme**

The Isle of Man Local Government Superannuation Scheme ("the LGSS") is a statutory public service pension scheme (as defined by the Superannuation Act 1984 ("the 1984 Act"), an Act of Tynwald). Following the repeal of the 1984 Act in 2012, the 1984 Act continues to apply to the Scheme pursuant to Schedule 1 of the Public Sector Pensions Act 2011. The Scheme operates under the Isle of Man Local Government Superannuation Scheme Regulations and provides retirement benefits for employees of local government employers (including resolution bodies) and other admitted bodies in the Isle of Man. The Scheme provides pension and lump sum benefits for Scheme members upon their retirement and/or benefits on death, before or after retirement, for their dependents. The benefits are on a Defined Benefits (DB) basis payable under the Scheme rules.

The LGSS is similar in nature to the Local Government Pension Scheme (LGPS) in the UK but the reforms to that scheme introduced in 2014 (switch to a Career Average Related Earnings or CARE basis and linking Normal Pension Age to State

Pension Age etc.) have not been applied to the Isle of Man LGSS which therefore retains its pre-reform benefits.

### **Eligibility to join the scheme**

Employees from each of the Island's larger town, village or district local authorities have automatic rights of access to the scheme. Those local authorities that are resolution bodies (all parish districts and joint boards or committees) are able to participate in the scheme by way of resolution of their board, thereby granting access to membership of employees or groups of employees. The admitted bodies include a number of charities and burial authorities.

### **The Administering Authority – Douglas Borough Council**

The Administering Authority for the LGSS is Douglas Borough Council. As Administering Authority, the Council is required to:

- make arrangements for the proper administration of its financial affairs and to secure that one of its officers (the Director of Finance, who is the Council's Responsible Financial Officer) has the responsibility for the administration of those affairs;
- manage its affairs to secure economic, efficient and effective use of resources and safeguard its assets; and
- approve the Pension Fund Annual Report of the Scheme.

### **Investment strategy**

The Council has delegated the oversight of the administration of the scheme and the management of its investments to the Pensions Committee, the minutes of which are reported to Council meetings. The Pensions Committee determines the Pension Fund's investment strategy for the Scheme, taking account of the Scheme's liabilities and the Committee's attitude to risk. The investment strategy is set out in the Scheme's Governance Statement, which is approved by the Committee. This document includes the strategic asset allocation. Part of the Scheme assets are invested in return seeking growth assets comprising UK and global equities, commercial property and absolute return funds. The remaining portion of the assets are invested in conventional gilts, index-linked gilts and corporate bonds. These are expected to change in value broadly in line with the Scheme's long-term liabilities.

The Pensions Committee appoints the fund managers and monitors their performance and the performance of the investments. The fund managers manage the investments within the parameters stipulated in their mandates or investment management agreements, which are designed to ensure that the objectives and policies set out in the Committee's Statement of Investment Principles are followed. The Committee appoints an Investment Consultant, who

advises the Committee at quarterly meetings on the performance of the Fund and its fund managers.

### **Fund Valuations**

The Pensions Committee is responsible for appointing a Fund Actuary, who provides a statutory valuation for the scheme every three years. The purpose of the valuation is to review the funding position and determine an appropriate level of employers' contributions. This is not to be confused with the annual accounting valuation (also performed by the Fund Actuary), which is solely designed to achieve compliance with accounting regulations (Financial Reporting Standard 102) and should not be used as a guide to determine the Scheme's actual level of funding nor the required level of employer contributions into the Scheme.

The Scheme's Funding Strategy Statement is updated after each statutory valuation following consultation with all Scheme employers. This statement focuses on how employer liabilities are measured, the pace at which these liabilities are funded, and how employers pay for their own liabilities. In a nutshell, the Funding Strategy Statement summarises the Scheme's approach to funding its liabilities.

### **Scheme administration and sponsorship**

The Pensions Committee also meets every six months to consider administration matters. The day to day administration of the fund has been delegated to Capita Pension Solutions Limited, based in the UK. Employers and employees with queries about the scheme should contact Capita direct on 01624 672730 (local call rate), or via email on [iomenq@capita.co.uk](mailto:iomenq@capita.co.uk).

The LGSS is sponsored by the Isle of Man Government's Department of Infrastructure (DOI) in the island which has oversight of the Island's local Government sector and also responsibility for the management of the LGSS including agreement to, and drafting of, any changes to that scheme as proposed to it by the Administering Authority.

At the request of the Administering Authority, the DOI has established a LGSS Policy Review Group to draw up proposals for scheme reforms for consideration by all parties. This was communicated to all local authority employers, employees and unions in November 2021.

**Further information about the LGSS including latest Report and Accounts for the LGSS, the Governance Statement, the Statement of Investment Principles, and last Actuarial Valuation Report and Funding Strategy Statement can be viewed here: <http://iomlgps.im/>**

## 14. Statutory Powers and Duties

At common law a local authority, being a statutory body, has power to do only those things which –

- (a) It is specifically empowered by statute to do, or
- (b) Are reasonably incidental to doing those things (e.g. providing buildings, employing staff or engaging professional staff)

The powers in (b) are given statutory effect by section 16(1) of the Local Government Act 1985.

**Any other acts of a local authority are unlawful as being *ultra vires* or *beyond its powers*.** In addition any time and costs incurred in their performance may be the subject of action under the Audit Act 2006.

The law actually gives local authorities a wide discretion as to how they exercise their statutory powers and duties and is governed by certain general rules, these being that:-

- if a local authority's function is expressed as a duty ("**shall**" or "**must**") it must perform it, but if it is expressed as a power ("**may**") it is not bound to do so;
- in deciding whether to exercise a power, and how to perform any function (whether a power or a duty), it is required to act properly and reasonably; that is, (i) it must take into account any relevant considerations, and ignore considerations which are irrelevant; and (ii) it must act reasonably.

**All local authority members have a duty to uphold the law, on all occasions.**

## 15. Carrying out of Functions

### **Delegation of functions**

A local authority may arrange for the exercise of any of its functions –

- by a committee of the authority, or a sub-committee of such a committee
- by an officer of the authority

This power does not apply to acquiring or disposing of land, making or levying a rate, or borrowing money.

## **Committees**

With the relevant Department's consent, 2 or more authorities may act jointly in the exercise of their functions, and for this purpose may set up a joint committee<sup>8</sup>. Committees (including joint committees) may appoint sub-committees. These committees and sub-committees (except a committee for controlling the finance of an authority) may include persons, up to one-third of the membership, who are not members of the appointing authority or authorities<sup>9</sup>. Joint committees are NOT CORPORATE ENTITIES and consequently they cannot own property or employ staff.

## **Joint Boards**

The Department may by Order establish a joint board<sup>10</sup>. A joint board shall consist of representatives of two or more constituent authorities and shall be a body corporate. The board will have perpetual succession. Boards can own property and employ staff.

## **Premises**

Local authorities have power to provide offices and other premises for transacting their business and exercising their functions<sup>11</sup>. The Local Government Act 1963 extended these powers to enable local authorities, with the consent of the Department of Infrastructure, to provide premises for other bodies, e.g. Departments of Government, charities and health practices<sup>12</sup>. The Local Government Act 2006 inserted a new Section 24A into the 1985 Act which extends powers to allow local authorities to share premises and facilities still further.

## **Land transactions**

Any transaction involving the acquisition or disposal of an interest in land by a local authority (except a letting for up to 7 years) is subject to the consent of the Department of Infrastructure or, if the Department decides to refer it to Tynwald, the approval of Tynwald<sup>13</sup>.

A local authority has power to acquire land compulsorily for the purpose of any of its functions<sup>14</sup>; this power can only be exercised with the authority of a resolution

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<sup>8</sup> Local Government Act 1985 s.17(4) & 18; note that, unlike a joint board established under s.7, a joint committee is not a legal entity distinct from the constituent authorities.

<sup>9</sup> Ibid. s.18

<sup>10</sup> Ibid. s. 7

<sup>11</sup> Ibid. s.24

<sup>12</sup> Local Government Act 1963 s.26(1)(c)

<sup>13</sup> Local Government Act 1985 s.25

<sup>14</sup> Ibid. s.26



of Tynwald, and the compensation is determined by arbitration<sup>15</sup>.

## **War Memorials**

Local Authorities, in exercising their powers under the War Memorials (Local Authorities' Power) Act 1972, should note there is an Isle of Man Government Preservation of War Memorials Committee, which has been established for the purposes of (inter alia) ensuring the proper maintenance and upkeep of such memorials and preventing the removal or destruction of memorials. The Committee can be contacted for advice and guidance and their contact details can be obtained from the Cabinet Office via email: [enquiries.co@gov.im](mailto:enquiries.co@gov.im)

Another source of useful information is 'The War Memorial Trust', an English registered charity, working for the protection and conservation of war memorials across the UK which also embraces the Isle of Man in its work. The trust can be contacted via e-mail: [conservation@warmemorials.org](mailto:conservation@warmemorials.org) or alternatively useful information can be found via their website at: [www.warmemorials.org](http://www.warmemorials.org)

## **Competition Law**

Where a local authority engages in an activity competing with the private sector, competition must be fair, meaning there is no cross-subsidisation of commercial activities from revenue-funded budgets.

For more information on competition law in the Isle of Man please contact the Office of Fair Trading. A guide on Competition law for the public sector is available <https://www.gov.im/media/1363073/competition-law-a-guide-for-the-public-sector.pdf>

## **16. Byelaws**

Under provisions in the Local Government Act 1985, a local authority has the power to make byelaws "*for the good rule and government of the whole or any part of its district, and for the prevention and suppression of nuisances therein*". Such byelaws must not cover matters the subject of other legislation, and expire 20 years after they come into force<sup>16</sup>. Byelaws made by local authorities (including those made under other Acts)<sup>17</sup> are subject to the approval of Tynwald; appropriate consultation should take place before attempting to introduce the byelaws, they must be printed and made available to the public and, in the case of byelaws for premises or conveyances, displayed on the premises or in the conveyance<sup>18</sup> in question.

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<sup>15</sup> Acquisition of Land Act 1984

<sup>16</sup> Local Government Act 1985 s.28; note that byelaws made under the Local Government Consolidation Act 1916 before 1st April 1981 expired on 1st April 1991; such byelaws made on or after that date expire on 1st April 2006 (1985 Act Sch.4 para.3).

<sup>17</sup> Ibid s.30

<sup>18</sup> Ibid s.30

Dog Byelaws can also be made by local authorities under Section 24 of the Dogs Act 1990. Byelaws made under this Section imposing controls on dogs and their owners in certain parts of the local authority area shall not have effect unless approved by the Department of Infrastructure and also expire 10 years after the date they are made.

## **17. Personal Liability**

Generally speaking, a member or officer of a local authority is not personally liable for acts undertaken or carried out in good faith as part of his or her duties<sup>19</sup> .

