



**GENERAL INFORMATION FOR**

**MEMBERS AND OFFICERS**

**OF LOCAL AUTHORITIES**

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Department of Infrastructure**

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## INTRODUCTION

*Throughout the island men and women seek election to local authorities for a variety of different reasons.*

*Some may have political interests realising that many issues are shared centrally but can be influenced at local level.*

*Others bring their individual business or professional skills, whilst some wish to help the community in which they live. They are fully aware that decisions made by local authorities will vitally affect the quality of life within their areas.*

*To enable councillors and commissioners to perform their duties in the most efficient and effective manner they need to fully understand the statutory functions, legislation and proceedings by which they are bound.*

*This handbook is intended to give an outline, but it also must be recognised that by communicating with other experienced members a lot can be learned from their knowledge.*

## **A. HISTORY OF LOCAL GOVERNMENT**

### **1. The Structure of Local Government**

Elective local government in the Isle of Man can be traced back to the Town Act 1852, under which boards of commissioners, each under the chairmanship of a High Bailiff, were constituted for the four towns "for paving, cleansing, lighting, and watching the streets... And for making and keeping in repair public sewers therein, and otherwise improving" the towns. The 1852 Act was repealed as to Douglas in 1860, Ramsey in 1864 and Peel and Castletown in 1883 by Acts which set up boards of Town Commissioners in the form we know today.

Village districts with their own bodies of elected commissioners then began to be established. The first was Port Erin which, having in 1884 been constituted a sanitary district with an elected sanitary authority under the Public Health Act 1884, was constituted a village district by the Local Government Act 1886. Port St Mary was constituted a village district in 1890, by resolution of Tynwald under the 1886 Act. Laxey and Onchan were constituted village districts in 1895, and Michael in 1905, under the Local Government Amendment Act 1894.

The 1894 Act also provided for the seventeen ancient parishes, excluding those parts comprised in town or village districts, to become local government districts with their own commissioners.

Douglas was incorporated as a municipal borough by Act of Tynwald in 1896<sup>1</sup>, the Town Commissioners being replaced by a Council consisting of the mayor, aldermen and councillors (the office of alderman was abolished in 1989<sup>2</sup>).

Although the boundaries of town districts were altered from time to time, the structure of local government remained unaltered from 1905 until 1986, when the parish district and village district of Onchan were merged<sup>3</sup>. The parish district and village district of Michael were likewise merged in 1989<sup>4</sup>.

### **2. Reorganisation of Local Government**

The complete restructuring of local government has been the subject of legislative proposals at various times in the past century or so.

*1892*

The Local Government Bill 1892 proposed that every sheading should be a local government district, with *ex officio* commissioners comprising the members of the House of Keys for the time being for the sheading, the captains of the parishes and the chairman of the school committees within the sheading. Town or village districts, existing or subsequently

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<sup>1</sup> Douglas Municipal Corporation Act 1895

<sup>2</sup> Douglas Corporation Act 1988

<sup>3</sup> Onchan District Act 1986

<sup>4</sup> Michael District Act 1989

established, would have their own elected commissioners. The Governor would appoint a public health inspector for the whole Island, exclusive of Douglas. This officer was to report to the Governor who would communicate the report to Tynwald and the local bodies. As the sheading commissioners would not be elected bodies, any rate levied by them on the whole or part of their district was to be subject to the approval of Tynwald.

The Council thought that a sheading district was too small for vigorous executive action and too large for ascertaining and reporting upon particular defects, and amended the Bill to provide for elected commissioners for each parish, reporting to a Local Government Board, over which the Governor was to preside. The amended Bill was eventually discharged by the Keys, but its proposals were subsequently enacted in the Local Government Act 1894.

#### *1894 to 1987*

The Local Government Consolidation Act 1916 consolidated the earlier legislation, and was itself amended from time to time. An Act of 1938 enabled "combination authorities" (now called "joint boards") to be set up for the districts of 2 or more local authorities, comprising members of those authorities and performing specified functions within those districts. The Local Government Act 1985 modernised the legislation relating to the management of local authorities and the exercise of their functions, and the Local Elections Act 1986 replaced the Acts relating to the election of members. Although from 1935 onwards there were numerous calls for a change in the structure of local government on the Island, nothing happened, apart from alterations in the boundaries of town districts and, in 1986, the merger of the village and parish districts of Onchan. The Local Government Board was abolished in 1987 and replaced by the Department of Local Government and the Environment, headed by a Minister.