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<sup>19</sup> Ibid s.41



# **PART 2**

## **CORPORATE GOVERNANCE / STANDARDS**



## 18. [Corporate Governance Principles & Code of Conduct](#)

Commissioners and Councillors are expected to maintain high standards of conduct and local authorities are recommended to put in place a **code of conduct**.

A code of conduct should be based around the seven principles of conduct of people in public life known as the **Nolan principles** (see below):

### **Openness**

An open approach is required to ensure all interested parties are confident in the local authority. Openness in the disclosure of information leads to effective and timely action and lends itself to necessary scrutiny.

### **Integrity**

This is described as both straightforward dealing and completeness. It should be reflected in the honesty of the local authority's annual accounts. Minutes of Meetings being made open and available to the public provide the portrayal of a balanced view. The integrity of the business conducted is a reflection of the professional standards within the local authority.

### **Accountability**

This is the process whereby individuals (or Boards) are responsible for their actions. It is achieved by all parties having a clear understanding of those responsibilities, and having clearly defined roles through a robust structure.

### **Selflessness**

Members should take decisions solely in terms of the public interest and should never improperly confer an advantage or disadvantage on any person. They should not take any decisions in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Honesty / Integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour. Members should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Members have a statutory duty to declare any pecuniary interests relating to their public duties and to take steps to resolve any conflicts arising in a way

that protects the public interest (see Local Government Act 1985 s. 11-15).

**Objectivity**

Members should make decisions on merit, including making appointments, awarding contracts, or recommending individuals for rewards and benefits.

**Leadership**

Members should promote and support these principles by leadership and example, and should act in a way that secures and preserves public confidence.

To assist each Local Authority in adopting a Code of Conduct, the Department has provided guidance in a document entitled '[Corporate Governance Principles and Code of Conduct](#)'. This guide is not currently mandatory for local authorities to implement however it is recommended best practice and local authorities are encouraged to consider adopting the code as part of their procedures.

Local authorities are also encouraged to consider introducing a standards regime so that if Members do not follow the principles set out in the code of conduct action can be taken against that individual. Some local authorities on the island have procedures to deal with this and you should check with your local authority clerk for details of your particular standards.

## **19. [Standing Orders](#)**

Every local authority (including its committees and joint boards) **must** make standing orders (section 27 of Local Government Act 1985) governing its proceedings.

Every local authority **must** have standing orders with respect to the making of contracts by it or in its behalf for the supply of goods or materials or for the execution of works, and such standing orders:-

- shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited;
- may exempt from any such provision contracts for a price below a specified sum; and
- may authorise the authority to exempt any contract from any such provision where the authority is satisfied that the exemption is justified by special circumstances.

The Department recommends that local authorities have at least 6 standing orders covering the management of meetings, tenders, contracts, exclusion of members with specified interests etc. Others may be required depending on the business

transacted by the authority. Model Standing Orders can be found at [Appendix C](#).

Any suspension of standing orders needs to be recorded in a register which is open for inspection by electors and officers of the Department. A local authority should not as a matter of course suspend Standing Orders at the beginning of a meeting, to continually suspend standing orders could result in the authority acting *ultra vires*.

The clerk to the authority should supply each member with a copy of the authority's standing orders.

## **20. [Declarations of Interest](#)** (This is also dealt with in the Code of Conduct)

### **Principles**

Local authority members must comply with the following ethical principles:

- Members hold office by virtue of the law, and must at all times act within the law. A member should make sure that he or she is familiar with the rules of personal conduct required by the law and the standing orders of the local authority.
- A member has an overall duty to the whole community and a special duty to his or her constituents, including those who did not vote for him or her.
- A member should never do anything which could not be justified to the public, and which could affect the reputation of the local authority.
- Members must not act in any circumstances in which there is a conflict between their personal interests and their public duties. This must also be borne in mind with any organisation they may be a member of.
- They should regularly review their personal circumstances and, if in doubt, seek advice from an appropriate senior officer or legal adviser.

### **Pecuniary Interests**

Members of local authorities are required to declare any "pecuniary" (financial) interest they may have in any contract, proposed contract or other matter before the authority. Also, a member with an interest in a matter for discussion by the authority must not take part in the discussion or vote on it. (This also applies to matters before a committee or sub-committee of the authority and a joint committee on which the authority is represented.)

The presence of the member nevertheless counts towards a quorum of the body in question; however, the standing orders of the authority may require a member



to leave a meeting during the discussion of a matter in which he has an interest<sup>20</sup>.

The financial interests to which the above applies include –

- an indirect interest
- an interest of a spouse of the member or officer
- an interest of a partner or employer of the member or officer
- an interest of a company in which the member or officer (or his or her nominee) holds a share or by which he or she is employed

The following, however, do NOT constitute a financial interest –

- the fact that the member or officer is a ratepayer;
- the fact that the member receives allowances or the officer receives remuneration from the authority;
- the fact that the member or officer is the tenant of one of the authority's houses, so long as the matter being discussed involves those houses generally rather than his or her house or the houses in the same area;
- a connection with the matter which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member or officer.
- A shareholding in a company which is worth less than £1,000 or less than 1% of the issued share capital, whichever is the less, does not prevent a member taking part in or voting on a matter, but must still be disclosed.

Advice on whether or not a member has a pecuniary interest can be sought from the clerk to the authority or from the authority's legal advisers. However, as a general rule, **IF IN DOUBT, DECLARE.**

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<sup>20</sup> Local Government Act 1985 ss.11 & 12

## General disclosure

A member of a local authority, if he or she so wishes, shall make a general disclosure<sup>21</sup> of a pecuniary interest by notifying the clerk, who is to enter it in a book which is open to inspection by any member of the authority.

The entry of the interest in the book means that the member does not have to declare his interest on every occasion (but this does not affect the member's obligation not to take part in a discussion or vote on the matter in question).

On the matter of other interests it is good practice for members to ask themselves whether members of the public, knowing the facts of the situation, would reasonably think that you might be influenced by it. If you think so, you should regard the interest as clear and substantial and therefore make a declaration.

**Penalty** – Failure to declare a pecuniary interest, or taking part in a discussion or vote on a matter in which the member has an interest, is an offence carrying a fine of up to level 4 on the Standard Scale unless the member can prove that he or she was unaware of the interest.

## Officers

An officer of a local authority must also declare in writing to the authority any pecuniary interest in a contract which it has entered into or proposes to enter into and also in respect of any other matter under consideration by the authority. But this does not preclude him from dealing with that matter on behalf of the authority.

## 21. Complaints Procedure

A complaint is defined as:-

“an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the local authority/Council or its staff affecting any third party.”

Local authorities should themselves investigate and settle any complaints received, if possible. Therefore they should maintain systems for dealing with complaints. The principal test of the effectiveness of a complaints system is whether it helps to resolve the dissatisfaction of complainants including ratepayers or customers about the actions or inactions such as the service they have received or believe

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<sup>21</sup> Local Government Act 1985 s.13

they should have received. An efficient system will also highlight any processes which need reviewing or updating thereby improving services.

Complaints received should be entered in a **Register of Complaints**.

Complaints may be either oral or written. Of course, not all communications with a dissatisfied customer will necessarily involve the making of a complaint. For example a customer may have a concern which can be easily resolved without the need to make a formal complaint. Similarly there are some complaints which do not warrant a record being taken:-

- A complaint about a matter outside the competence of the authority
- A complaint where the complainant is not involved in the matter forming the subject of the complaint or has no direct interest therein
- A complaint about a failure of service which is rectified within a reasonable timescale (e.g. failure of water or electricity supply)

A complaint is not a request for a service (e.g. housing repairs) or for information. However, a complaint could arise if the local authority failed to act adequately on such a request, or to communicate information which had been requested.

It is important to stress that a "complaint" must relate to some act or omission **by the local authority**, not any other outside agency. For example a letter complaining about the behaviour of neighbours would not constitute a "complaint" within this procedure. However, a letter complaining that the local authority had failed to act adequately in this situation would be defined as a "complaint".

If the complaint involves racial, sexual or equal opportunity discrimination then that should be referred immediately to the Chief Executive/Clerk.

In some cases it will remain a matter of judgement whether a complaint is being made. During the course of day to day contact with the public there will always be an exchange of views and comments and a common-sense approach must be taken in deciding whether a formal complaint is being made.

The Complaints Procedure exists to ensure a prompt investigation and resolution of genuine complaints, and to provide a mechanism for complainants to make known their grievances.

### **Who can complain?**

Any ratepayer, member of the public, organisation or company who receives a service from, or is affected by the actions or inactions of the local authority.

## **Form of complaints**

A complaint may be made either verbally, in writing, or electronically. The complaint might not be specifically flagged and may be disguised in more lengthy correspondence. It is important to record all complaints received whether written or oral.

## **Receipt of complaints**

In the case of an oral complaint the person dealing with the enquiry should make a record of it. It should then pass to the Chief Executive/Clerk (or Complaints Officer) who will implement the Complaints Procedure and record it in the Complaints Register and then undertake an initial investigation. If an oral complaint is being made about the member of staff dealing with the enquiry, the matter should be immediately handed over for another person to speak with the complainant who will make a record of it then pass it to the Chief Executive/Clerk (or Complaints Officer) for their further action. If there is no immediately identifiable person this should not be a reason to refuse or delay a complaint.

All written complaints should be addressed to the Chief Executive/Clerk.

## **Timescale**

It is important for LAs to understand the provisions of the Tynwald Commissioner for Administration Act 2011 ("the Act") and the implications of it for their own Complaints Procedure and the timescales that it may set for the various stages within that Procedure. It is for the LA to fix timescales for each stage which reflect their resource and internal structure but within the statutory requirement for a final decision by the LA within 28 days of receipt of the initial written complaint. See further below.

All local authorities should make their members, officers and ratepayers/customers aware of any complaints procedure in place and the public aware of whom any complaints should be addressed to.

## **22. *Tynwald Commissioner for Administration***

Since July 2020 Local Authorities ("LAs") have been included as Listed Authorities under the Tynwald Commissioner for Administration Act 2011 ("the Act") and, as such, become bodies which may be subject to investigation by the Tynwald Commissioner for Administration ("TCA"). In general terms, this means that a member of the public (other than another Listed Authority under the Act) may refer certain matters for investigation by the TCA where they believe they have suffered injustice or hardship as a result of an act or service failure. Most complaints are dealt with informally and are resolved by the LA, but before the TCA can investigate, the complainant must have complained to the LA using the LA's formal complaints procedure and have exhausted that procedure without

satisfaction. If still dissatisfied after the completion of that process, the complainant may complain to the TCA but must do so within 6 months of the LA's final decision or of failing to investigate and make a final decision within 28 days of receiving the original written complaint. If the complaint is accepted, the TCA can investigate the matter and, if investigated, is required to report the outcome of the investigation to Tynwald.