#### *1987 to date*

In 1987 a motion was put to Tynwald calling for the abolition of the domestic rate over a period of five years, on the grounds that the respective burdens of rates on urban and rural areas was inequitable. Tynwald resolved that the Executive Council (as it then was) should consider and report on the issue. In April 1991 Tynwald was advised that the study had been widened to consider the future of local authorities. This set off a chain of events which over the ensuing years have seen various proposals put forward for consideration by Working Parties. Several reports were issued by the Department of Local Government and the Environment under the overall title *Time for Change*. An Initial Report in 1992 proposed to reform local government on the basis of 6 authorities. The Second Interim Report in 1993 advocated 12 authorities, and the Final Report in February 1994 recommended a structure based on 13 authorities. The report was received by Tynwald, but no action was taken before the general election in 1996.

After the 1996 election the issue of reform of local government was re-activated by the Department. In 1997 it issued a further report *Securing a Future for Local Government*, also proposing 13 local authorities. Opposition from the existing authorities led to a "Further Alternative Approach" in September 1999, proposing a two-tier structure outside Douglas, retaining the existing 24 town, village and parish authorities, with a second tier of 4 "area authorities" which would exercise most local authority functions (including those of existing joint boards).

In October 1999 the Council of Ministers determined not to take the issue of Local Government Reform any further for the time being, although subsequently Tynwald set up a



Working Party to look into the matter and in October 2001 the Report of the Working Party was received by Tynwald.

In October 2004 the Department of Local Government and the Environment published a Report on the effectiveness of the present Local Government structure on the Island and the Department's supervisory powers. The Report recommended the introduction of a Local Government Bill reflecting a new structure of local government consisting of 4 regional areas plus Douglas, and the existing Local Authorities be retained as Community Councils. A Motion was never made to progress this idea.

This has possibly left the question open.

On 1<sup>st</sup> April 2010 a re-structure of Government took place. Under the Transfer of Functions (New Departments) (No.2) Order 2010<sup>5</sup> the former Department of Local Government and the Environment was abolished and the functions undertaken by that Department were transferred to three new Departments of Government; Department of Infrastructure, the Department of Environment, Food and Agriculture and the Department of Social Care. This transfer of functions meant that the island's local authorities would from that date work with the three new Departments in the following areas:-

Department of Infrastructure –

Planning and Building Control; Health and Safety Inspectorate; Waste Management, Estates and Architecture; Local Government

Department of Environment, Fisheries and Agriculture –

Environmental Health; Food Hygiene; Climate Control and Environmental Protection

Department of Social Care –

Public Sector Housing; First Time Buyers; Home Improvement Grants<sup>5</sup>

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<sup>5</sup> SD155/10

## **B. STATUS AND FUNCTIONS OF LOCAL AUTHORITIES**

### **1. Nature and status of local authorities**

#### **1.1 *Districts***

Local government districts are in 3 categories, *town districts*, *village districts* and *parish districts*. The distinction is not so important today as it once was, but authorities for town districts and village districts have certain powers which authorities for parish districts do not.

The town districts are —

Douglas  
Castletown  
Ramsey  
Peel

The village districts are —

Onchan  
Laxey  
Michael  
Port Erin  
Port St Mary

#### **1.2 *Nature of local authorities***

Apart from the classification into town, village and parish authorities, there are 3 distinct legal categories of local authority:

*Commissioners:* 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>6</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.

*Douglas Corporation:* The local authority for the town district of Douglas is the municipal corporation<sup>7</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>8</sup>.

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<sup>6</sup> Local Government Consolidation Act 1916 s.7

<sup>7</sup> Douglas Municipal Corporation Act 1895 s.9

<sup>8</sup> Ibid. s.12

*Joint Boards:* A number of joint boards have been established, by orders made by the Department, for areas comprising the districts of 2 or more local authorities<sup>9</sup>. They are bodies corporate, consisting of members appointed by the constituent authorities, and are responsible for specific functions, mainly refuse collection, civic amenity sites, housing for elderly persons or the provision of swimming pools.

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<sup>9</sup> Local Government Act 1985 ss.7 & 68, Sch.3; note also Recreation and Leisure Act 1998 s.7.

## **2. Functions of local authorities**

*It is important that high standards are maintained in local government, and this can be achieved by a full understanding of the legislation governing the functions of local authorities and the procedures in place to exercise those functions.*

### **2.1 Powers and duties**

At common law a local authority, being a statutory corporation, 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 assistance).

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* (beyond its powers) and any expenses incurred in their performance may be the subject of action under the Audit Act 2006.

Subject to that, the law gives local authorities a wide discretion as to how they exercise their statutory powers and duties and is governed by certain general rules:—

- if a local authority's function is expressed as a duty ("shall"), 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.