The investigation will involve obtaining evidence from the complainant and from the LA, and any other party who may have information which will assist. The TCA will prepare a draft report with the outcome of the investigation and any recommendations. This will be provided to the LA for comment before being sent to the complainant for their comment and, once finalised, will be laid before Tynwald. Wherever possible, the complainant should not be identified.

It is important to understand that a complaint to the TCA can be made not only into the unresolved complaint, but also the handling of the complaint by the LA. Consequently, guidance has been sought from the TCA to assist LAs in defining their written complaints procedure.

## **Written Complaints Procedure**

The TCA advises that not only is it good administrative practice for LAs to have a written complaints procedure which is published both online and physically, but the Act requires it.

The Complaints Procedure should be clear and provide a process that is understandable to all parties. All LA staff and members should be made aware of the Complaints Procedure and the internal process of complaints handling for that particular LA.

A Complaints Register should be maintained to monitor and track complaints through the procedure and LAs may consider it a useful item of management information to be presented to Board meetings as a standing item.

A complaints process can conveniently consist of three distinct stages as outlined below. Whilst the three stage process is considered best practice, the TCA understands that this may be impractical, since some LAs may not have the resources to entirely adopt that approach. The important objective is to achieve a clear, fair and timely process with a well-argued recognisable final decision by the LA, including an indication that the complainant has exhausted the entire process with the LA.

## **Timescales**

Timescales have been suggested by the Department for each stage below as best administrative practice. In addition, it should be a standard that all correspondence is acknowledged within 7 days even if not substantively responded to, and, whilst there may be slippage on target timescales, it is also

good practice that the complainant is kept informed of progress and any delays within the timescale before the target response date is missed.

However, LAs should note that the Act is specific about one timescale. The Act requires the formal written complaint to be investigated and the final decision to be reported to the complainant within 28 days. A complaint via email is considered by the TCA as a complaint in writing. The TCA can in her discretion extend this period but only in exceptional circumstances and for no longer than 3 months from the date of the original complaint. Provided it is evident that the LA has been actively investigating the complaint with no undue delay, the TCA, in the exercise of her discretion may allow further time to complete the investigation, but only up to 3 months from the date of the complaint (she has no discretion to extend beyond that time). There is no guarantee of such an extension and exceptional circumstances must be demonstrated.

## **Framework for Written Procedure**

**Stage 1** – Initial/informal - This is the stage where most complaints are likely to be resolved and successfully concluded. This stage would usually be completed verbally and dealt with by the person receiving the complaint, escalating it as necessary within the LA in order to give an initial response. A complaint at this stage should be entered into the complaints register to provide background should the complaint prove not to be resolved.

**Stage 1 Timescale** – Usually the response is immediate, but, if not, an initial response seeking to resolve the complaint should be sent within 7 days of receiving the complaint. If the issue raised is initially an oral complaint but the complainant wants to take it further they should be asked to put in their complaint in writing alongside any reasons for doing so.

**Stage 2** - Investigation/formal – where the complaint cannot be dealt with in the initial stages, or the complainant is dissatisfied with the outcome. It is for the LA's own internal processes and resource to decide if this stage is dealt with by the Clerk or another member of the Board. The reason that it may be preferable to have this stage dealt with by the Clerk is to allow for Stage 3 to be carried out by another person who is not involved in the day to day matters of the Local Authorities. This stage should be completed in writing and the outcome recorded in the Complaints Register.

**Stage 2 Timescale** - The LA should attempt to send the complainant a substantive response within 14 days of receiving the formal written complaint. A "substantive response" is one which conveys the investigating officer's decision on the complaint. It will not always be possible to meet this timescale, and in such cases the complainant should be advised of the situation within 10 days, giving an explanation for the delay and an indication of when a substantive response can be expected.

**Stage 3 - Review.** If the complainant is not satisfied with the outcome of Stage 2, they can then refer the matter for review, usually this would be the Chair and is effectively the internal appeal. This is the stage that the authority's decision has become final having exhausted all processes with the LA, ("the Final Decision") and the complainant then has the ability to refer the matter to the TCA if they are still not satisfied within 6 months of receiving the Final Decision. Again, this should be in writing and recorded in the Complaints Register.

**Stage 3 Timescale** - The outcome of the Review ("the Final Decision") is to be conducted and reported to the complainant within 28 days from receipt of the initial written complaint, or in exceptional circumstances three months from receipt of the original written complaint. Note that if the complaint is received in writing at Stage 1 and the maximum decision timeframes are used at Stages 1 and 2, this leaves only 7 days for the stage 3 final decision. If the matter cannot reasonably be dealt with within that timeframe, the complainant should be advised of the situation within 7 days, giving an explanation for the delay and an indication of when a substantive response can be expected.

### **Independent Investigator/ Mediator**

There may be instances in which the local authority may wish for an independent investigator (perhaps another local authority clerk or other person) within their complaints process, perhaps because of resource constraints or because a particular expertise in the matter may be useful. If this option is to be included it should be made quite clear in which circumstances and at what stage within the process this may occur. It should not be considered as an alternative to the final decision by the LA and is still expected to complete within the statutory 28-day time limit.

If an Independent Investigator is engaged, the LA cannot extend the statutory time limit.

### **Publication**

The Complaints Procedure should be published on the Local Authority's website, available in hard copy at their premises and sent on request. It should also be sent to all complainants who raise a complaint.

Under the Act, Complaints Procedures **must** include information about the right to make a complaint to the TCA, the time limit for doing so and the contact details for the TCA, below. Correspondence, including the final decision, **must** include the same information regarding the right to complain to the TCA and how to do so.

The TCA recommends that LAs include within their publicity a statement along the following lines:

*“If we, the Local Authority, fail to complete the complaints process within 28 days of receipt of your written complaint, you are entitled to take your complaint to the Tynwald Commissioner for Administration without waiting for a response from us.”*

## **Referral to the Tynwald Commissioner for Administration**

The right of a member of the public to refer a matter to the Tynwald Commissioner for Administration (TCA) within 6 months of receiving the final decision by the LA should be included within the Complaints Procedure and in the correspondence providing the final decision. It is important to understand that a complaint to the TCA however is not part of the Local Authorities procedure and is a distinctly separate procedure and therefore should not be referred to as “Stage 4”.

The complainant must be told that any further complaint can be made and must be done so in writing to the TCA:-

By post:  
The Tynwald Commissioner for Administration  
Legislative Buildings  
Finch Road  
Douglas  
Isle of Man IM1 3PW

Or by email:  
[ombudsman@parliament.org.im](mailto:ombudsman@parliament.org.im)

Further information on the TCA may be found at:  
<https://www.tynwald.org.im/about/TCA/Pages/default.aspx>

## **23. [Anti-Bribery and Corruption](#)**

**Bribery** is defined as the financial or other advantage offered, promised or given in order to influence the judgement or conduct of a person in a position of trust or reward the improper performance of a function or activity; something that serves to induce or influence.

**Corruption** is the abuse of entrusted power by a person or organisation for private gain, financial or otherwise. Bribery is one of the activities that constitute corrupt behaviour. Other examples include fraud, embezzlement, theft, nepotism etc.

In the Isle of Man, the [Bribery Act 2013](#) makes it an offence for a “relevant commercial organisation” incorporated or formed in the Isle of Man to: engage in bribing another person; accept a bribe; bribe a foreign public official; fail to prevent bribery. The legislation recognises these behaviours as offenses whether they are committed in the Island or outside the Island. A person associated with a



“relevant commercial organisation” is included in the scope of the legislation (i.e. staff). Certain public officials also have an obligation to report bribery.

Examples of where Local Authorities could be vulnerable to the risk of bribery and corruption include procurement, recruitment, housing allocation, elections or other activities where potential inducements may influence the decision by an officer to act or not act to benefit a third party. Individual Local Authorities should conduct their own risk assessments as to where vulnerabilities to bribery and corruption may exist in their particular circumstances.

The legislation recognises an organisation’s having “adequate procedures” in place to prevent bribery as a defence. While it does not specify what would constitute “adequate procedures”, examples include policies, training, links to the legislation, reporting hotlines, whistleblowing procedures and the like. Local Authorities are strongly encouraged to put in place adequate procedures proportionate and appropriate to their operational environment and degree of exposure to potential bribery, communicate these to all staff and monitor and review them on a regular basis.

### **Reporting Suspicions of Bribery and Corruption**

The Bribery Act specifies that allegations or reports of bribery should be made to a “constable” [in the IOM Constabulary]. The Economic Crime Unit investigates financial crime and it is recommended that where an offence under the Act is apparent or suspected, a report is made to the ECU via 01624 631313 or [fcu@gov.im](mailto:fcu@gov.im)

Individual employees may, however, witness behaviour that looks ‘wrong’ or suspicious but does not to them necessarily meet the threshold of bribery. Where employees are content and comfortable to raise concerns in accordance with the Authority’s Whistleblowing Policy (if they have one) with a line manager or other senior manager within their organisation, they should do so. However, where they do not feel comfortable to do this for any reason, they may make a disclosure to the Financial Intelligence Unit under Section 24 of the [Financial Intelligence Unit Act 2016](#) which allows disclosure (reporting) to the FIU “if the disclosure is made for the purposes of the exercise by the FIU of any of its functions” (i.e. preventing financial crime). Details on how concerns can be reported to the FIU are published on its website: <https://www.fiu.im/report-suspicious-activity/>

## **24. Whistleblowing**

The Isle of Man Government has a Whistleblowing (Confidential Reporting) Policy for its employees. The Whistleblowing Policy seeks to promote a culture in which workers can raise concerns without fear of victimization or recrimination, but in the knowledge that complaints shown to be malicious or vexatious will lead to disciplinary action. The Whistleblowing Policy makes it clear that any attempt to thwart the whistleblower by a fellow worker will be treated as serious misconduct.

Your attention is drawn to the provisions of Part IV of the Employment Act 2006 which affords statutory protection to an employee who makes a protected disclosure. For any disclosure to qualify for statutory protection it must be made to those persons or bodies prescribed either in the Act or included on the list in the Public Interest Disclosure (Prescribed Persons) Order 2016, as appropriate. ('Prescribed Persons' are certain external bodies to which matters may be properly reported). The Local Government Act 1985 s.41 provides protection for members and officers of local authorities who act in good faith for the purposes of the local authority's functions.

## 25. [Risk Management](#)

Local Authorities should have a risk management strategy that identifies the key strategic risks facing the local authority and sets an overall framework for risk management. The greatest risk facing a local authority is not being able to deliver the services expected of the authority. In reality most local authorities are managing these risks through day to day activities but it is essential that a review of these systems is undertaken on a regular basis, some in more details than others.

To assist in this process a suggested template Risk Register can be found at [Appendix D](#) which the local authorities may wish to utilise or amend to suit their own needs.

Risk management is an integral part of many local authority activities including health and safety, insurance, project management, legal enforcement and so on. Elected members are ultimately responsible for risk management because risks threaten the achievement of policy objectives. As a minimum members should at least, once a year:

- Take steps to identify and update key risks facing the local authority
- Evaluate the potential consequences to the authority if an event identified as a risk takes place
- Decide upon appropriate measures to avoid, reduce or control the risk or its consequences, and
- Record any conclusions or decisions reached

The strategy should also be embedded in the local authority's decision making processes. Local authorities should consider putting in place business continuity plans for key services including any action to mitigate against events likely to occur that would have a significant impact on the local authority's ability to provide key services.

The Corporate Governance Principles and Code of Conduct also contain a section on Risk Management (along with Internal Control).

## 26. *Health and Safety*

Local Authorities must be aware of their responsibilities to their employees and the public under legislation relating to health and safety at work<sup>22</sup>. Guidance on all matters relating to health and safety, including risk assessment advice, can be obtained from the Health and Safety at Work Inspectorate.

As with any employer there is an expectation that the local authority will comply with health and safety legislation and provide staff with safe plant, equipment, systems of work, place of work as well as information and training that reflects the risks.

## 27. *Staff Reporting and Appraisals*

It is good practice for local authorities to hold regular staff appraisals and have an annual reporting procedure for employed staff. This affords the opportunity to appraise job performance and forward plan. The meeting can also provide the scope to raise any concerns, although these should not be left until an annual meeting to be addressed on either side.

## 28. *Grievance and Disciplinary Procedures*

Every local authority should have a Grievance and Disciplinary Procedure which is explained to all staff on appointment and is included in their Contract of Employment.

- Grievance – the aim of the procedure is to settle any grievance as near to its point of origin as soon as possible and without unreasonable delay in a fair and effective manner.
- Disciplinary – the aim of the disciplinary procedure is to ensure that local government staff achieve high standards of conduct, attendance and job performance and these procedures provide a way of dealing with alleged breaches and deficiencies which have caused a reduction in those standards, in a manner which is both consistent and fair.

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<sup>22</sup> i.e. the Health and Safety at Work etc. Act 1974 (of Parliament), applied to the Isle of Man by the Health and Safety at Work Order 1998 (SD 155/98)

# **PART 3**

# **COMMUNICATION**



## 29. [Communication with the Public & Media](#)

Communication is a key factor of being a commissioner/councillor, with the ability to communicate with different audiences being an important aspect of this.

The following principles may be useful to consider (and are based around those listed in the UK Local Government Association's Councillor's Guide):

- **Listening and promoting –**

As an elected representative it is not only important to tell people what you are doing but it is also equally important to listen to people and groups in your local area. This might be local residents, fellow elected representatives, local MHKs and MLC's, local organisations including both the business and voluntary sectors, the local media etc.

- **Develop a positive relationship with the local media –**

Building a positive relationship with the local media can benefit the local authority. The Code of Conduct reminds local authorities that press releases may be issued either through the CEO or clerk to the authority or perhaps the chairman of the authority.

Elected members may be asked to speak on the radio or via another form of media. It is important for members to remember to make it clear when they are expressing their own personal opinion and when they are expressing the view of the whole board. A member should not speak on behalf of the whole board of commissioners unless they have been granted approval to do so by the board.

- **Meet people where they are (online and off-line) –**

Good communication can be achieved quite easily and need not cost a lot. The following are just some of the possible methods of communicating with your residents either individually or collectively:-

- meet people in local places such as cafes or shops;
- prepare newsletters to circulate by email and/or post, or hand them out in local community areas such as doctors surgeries, town halls, dentists or shops;
- hold events or meetings (perhaps on a specific topic or theme);

- hold surgeries on a regular basis to enable residents to meet you and discuss their concerns and/or queries;
- use social media such as Facebook, Twitter and YouTube. It is important to make sure that any content issued is accurate, informative, balanced and non-controversial. It is strongly suggested that each local authority consider establishing a social media policy;
- set up a website or blog.

### 30. Using Social Media

Commissioners/councillors and local authority officers may use social media platforms, whether in a personal capacity and/or officially on behalf of their local authority.

A number of principles that are useful to bear in mind are as follows:-

- **Be professional and authentic:** be approachable in your language and tone; behave online as you would behave in person. Remember you are representing your local authority, so be aware of how your public voice comes across;
- **Be engaging:** respond to questions and join in when you can move the conversation on or help;
- **Share and attribute:** you can share what others have posted but it is polite to acknowledge and attribute the source of the original post;
- **Go to where your audience is:** if there is a specific forum or website which the majority of your audience visits then you may wish to consider joining it;
- **Content is important:** to get people talking you should consider producing interesting and engaging content which is sharable and to which people can contribute;
- **Be strategic:** plan ahead – who are your target audience and are there any particular groups you wish to communicate with? What do you want to achieve?
- **The internet is forever:** Be aware that what you post may be searchable and discovered years later.

# **PART 4**

# **ACCESS TO INFORMATION**





### 31. Confidentiality

A member or officer of a local authority will sometimes be provided with information in confidence. That trust must not be abused by disclosing that information to any unauthorised person without the consent of the authority.

In particular, if a member or former member of a local authority, without the consent of the authority, divulges any information communicated to him in confidence as a member, he is guilty of an offence carrying a fine of up to £1,000<sup>23</sup>. The reference to 'former' member should be borne in mind, even if a person is no longer a member of an authority, it is still an offence to disclose any confidential information without prior permission.

### 32. Data Protection Legislation

The following legal instruments that make up the Data Protection Law in the Isle of Man are:

The Data Protection Act 2018	The Act
Data Protection (Application of the GDPR) Order	GDPR Order
Adapted text of the EU GDPR in the Annex to the GDPR Order	Applied GDPR
Data Protection (Application of the LED) Order 2018	LED Order
The GDPR and LED Implementing Regulations 2018	Implementing Regulations

Any business or organisation that processes personal data is a Controller. Controllers (and Processors) must comply with, and be able to demonstrate compliance with, the requirements of the data protection legislation, including the data protection principles, transparency and rights of data subjects etc., maintaining records of its processing activities and reporting any personal data breaches.

Guidance on all aspects of the Data Protection Act is available by visiting the Isle of Man Information Commissioner's web-site: [www.inforights.im](http://www.inforights.im)

#### **Definitions**

A **Data Controller** is a person who alone or jointly or in common with another person(s) determines the purposes for which, and the manner in which any personal data are, or are to be, processed.

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<sup>23</sup> Ibid. s.65

A **Data Processor** is a person (other than an employee of the data controller) who processes personal data on the behalf of the data controller.

**Personal Data** is data which relates to a living individual who can be identified from those data or from those data and other information which is in the possession of (or is likely to come into the possession of) the data controller. This includes any expression of opinion about an individual and any indication of the intentions of the data controller or any other person in respect of that individual.

**Processing** of personal data means obtaining, recording, or holding the personal data or carrying out any operation(s) on the personal data including:-

- organisation, adaptation or alteration
- retrieval, consultation or use
- disclosure by transmission, dissemination or otherwise, making available
- alignment, combination, blocking, erasure or destruction

A **relevant filing system** is a set of information relating to an individual to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured either by reference to the individual or by reference to criteria relating to the individual in such a way that specific information relating to the individual is readily accessible.

Principles relating to processing of personal data:-

**(1)** Personal data shall be:

- a)** processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
- b)** collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes of statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation');
- c)** adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');

- d)** accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
  - e)** kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');
  - f)** processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').
- (2)** The Controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability').

## Registration

Registration is an element of compliance with the data protection legislation and failure to register when required is an offence.

The forms for registration are on the Information Commissioners website and an annual fee is payable.

A Controller must notify the Information Commissioner of the purposes for processing personal data.

This process is known as notification and the data controller must provide the Information Commissioner with the required details and ensure that their entry is included in the register of registered entries.

All entries in the register of registered entries must be renewed by 1<sup>st</sup> April annually.

Further information about registration is available from:

<https://www.inforights.im/registration/>

## **Subject Access Requests**

A living individual has the right to make a request to the data controller to find out what personal data is held about them. This process is known as making a subject access request.

An individual making such a request can do so on their own or they can authorise a third party to act on their behalf.

A member of the House of Keys is not required to provide authorisation if they are acting on behalf of a constituent.

Further information about handling a subject access request is available from: [www.inforights.im/data-protection/](http://www.inforights.im/data-protection/).

## **Outsourcing the processing of personal data**

The DPA requires you to take appropriate technical and organisational measures to protect the personal information you process, whether you process it yourself or whether someone else does it for you.

You must take into account the sort of information you have, and what harm may result from its misuse.

When you employ another organisation to process personal information for you, you must choose one that you consider can carry out the work in a secure manner, and while the work is going on, you should check that they are doing this.

You must also have a written contract in place with them. This contract must make sure they only use and disclose the personal data in line with your instructions and require them to take appropriate security measures.

When outsourcing to an organisation outside of the EEA, you must make sure that the information is adequately protected. This will apply to the method you use to transfer the information to and from the processor, as well as to the work itself.

More information on the outsourcing of personal data can be found here: [https://www.inforights.im/media/1196/tgn\\_outsourcing\\_processing.pdf](https://www.inforights.im/media/1196/tgn_outsourcing_processing.pdf)

## **Breaches**

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. If a breach has been committed, this should be reported directly

to the Information Commissioner, depending on the nature, scope and impact of the breach.

As separate legal entities, local authorities are responsible for taking their own legal advice in relation to data protection.

Further information about breaches is available from:

[www.inforights.im/legislation/data-protection-act/breaches-and-offences/](http://www.inforights.im/legislation/data-protection-act/breaches-and-offences/).

### **33. [Public Records Act 1999](#)**

The administrative records of local authorities are "public records" for the purposes of the Public Records Act 1999. This means that they may be required for permanent preservation at the Isle of Man Public Record Office once they reach the end of their use within the local authority. The Record Office preserves records of the Isle of Man Government and other Manx public bodies that are of historical and cultural significance. "Records" includes not only written documents but also records conveying information by any other means whatsoever<sup>24</sup>. Records include information in many different formats, including paper and digital records, photographs, spreadsheets, databases, e-mails, sound and visual recordings and websites.

The process of choosing which records are kept permanently at the Record Office is known as 'selection'. Under the Act local authorities are responsible for making arrangements with the Public Record Office (working on behalf of the Chief Registrar) for the selection from their records of those which ought to be permanently preserved, and for the safekeeping of their records pending selection. The Chief Registrar is responsible for guiding, co-ordinating and supervising the safekeeping and selection and for deciding where the selected records are to be deposited. Guidance should be obtained from the Isle of Man Public Record Office on the procedures for selection and transfer of records to the Public Record Office; a series of factsheets on managing records can be found on the Isle of Man Public Record Office website: [Advice for Public Bodies](#). The Public Record Office team are happy to help with queries on aspects of managing public records. Contact: [public.records@gov.im](mailto:public.records@gov.im) or 693569.

Transfer of selected records to the Record Office is to take place not later than 25 years after the records were created (in the case of a file or volume, 25 years after the last entry). Although older records may be retained with the permission of the Council of Ministers. Transferred records may be returned temporarily on request. Records which have been selected and transferred to the Public Record Office are normally available for public inspection 30 years after creation. However, certain records are closed for longer periods<sup>25</sup>.

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<sup>24</sup> Public Records Act 1999 s.8(1)

<sup>25</sup> Ibid. s.4, and see Public Records Order 2015 (SD 2015/0297)

### 34. *Freedom of Information*

The Freedom of Information Act 2015 came into force on the 1 February 2016. This gives the public the right of access to information held by public authorities.

At the June 2017 sitting of Tynwald the Freedom of Information Act 2015 (Amendment of Schedule 1) Order 2017 was approved. All local authorities on the Island have been subject to the requirements of the Freedom of Information Act 2015 with effect from the **1 January 2018**. Residents can make a request for information created on or after 11 October 2011.

In order to comply with the Act, your local authority will need to know what information it holds and on what basis. Having in place a records retention system will assist with this and will help in locating information and documents more easily. It is up to each local authority to establish their own records retention system and guidance should be obtained from the Isle of Man Public Record Office on the procedures for selection and transfer of records to the Public Record Office. (Please see the section on the Public Records Act 1999 above).

All local authorities must comply with Freedom of Information requests and the time limit for responses is **20 working days** (unless qualified exemptions are being considered).

Freedom of Information covers information held by public authorities, but not requests for personal information about the person making the request. Data Protection law protects personal data and it gives you the legal right to access information held about you (by making a data subject access request).

A Freedom of Information Act Code of Practice document has been produced by the Cabinet Office and local authorities are required to conform to the provisions of this Code of Practice where relevant. This document can be found on the Isle of Man Government's website.

# **PART FIVE**

# **TRAINING**





### **35. *Member Induction and Training***

Each local authority is expected to have their own practices in terms of induction and training for new commissioners/councillors. The main aim of induction courses for new commissioners/councillors is to help to familiarise you with your new role and in how the authority works.

As part of your induction the clerk should explain the format of the authority's board meetings, the number of meetings you will be expected to attend, and your role as a commissioner/councillor etc. An introduction to senior officers and frontline staff should take place as these officers will be able to assist you in your role. The clerk should also provide you with a copy of the authority's Standing Orders and discuss this with you in addition to providing you with a copy of any relevant guidance documents produced by the Department, including this handbook as well as also the Corporate Governance Principles and Code of Conduct document which Local Authorities are encouraged to adopt as a best practice guide.

From time to time, additional training may be organised by the Municipal Association in conjunction with various Government Departments. As the Isle of Man is a small jurisdiction with varying sized local authorities it may be possible to share expertise and resources with one another. This may involve extending any internal training programmes organised to other local authorities.



# **PART SIX**

## **USEFUL CONTACTS & OTHER RESOURCES**



### 36. [Contacts/Resources on the IOM Government's Website](#)

- [Attendance & Travelling Allowances](#) [Ctrl & Click to access link]

Copies of the current Local Government (Members' Attendance Allowances) Order, and the Local Authority Members (Travelling Allowances) Order can be found on the Guidance and Legislation page of the Local Government and Legislation pages on the Department of Infrastructure's website.

- [Data Protection](#) [Ctrl & Click to access link]

The Information Commissioner's website sets out information on Data Protection. (Tel: 693260)

- [Freedom of Information](#) [Ctrl & Click to access link]

The Cabinet Office's webpage sets out information on Freedom of Information. The Freedom of Information Act 2015 [Code of Practice](#) can also be found here. ([foi@gov.im](mailto:foi@gov.im) / Tel: 687168)

- [Environment, Safety & Health](#) [Ctrl & Click to access link]

Information and contact details for the Food Safety Unit, the Environmental Protection Unit, and the Environmental/Public Health Unit etc. can be found on this webpage. (Tel: 685894)

- [Health and Safety at Work](#) [Ctrl & Click to access link]

Information on the Health and Safety at Work Inspectorate can be found on their webpage. Also, various [Health and Safety legislation](#) can also be found here. ([worksafe@gov.im](mailto:worksafe@gov.im) / HSWI direct telephone no: 685881)

- [Public Estates and Housing](#) [Ctrl & Click to access link]

The Public Estates and Housing Division's webpage sets out contact details and further information on key aspects of housing. (email [housing@gov.im](mailto:housing@gov.im) / Tel: 685955)

- [Legislation](#) [Ctrl & Click to access link]

You can view numerous Acts on the Isle of Man Government's legislation website. (Please see [Part 1 – Section 6](#) of this document which sets out some of the Acts local authorities are advised to have to hand).

- [Local Authority Elections](#) [Ctrl & Click to access link]

Details about the legislation governing the local authority elections, along with information and guidance on the elections process can be found via this web-link.

- [Local Government Team](#) [Ctrl & Click to access link]

The Department of Infrastructure's website sets out the contact details for the Local Government Team. (Tel: 686246 / 685900)

- [Local Authorities](#) [Ctrl & Click to access link]

The Department of Infrastructure's webpage sets out the telephone, email, and postal addresses of the Island's local authorities.

- [Mapping](#) [Ctrl & Click to access link]

Information on the Isle of Man Government's official mapping body can be found here. ([mapping@gov.im](mailto:mapping@gov.im) / Tel: 685924 or 685923)

- [Planning and Building Control](#) [Ctrl & Click to access link]

Contact details and information about both planning and building control can be found on this webpage. ([planning@gov.im](mailto:planning@gov.im) / Tel: 685950)

- [Public Record Office](#) [Ctrl & Click to access link]

The Public Record Office website sets out information on records management. ([public.records@gov.im](mailto:public.records@gov.im) /Tel: 693569)

- [Tynwald](#) [Ctrl & Click to access link]

Contact details for the Clerk of Tynwald's Office can be found on this webpage. ([enquiries@tynwald.org.im](mailto:enquiries@tynwald.org.im) Tel: 685500)

- [Waste Management](#) [Ctrl & Click to access link]

Contact details of the Department of Infrastructure's Waste Management Unit can be found via this webpage, along with details on recycling and the Island's Civic Amenity sites. ([womu@gov.im](mailto:womu@gov.im) / Tel: 686540)

### **37. [External Resources](#)**

- [Social Media](#) – [Ctrl & Click to access link]

Some useful information and guides surrounding social media can be found on the UK Local Government Association's website.





# **PART SEVEN**

# **APPENDICES**



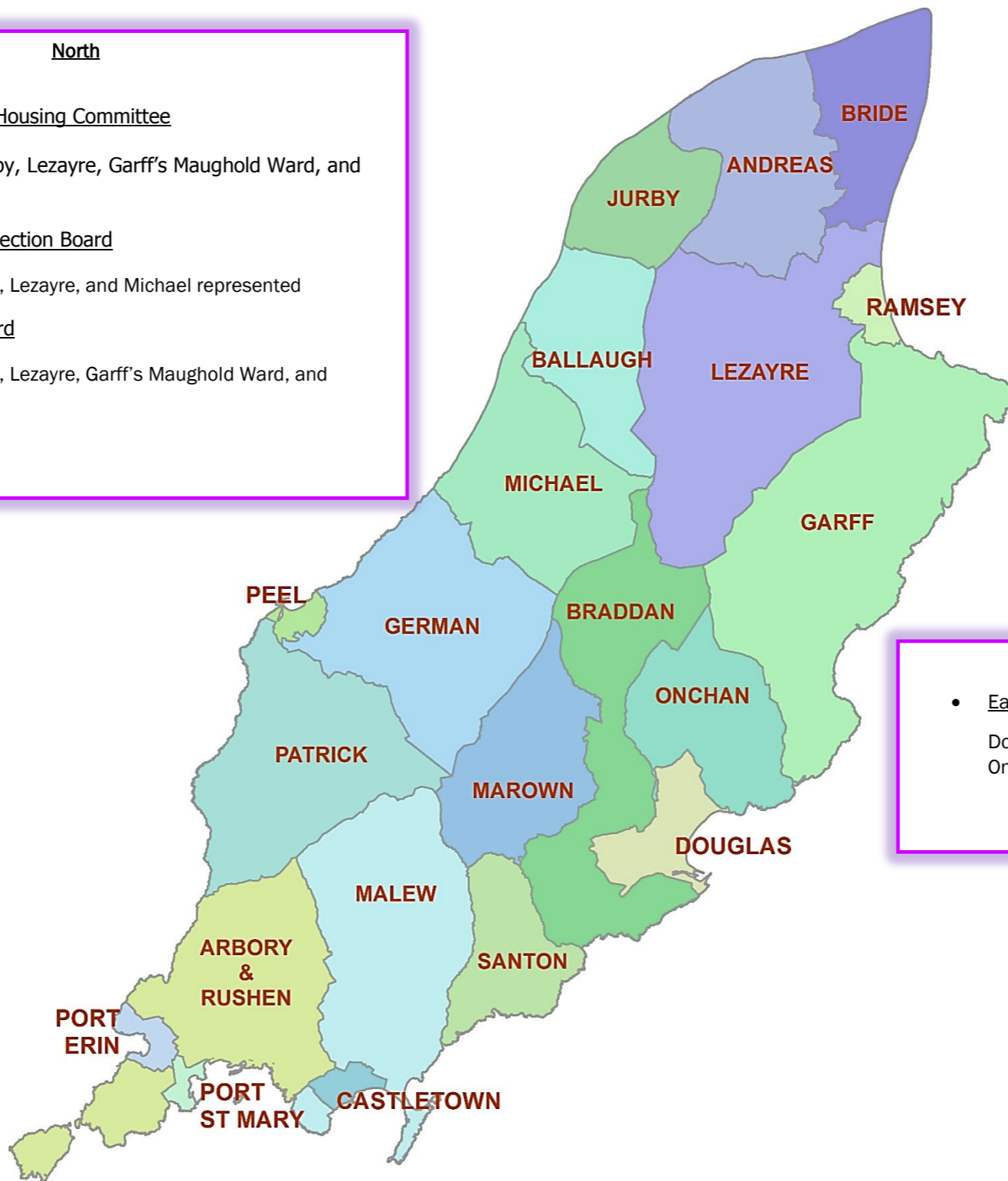
**Map of Joint Committees and Boards**

**North**

- Ramsey & Northern Districts Housing Committee  
Andreas, Ballaugh, Bride, Jurby, Lezayre, Garff's Maughold Ward, and Ramsey represented
- Northern Parishes Refuse Collection Board  
Andreas, Ballaugh, Bride, Jurby, Lezayre, and Michael represented
- Northern Swimming Pool Board  
Andreas, Ballaugh, Bride, Jurby, Lezayre, Garff's Maughold Ward, and Ramsey represented

**West**

- Peel & Western District Housing Committee  
German, Marown, Michael, Patrick and Peel  
(No current representation from Ballaugh)
- Western Civic Amenity Board  
German, Marown, Michael, Patrick, and Peel represented
- Western Swimming Pool Board  
German, Marown, Michael, Patrick, and Peel represented



**East**

- Eastern District Civic Amenity Site Joint C'tee  
Douglas, Braddan, Garff's Laxey and Lonan Wards, Onchan, and Santon represented

**South**

- Southern Sheltered Housing Joint Board  
Arbory & Rushen, Castletown, Malew, Port Erin and Port St Mary represented
- Southern Civic Amenity Board  
Arbory & Rushen, Castletown, Malew, Port Erin and Port St Mary represented
- Southern Swimming Pool Board  
Arbory & Rushen, Castletown, Malew, Port Erin, Port St Mary and Santon represented



## **APPENDIX B**

### **Schedule 1** **Meetings and Proceeding of Local Authorities** **Section 10(1) Annual Meeting**

1. (1) A local authority shall in every year hold an annual meeting.
- (2) The annual meeting of a local authority shall be held on such day in the month of May as the authority may fix.
- (3) An annual meeting of a local authority shall be held at such hour as the authority may fix, or if no hour is so fixed, in the case of the corporation, at 2 p.m., and in any other case, at 6 p.m.

#### *Other ordinary meetings*

2. (1) A local authority shall in every year hold, in addition to the annual meeting, a meeting in each quarter in which the annual meeting is not held and may hold such other meetings as it may determine.
- (2) The meetings referred to in this paragraph shall be held at such hour and on such days as the authority may fix.

#### *Extraordinary meetings*

3. (1) An extraordinary meeting of a local authority may be called at any time by the chairman<sup>26</sup> of the authority or by the clerk to the authority.
- (2) If the chairman refuses to call an extraordinary meeting of a local authority after a requisition for that purpose, signed by at least one-third of the members of the authority, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within 7 days after the requisition has been presented to him, then at least one-third of the members of the authority, on that refusal or on the expiration of those 7 days, as the case may be, may forthwith call an extraordinary meeting of the authority.

#### *Time and place of meetings*

4. (1) Meetings of a local authority shall be held at such place, either within or without its area, as it may direct.
- (2) Three clear days at least before a meeting of a local authority, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the clerk of the authority, shall, subject to sub-paragraph (3), be left at or sent by post to the usual place of residence of every member of the authority.

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<sup>26</sup> In the case of Douglas borough council references to the chairman are to be read as references to the mayor (see 1985 Act s.72).

- (3) If a member of a local authority gives notice in writing to the clerk of the authority that he desires summonses to attend meetings of the authority to be sent to him at some address specified in the notice other than his place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.
- (4) Want of service of a summons on any member of a local authority shall not affect the validity of a meeting of the authority.
- (5) Except in the case of business required by or under this or any other enactment to be transacted at the annual meeting of a local authority and other business brought before that meeting as a matter of urgency in accordance with the authority's standing orders, no business shall be transacted at a meeting of the authority other than that specified in the summons relating thereto.

#### *Chairing of meetings*

5. (1) At a meeting of a local authority the chairman, if present, shall preside.
- (2) If the chairman is absent from a meeting of a local authority, the vice-chairman, if present, shall preside.
- (3) If —
  - (a) in the case of the corporation, the mayor is absent from a meeting of the council;
  - (b) in any other case, both the chairman and vice-chairman are absent from a meeting of the authority;another member of the authority chosen by the members of the authority present shall preside.

#### *Quorum*

6. (1) Subject to sub-paragraph (2) no business shall be transacted at a meeting of a local authority unless at least one-half of the whole number of members of the authority are present.
- (2) Where more than one-third of the members of a local authority become disqualified at the same time, until the number of members in office is increased to not less than two-thirds of the whole number of members of the authority, the quorum of the authority shall be determined by reference to the number of members of the authority remaining qualified instead of by reference to the whole number of members of the authority.

#### *Majority*

7. (1) Subject to the provisions of any enactment, all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

- (2) Subject to those provisions, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

*Record of attendance*

8. The names of the members present at a meeting of a local authority shall be recorded.

*Minutes*

9. (1) Minutes of the proceedings of a meeting of a local authority shall, subject to subparagraph (2), be drawn up and entered in a book kept for that purpose and shall be signed at the same or next following meeting of the authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.
- (2) Notwithstanding anything in any enactment or rule or law to the contrary, the minutes of the proceedings of meetings of a local authority may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next following meeting of the authority, by the person presiding thereat, and any minutes purporting to be so signed shall be received in evidence without further proof.
- (3) Until the contrary is proved, a meeting of a local authority a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified.

*Validity*

10. The proceedings of a local authority shall not be invalidated by any vacancy among their number or by any defect in the election or qualifications of any member thereof.

*Application to committees*

11. (1) Paragraphs 7 to 10 (except paragraph 9(3)) shall apply in relation to a committee of a local authority (including a joint committee) or a sub-committee of any such committee as they apply in relation to a local authority.
- (2) Until the contrary is proved, where a minute of any meeting of any such committee or sub-committee has been made and signed in accordance with paragraph 9 as applied by this paragraph, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute, the meeting shall be deemed to have been duly convened and held and the members present at the meeting shall be deemed to have been duly qualified.



## **APPENDIX C**

### **Model Standing Orders** **Part 1 – General**

#### **1 Meetings of the authority**

- (1) The annual meeting of the authority shall be held at *[place]* on the *[day]* in May.
- (2) In addition to the annual meeting of the authority and any meetings convened by the *[mayor]**[chairman]*, the clerk or members of the authority, ordinary meetings for the transaction of general business shall be held in each year as follows —

*[set out days for ordinary meetings]*

- (3) The annual meeting and other ordinary meetings of the authority shall, unless notice to the contrary be given by the clerk, be held at *[time]*.

#### **2 Chairman of the meeting**

Any power of the *[mayor]**[chairman]* in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

#### **3 Quorum**

If during any meeting of the authority the *[mayor]**[chairman]*, after counting the number of members present declares that there is not a quorum present the meeting shall stand adjourned and the consideration of any business not transacted shall be adjourned to a time fixed by the *[mayor]**[chairman]* at the time the meeting is adjourned or, if he does not fix a time, to the next ordinary meeting of the authority.

#### **4 Order of business**

- (1) Except as provided by paragraph (2), the order of business at every meeting of the authority shall be as follows —
  - (a) to choose a person to preside should the *[mayor]**[chairman]* and the *[deputy mayor]**[vice-chairman]* be absent;
  - (b) to deal with any business required by statute to be done before any other business;
  - (c) to approve as a correct record and sign the minutes of the last meeting of the authority;
  - (d) to deal with any business expressly required by statute to be done;

- (e) [mayor][chairman]'s announcements;
  - (f) disposal of business (if any) remaining from the last meeting;
  - (g) to receive and consider reports, minutes and recommendations of committees;
  - (h) to answer questions asked under standing order 7;
  - (i) to consider motions in the order in which notice has been received.
  - (j) other business, if any, specified in the summons.
- (2) Business falling under item (a), (b) or (c) of paragraph (1) shall not be displaced, but subject thereto the foregoing order of business may be varied —
- (a) by the [mayor][chairman] at his discretion; or
  - (b) by a resolution duly moved and seconded and passed on a motion which shall be moved and put without discussion.

## **5 Notices of motion**

- (1) Notice of every motion, other than a motion which under standing order 6 may be moved without notice, shall be given in writing and signed by a member of the authority and delivered, at least *[number]* clear days before the next meeting of the authority, at the office of the clerk, by whom it shall be dated, numbered in the order in which it is received and entered in a book which shall be open to the inspection of every member of the authority.
- (2) The clerk shall set out in the summons for every meeting of the authority all motions of which notice has been duly given in the order in which they have been received, unless the member giving such a notice intimated in writing, when giving it, that he proposes to move it at some later meeting or has since withdrawn it in writing.
- (3) If a motion thus set out in the summons be not moved either by a member who gave notice of it or by some other member on his behalf it shall, unless postponed by consent of the authority, be treated as withdrawn and shall not be moved without fresh notice.
- (4) If the subject matter of any motion of which notice has been duly given comes within the province of any committee or committees it shall, upon being moved and seconded, stand referred without discussion to such committee or committees as the authority may determine, for consideration and report.
- (5) Every motion shall be relevant to some matter in relation to which the authority has powers or duties or which affects the district:

Provided that the [mayor][chairman] may, if he considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

## **6 Motions and amendments which may be moved without notice**

The following motions and amendments may be moved without notice —

- (a) appointment of the chairman of the meeting at which the motion is made;
- (b) motions relating to the accuracy of the minutes;
- (c) that an item of business specified in the summons have precedence.
- (d) remission to a committee;
- (e) appointment of a committee or members thereof, occasioned by an item mentioned in the summons to the meeting;
- (f) adoption of reports and recommendations of committee or officers and any consequent resolutions;
- (g) that leave be given to withdraw a motion;
- (h) extending the time limit for speeches;
- (i) amendments to motions;
- (j) that the meeting proceed to the next business;
- (k) that the question be now put;
- (l) that the debate be now adjourned;
- (m) that the authority do now adjourn;
- (n) authorising the sealing of documents;
- (o) suspending standing orders in accordance with standing order 37;
- (p) that the authority sit in private;
- (q) that a member named under standing order 11 be not further heard or do leave the meeting;
- (r) inviting a member to remain under standing order 15 (pecuniary interest).
- (s) giving consent of the authority where such consent is required by these standing orders;

## **7 Questions**

- (1) A member of the authority may ask the chairman of a committee any question upon an item of the report of a committee when that item is under consideration by the authority.
- (2) A member of the authority may —

- (a) if *number*] clear days' notice in writing has been given to the clerk, ask the [mayor][chairman] or the chairman of any committee any question on any matter in relation to which the authority has powers or duties or which affects the district;
  - (b) with the permission of the [mayor][chairman] put to him or the chairman of any committee any questions relating to urgent business, or which such notice has not been given; but a copy of any such question shall, if possible, be delivered to the clerk not later than *[time]* a.m. on the day of the meeting.
- (3) Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.
- (4) An answer may take the form of —
- (a) a direct oral answer; or
  - (b) where the desired information is contained in a publication of the authority, a reference to that publication; or
  - (c) where the reply to the question cannot conveniently be given orally, a written answer circulated to members of the authority.

## **8 Minutes**

- (1) The [mayor][chairman] shall put the question *"that the minutes of the meeting of the authority held on [date] be approved as a correct record"*.
- (2) No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is, then as soon as it has been disposed of, the [mayor][chairman] shall sign the minutes.

## **9 Rules of debate**

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with standing order 5 it shall, if required by the [mayor][chairman], be put into writing and handed to the [mayor][chairman] before it is further discussed or put to the meeting.
- (2) A member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of the debate.
- (3) A member when speaking shall stand and address the [mayor][chairman]. If two or more members rise, the [mayor][chairman] shall call on one to speak and the other or others shall then sit. Whilst a member is speaking the other members shall remain seated, unless rising to a point of order or in personal explanation.

- (4) A member shall direct his speech to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed *[period]* except by consent of the authority.
- (5) A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except: —
  - (a) to speak once on an amendment moved by another member;
  - (b) if the motion has been amended since he last spoke, to move a further amendment;
  - (c) if his first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried;
  - (d) in exercise of a right of reply given by paragraph (11) or (13) of this standing order;
  - (e) on a point of order;
  - (f) by way of personal explanation.
- (6) An amendment shall be relevant to the motion and shall be either —
  - (a) to refer a subject of debate to a committee for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others;
  - (d) to insert or add words;but such omission, insertion or addition of words shall not have the effect of negating the motion before the authority.
- (7) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of:

Provided that the [mayor][chairman] may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the authority's business.
- (8) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
- (9) A member may with the consent of the authority signified without discussion —
  - (a) alter a motion of which he has given notice, or
  - (b) with the further consent of his seconder alter a motion which he has moved

if (in either case) the alteration is one which could be made as an amendment thereto.

- (10) A motion or amendment may be withdrawn by the mover with the consent of his seconder and of the authority which shall be signified without discussion, and no member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.
- (11) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his amendment.
- (12) When a motion is under debate no other motion shall be moved except the following —
  - (a) to amend the motion;
  - (b) to adjourn the meeting;
  - (c) to adjourn the debate;
  - (d) to proceed to the next business;
  - (e) that the question be now put;
  - (f) that a member be not further heard;
  - (g) by the [mayor][chairman] under standing order 11(2) that a member do leave the meeting;
  - (h) a motion under standing order 6(p) or 12 to sit in private.
- (13) A member may move without comment at the conclusion of a speech of another member, *"that the authority proceed to the next business"*, *"that the question be now put"*, *"that the debate be now adjourned"*, or *"that the authority do now adjourn"*, on the seconding of which the [mayor][chairman] shall proceed as follows:-
  - (a) on a motion to proceed to next business: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
  - (b) on a motion that the question be now put: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion his right of reply under paragraph (11) of this standing order before putting his motion to the vote;

- (c) on a motion to adjourn the debate or the meeting: if in his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he shall put the adjournment motion to the vote without giving the mover of the original motion his right of reply on that occasion.
- (14) A member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a standing order or statutory provision and the member shall specify the standing order or statutory provision and the way in which he considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate.
- (15) The ruling of the [mayor][chairman] on a point of order or on the admissibility of a personal explanation shall not be open to discussion.
- (16) Whenever the [mayor][chairman] rises during a debate a member then standing shall resume his seat and the authority shall be silent.

## **10 Motions affecting persons employed by the authority**

If any question arises at a meeting of the authority (or of a committee of it) as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the authority, such question shall not be the subject of discussion until the authority has decided whether or not to sit in private.

## **11 Disorderly conduct**

- (1) If at a meeting any member of the authority, in the opinion of the [mayor][chairman] notified to the authority, misconducts himself by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the authority, the [mayor][chairman] or any other member may move *"that the member named be not further heard"*, and the motion if seconded shall be put and determined without discussion.
- (2) If the member named continues his misconduct after a motion under paragraph (1) has been carried the [mayor][chairman] shall either —
  - (a) move *"that the member named do leave the meeting"*, in which case the motion shall be put and determined without seconding or discussion; or
  - (b) adjourn the meeting of the authority for such period as he in his discretion considers expedient.
- (3) In the event of general disturbance which the opinion of the [mayor][chairman] renders the due and orderly dispatch of business impossible, the

[mayor][chairman], in addition to any other power vested in him, may without question adjourn the meeting of the authority for such period as he in his discretion considers expedient.

## **12 Disturbance by members of the public**

If a member of the public interrupts the proceedings at any meeting the [mayor][chairman] shall warn him. If he continues the interruption the [mayor][chairman] shall order his removal from the authority's chamber. In case of general disturbance in any part of the chamber open to the public the [mayor][chairman] shall order that part to be cleared.

## **13 Rescission of preceding resolution**

No motion to rescind any resolution passed within the preceding 6 months, and no motion or amendment to the same effect as one which has been rejected within the preceding 6 months, shall be proposed unless the notice thereof given in pursuance of standing order 6 bears the names of at least *[number]* members of the authority. When any such motion or amendment has been disposed of by the authority, it shall not be open to any member to propose a similar motion within a further period of 6 months.

Provided that this standing order shall not apply to motions moved in pursuance of a recommendation of a committee.

## **14 Voting**

- (1) The mode of voting at meetings of the authority shall be by show of hands or by electronic means.
- (2) On the requisition of a member of the authority made before the vote is taken the voting on any question shall be recorded so as to show whether each member present voted for or against that question or abstained from voting.

## **15 Voting on appointments**

Where there are more than 2 persons nominated for any position to be filled by the authority, and of the votes given there is not a majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.



## **16 Record of attendance**

The clerk shall record the Members present at a meeting of the authority and shall also note in the minutes the time at which any Member leaves the meeting other than temporarily.

## **17 Interest of members in contracts and other matters**

If any member of the authority has, for the purposes of section 11 of the Local Government Act 1985, a pecuniary interest in any contract, proposed contract or other matter, that member shall withdraw from the meeting while the matter is under consideration by the authority unless —

- (a) his disability to discuss that matter has been removed by the Department of Infrastructure under section 14(1) of that Act; or
- (b) the contract, proposed contract, or other matter is under consideration by the authority as part of the report of a committee and is not itself the subject of debate; or
- (c) the authority invite him to remain.

## **18 Interest of officers in contracts and other matters**

The clerk shall report to a meeting of the authority particulars of any notice given by an officer of the authority under section 23 of the Local Government Act 1985 of a pecuniary interest in any contract or other matter under consideration by the Authority.

## **19 Canvassing of and recommendations by members**

- (1) Canvassing of members of the authority or any committee of the authority directly or indirectly for any appointment under the authority shall disqualify the candidate concerned for that appointment. The purport of this paragraph of this standing order shall be included [in every advertisement inviting applications for appointments and] in any form of application.
- (2) A member of the authority shall not solicit for any person any appointment under the authority, but this shall not preclude a member from giving a written testimonial of a candidate's ability, experience, or character for submission to the authority with an application for appointment.

## **20 Relatives of members or officers**

- (1) A candidate for any appointment under the authority who knows that he is related to any member or [senior] officer of the authority shall when making application

disclose that relationship to the clerk. A candidate who fails to disclose such a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice. Every member and [senior] officer of the authority shall disclose to the clerk any relationship known to him to exist between himself and any person whom he knows is a candidate for an appointment under the authority. The clerk shall report to the authority [or to the appropriate committee] any such disclosure made to him.

(2) The purport of this standing order shall be included [in every advertisement inviting applications for appointments or] in any form of application.

(3) For the purpose of this standing order —

["senior officer" means any officer so designated by the authority;]

persons shall be treated as related if they are husband and wife or if either of them or the spouse of either of them is the son, daughter, grandson, granddaughter, brother, sister, nephew or niece of the other or of the spouse of the other.

## **21 Filling of new posts and vacancies**

(1) No new office shall be created, nor any person be employed in addition to [an authority's] [a department's] establishment, except with the agreement of the [authority] [*title of committee*].

(2) Where the creation of a new post is proposed or where a vacancy occurs in the following posts [*titles of posts*] the [authority] [*title of committee*] shall obtain the views of any committee primarily concerned and decide —

(a) in the case of an office which the authority is not required by statute to fill, whether the office is necessary and

(b) in any case, what shall be the terms and conditions of the office, and no steps shall be taken to fill the post until these decisions have been taken.

(3) All vacancies to be filled in established post of the authority (not being posts at a weekly wage), unless they are to be filled by promotion or transfer, shall be publicly advertised except where the authority otherwise determines.

Provided that where, within 6 months of the filling of a vacancy which has been publicly advertised, a similar vacancy occurs in an office in the appointment of the authority, the authority may appoint one of the former applicants.

(4) A vacancy required to be advertised shall be advertised in one or more newspapers or journals circulating primarily among persons who may be expected to possess the necessary qualifications for the office.

## **22 Custody of seal**

The common seal of the authority shall be kept in a safe place in the custody of the clerk and shall be secured by two different locks, of which the keys of one shall be kept respectively by the [mayor][chairman] and those of the other by the clerk.

## **23 Sealing of documents**

- (1) The common seal of the authority shall not be affixed to any document unless the sealing has been authorised by a resolution of the authority or of a committee to which the authority have delegated their powers in this behalf:

Provides that a resolution of the authority (or of a committee where that committee has the power) authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or the doing of any other thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

- (2) The seal shall be attested by the following persons present at the sealing —
  - (a) the [mayor][chairman] or [deputy mayor][vice-chairman] or another member of the authority, and
  - (b) the clerk or deputy clerk.

## **24 Authentication of documents**

Where any document will be a necessary step in legal proceedings on behalf of the authority it shall be signed by the clerk unless otherwise required or permitted by any enactment, or the authority authorises some other person for the purpose.

## **25 Inspection of documents**

- (1) A member of the authority may, for the purposes of his duty as such member but not otherwise, on application to the Town Clerk/Clerk of the authority inspect any document which has been considered by (a committee or by) the authority, and if copies are available shall on request be supplied for the like purposes with a copy of such a document.

Provided that a member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested or in which he has directly or indirectly any pecuniary interest within the meaning of sections 11 and 12 of the Local Government Act 1985, and that this standing order shall not preclude the Town Clerk/Clerk or the advocate to the authority from declining to allow inspection of any document which is or in the event of

legal proceedings would be protected by privilege arising from the relationship of advocate and client.

- (2) All reports made or minutes kept by any committee shall, as soon as the Committee has concluded action on the matter to which such reports or minutes relate, be open for the inspection of any member of the authority.

## **26 Orders and inspections**

Unless specifically authorised to do so by the authority or a committee, a member of the authority shall not —

- (a) issue any order respecting any works which are being carried out by or on behalf of the authority or
- (b) claim by virtue of his membership of the authority any right to inspect or to enter upon any lands or premises which the authority have the power or duty to inspect or enter.

## **27 Appointment of committees**

The authority shall at the annual meeting appoint such committees as they are required to appoint by or under any statute, and may at any time appoint such other committees as are necessary to carry out the work of the authority but, subject to any statutory provision in that behalf —

- (a) shall not appoint any member of a committee so as to hold office later than the next annual meeting of the authority;
- (b) may at any time dissolve a committee or alter its membership.

## **28 Proceedings of committees to be confidential**

All agenda, reports, and other documents and all proceedings of committees and sub-committees shall be treated as confidential unless and until they become public in the ordinary course of the authority's business.

## **29 Constitution of committees**

- (1) The following committees shall be the standing committees of the authority and shall consist of the number of members (exclusive of the [mayor][chairman]) specified opposite each committee:-
- (2) Except where otherwise provided by statute or a scheme made under statutory authority, the [mayor][chairman] shall be ex-officio a member of every standing committee appointed by the authority.

### **30 Election of chairman of committee**

Every committee shall, at its first meeting, before proceeding to any other business, elect a chairman for the year, and may at any time elect a vice-chairman. In the absence from a meeting of the chairman (and vice-chairman if elected) a chairman for that meeting may be appointed.

### **31 Special meetings of committees**

The chairman of a committee or the [mayor][chairman of the authority] may call a special meeting of the committee at any time. A special meeting shall also be called on the requisition of a quarter of the whole number of the committee, delivered in writing to the clerk, but in no case shall less than [3] members requisition a special meeting. The summons to the special meeting shall set out the business to be considered thereat, and no business other than that set out in the summons shall be considered at that meeting.

### **32 Sub-committees**

- (1) Every committee appointed by the authority may appoint sub-committees for purposes to be specified by the committee.
- (2) The chairman and the vice-chairman, if any, of the committee shall be ex-officio members of every sub-committee appointed by that committee, unless he signifies to the committee that he does not wish to serve.

### **33 Quorum of committees and sub-committees**

- (1) Except where authorised by a statute or ordered by the authority, business shall not be transacted at a meeting of any committee unless at least [one quarter] of the whole number of the committee is present.

Provided that in no case shall the quorum of a committee be less than [3] members.

- (2) Except as aforesaid or otherwise ordered by the committee which has appointed it, business shall not be transacted at a sub-committee unless at least [one quarter] of the whole number of the sub-committee is present.

Provided that in no case shall the quorum of a sub-committee be less than [2] members.

### **34 Voting in committees and sub-committees**

Voting at a meeting of a committee or sub-committee shall be by show of hands.

### **35 Standing orders to apply to committees and sub-committees**

Standing order 9 (except so far as it relates to standing and to speaking more than once) and standing order 17 apply, with any necessary modification, to meetings of committees and sub-committees.

### **36 Amendment and revocation of standing orders**

Any motion to amend or revoke these standing orders shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the authority.

### **37 Suspension of standing orders**

- (1) Subject to paragraph (2), any of the preceding standing orders may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend standing orders shall not be moved without notice (i.e. under standing order 6) unless there shall be present at least [one-half of the whole number of the] members of the authority.
- (3) Any suspension or contravention of standing orders should be recorded in a register which will be open for inspection by electors and officers of the Department of Infrastructure.

### **38 Standing orders to be given to members**

A copy of these standing orders, and of such statutory provisions as regulate the proceedings and business of the authority, shall be given to each member of the authority by the clerk upon delivery to him of the member's declaration of acceptance of office on the member's being first elected to the authority.

### **39 Interpretation of standing orders**

The ruling of the [mayor][chairman] as to the construction or application of any of these standing orders, or as to any proceedings of the authority, shall not be challenged at any meeting of the authority.

**Part 2**  
**Making of Contracts**

**1 Application**

These standing orders shall apply to the making of contracts by the authority, or on its behalf, for the supply of goods or materials or for the execution of works.

**2 Invitation of Tenders**

- (1) Subject to the provisions of paragraph (2) and (3) and standing order 3, before seeking to make any contract the authority shall cause appropriate public notice to be placed in a newspaper circulating in the Island and in an appropriate trade journal (if any) giving not less than [14] days notice of the intended contract and inviting tenders therefore by a fixed date and time.
- (2) In the case of a contract for capital works (see standing order 10), the public notice given under paragraph (1) may invite any contractor interested in tendering for the work to submit his name to the authority and the authority may then proceed to request tenders from contractors selected from the list of those responding to the notice.
- (3) The authority may, by resolution, exempt any contract from the provisions of paragraph (1) where the authority is satisfied that the exemption is justified by special circumstances.

**3 Exceptions**

Notwithstanding the provisions of standing order 2(1) —

- (a) tenders for a contract for the execution of works estimated to cost between [£x] and [£y] may be sought from not fewer than three registered contractors without public notice inviting tenders.
  - (b) A contract for emergency works or a contract estimated to cost less than [£x] may be sought or negotiated directly with a registered contractor, except that the circumstances of any emergency contract exceeding [£x] in cost shall be reported to the authority.

For this purpose "registered" means registered with the Isle of Man Employers Federation

**4 Contents of contracts**

All written contracts must provide for damages for default by the contractor and for possible cancellation in the case of bribery.

## **5 Delivery of tenders**

Tenders shall be required to be forwarded to the clerk in plain envelopes marked TENDER. Any tender received after the date and time fixed for receipt shall not be considered.

## **6 Opening of tenders**

Tenders shall be opened after the fixed date and time by the clerk in the presence of the [mayor][chairman] or [deputy mayor][vice-chairman of the authority].

## **7 Acceptance of tender**

Where the authority decides to accept a tender other than the lowest, the reasons for such action shall be specified in the minutes of the meeting at which the authority makes that decision.

## **8 Payments on account**

Payments on account to contractors shall be made on a certificate issued by an authorised officer of the authority which shall show the total amount of the contract, the value of the work executed to date, retention money, amounts paid to date, and the amounts now certified.

## **9 Variations of contract**

Every significant variation on a contract for the execution of works shall be authorised in writing by [the authority][an authorised officer of the authority]. Variations which will result in the amount of the accepted tender being exceeded shall, as soon as possible, be reported to the authority and, except where unavoidable in the authority's interest, no expenditure shall be incurred in respect of such variations without the approval of the authority.

### *Part 2 — Capital schemes*

## **10 Application**

In addition to the foregoing provisions this Part shall have effect in regard to any contract for the execution of works which will form the subject of an application to the Department of Infrastructure or Department of Social Care for consent to borrowing.



## **11 Pre-application procedures**

The relevant Department's recommended pre-application procedures must be observed.

## **12 Contracts**

An appropriate standard form building or engineering contract must be used and every clause completed or deleted as applicable.

## **13. Price increases**

Where the contract provides for increases in the cost of labour and materials, a schedule of the prices of labour, materials and goods must be completed. If this schedule is not completed the contract must state that fluctuations will not be allowed.

## **14 Provisional sums**

Provisional sums should be kept to a minimum and wherever reasonably possible, all items should be written in to the specification.

## **15 Additions and variations**

Any significant additions and variations to the contract must be approved and minuted by the authority and written instructions given to the Authority's [architect][supervising professional] for the project.

### *Part 3 — Supplemental*

## **16 Amendment and revocation of standing orders**

Any motion to add to, vary or revoke these standing orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the authority.

## **17 Standing orders to be given to members**

A copy of these standing orders shall be given to each member of the authority by the clerk upon delivery to him to the member's declaration of acceptance of office on the member's being first elected to the authority.

**APPENDIX D**

**Template Risk Register**

Risk Type &/or No.	Risk Description	Action Owner	Potential Impact from the Risk	Initial Risk Evaluation			Mitigation/ Prevention	Residual Risk Evaluation after Mitigation		
				Likelihood Rating (0-5)	Severity Rating (0-5)	High (7-9) Medium (4-6) Low (1-3)		Likelihood Rating (0-5)	Severity Rating (0-5)	High (7-9) Medium (4-6) Low (1-3)
1. Financial [Example]	Unable to deliver services within resources available to meet obligations and service standards, including keeping the current year's budget within the approved budget framework	A Bloggs	Some services may not necessarily be able to be delivered or could be cut back due to rising costs.  A greater increase in rates than originally anticipated.	2	5	7	Set budget for 2018/19 and ensure to keep under review.  Have in place budget estimates and business plans for the next 1-3 years and review regularly.	1	2	3
2. Access to Information [Example]	Risk of not having in place a records management system	B Bloggs	Failure to comply with Freedom of Information requests within required timeframe.	3	5	8	Implementing and maintaining a records management system to enable information to be found in a timely manner.	2	2	4

**PLEASE SEE PAGE BELOW FOR DETAILS ON HOW TO USE THIS TEMPLATE REGISTER**

## How to use the Template Risk Register

Details the type of risk that could arise

Sets out the consequences/ impact of the risk

Total Initial Risk Rating (combines the Likelihood & Severity Rating scores to create an overall risk score)

Measures or controls to help mitigate or prevent the risk

Risk Type &/or No.	Risk Description	Action Owner	Potential Impact from the Risk	Initial Risk Evaluation			Mitigation/ Prevention	Residual Risk Evaluation after Mitigation		
				Likelihood Rating (0-5)	Severity Rating (0-5)	High (7-9) Medium (4-6) Low (1-3)		Likelihood Rating (0-5)	Severity Rating (0-5)	High (7-9) Medium (4-6) Low (1-3)
1. Financial [Example]	Unable to deliver services within resources available to meet obligations and service standards, including keeping the current year's budget within the approved budget framework	A Bloggs	Some services may not necessarily be able to be delivered or could be cut back due to rising costs.  A greater increase in rates than originally anticipated.	2	5	7	Set budget for 2018/19 and ensure to keep under review.  Have in place budget estimates and business plans for the next 1-3 years and review regularly.	1	2	3
2. Access to Information [Example]	Risk of not having in place a records management system	B Bloggs	Failure to comply with Freedom of Information requests within required timeframe.	3	5	8	Implementing and maintaining a records management system to enable information to be found in a timely manner.	2	2	4

Reference number of risk and/or risk type

Member of staff responsible for managing risk

Likelihood of the risk arising – on scale of 0 (low) to 5 (high)

Severity of risk were it occur – on scale of 0 (low) to 5 (high)

Total Residual Risk Rating after mitigation of risk (combines the Likelihood and Severity Rating scores)

# **PART EIGHT**

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# infrastructure

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**Please note that this document is intended as a guide only and should not be relied upon as being legally definitive. Furthermore, the Department of Infrastructure cannot accept responsibility for any errors or omissions within this guide.**