### **2.2 Scope of local authority functions**

The functions of local authorities can be conveniently grouped under the following headings. Some functions are reserved to town and village authorities or are otherwise restricted.

- Public information and advice
- Tourism
- Refuse collection
- Street-lighting
- Environmental health
- Public conveniences
- Parks, playgrounds and other leisure facilities
- Control of dogs
- Housing
- Car-parking
- Street cleaning \* See 2.13
- Building control
- Planning

- Sewerage \* See 2.16
- Libraries and museums
- Abandoned vehicles

### **2.3 Public information and advice**

Although not strictly a function of local authorities, they are relied on by the public to provide a local office or point of contact for persons seeking information about local or central government matters.

In addition, a number of local authority offices are still used for some judicial services, and some clerks to local authorities act as commissioners for oaths or as registrar for births, deaths and marriages. This form of activity is likely to increase in future with the establishment of e-technology. Some of the larger authorities provide internet access for ratepayers and assist in providing workshops for basic internet instruction.

### **2.4 Tourism**

Local authorities have the power to spend up to a specified limit on "*improving or prolonging the visiting season in their district and increasing its advantages as a pleasure and health resort*".<sup>10</sup> The limit is currently the product of a rate of 6p in the £, but may be varied by order of the Department of Infrastructure.

Local authorities may also, with the consent of the Department, provide hotels, hostels, camp sites, shops and other premises "*for improving the amenities of their district*".<sup>11</sup>

### **2.5 Refuse collection**

The Isle of Man must manage all wastes produced on Island, with the exception of wastes shipped under permit to the UK for disposal or recycling. Tynwald has approved a Waste Management Strategy based on the waste hierarchy which sees prevention, minimisation, reuse, recycling and recovery as the preferred methods of managing waste. However such a Strategy can only be beneficial to all ratepayers through mutual agreement and working together with key stakeholders, one of the largest of whom, are the island's local authorities.

All local authorities are responsible for the collection of household waste and commercial waste within their district; they must make a charge for the collection of commercial waste<sup>12</sup> and may make a charge for the collection of household waste. The refuse collection functions of certain authorities in the North are exercised by a joint board. Other authorities employ contractors to provide the service or their own staff, or both.

The introduction of the 'user pays principle' (WMP 2000 p4) and development of the Government's Energy from Waste Facility (EfW) in 2003 have brought about major changes in the way waste is handled throughout the Island. The EfW provides a strategic disposal route for combustible materials that were previously being disposed of to landfill. The need to maintain this strategic capacity has driven the introduction of Phase 1 Kerbside Collection in Braddan Onchan and Douglas in

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<sup>10</sup> Local Government (Entertainments) Act 1950 s.3

<sup>11</sup> Local Government Act 1963 s.26

<sup>12</sup> Public Health Act 1990 s.65

November 2008, and the enhancement of facilities for recycling of household waste throughout the Island. The commercial and industrial sectors have also realised an increase in reuse and recycling rates in response to waste charging. There has also been a greater focus on reducing both the amount and hazardousness of waste.

Local authorities have power to provide places for the deposit of waste<sup>13</sup>, usually called "civic amenity sites". Four sites exist at present, one at Middle River estate serving the residents of Douglas, Onchan and Braddan, one near Port St Mary serving the residents and commercial sector in the south of the Island; one at St Johns serving the west, and the Northern Site is currently at Ballacallow. The newly expanded Western Civic Amenity Site reopened in January 2010. Plans are afoot to develop a replacement facility in the North. The Eastern Site is currently administered by the Department of Infrastructure on behalf of the eastern local authorities with Douglas Corporation its appointed contractor for operating the site. The Department also operates the Northern CA site on behalf of the northern authorities. The Southern Site is controlled by a joint board and the Western Site by a joint committee. All ratepayers have equal access to any of the Island's Civic Amenity Sites.

The Department operates the Bring Bank recycling scheme throughout the Island, providing residents with recycling banks for collecting mixed glass, newspapers, grey and white card, magazines and pamphlets, and aluminium cans, foil and aerosols. The Department also provides and services paper recycling banks for schools, and in partnership with the Co-op, operates a scheme for collecting dry-cell batteries for recycling. Other materials are collected for recycling on Island including textiles, plastics, cardboard, scrap metal, wet cell (car) batteries, toner cartridges, fridges, fluorescent lamps, and end of life computer VDU's and TV's. Green waste is currently delivered from the Northern and Western CA sites to a commercial operator for composting. The Southern Civic Amenity Site Board composts green waste delivered to the Southern Civic Amenity Site.

## **2.6 Street-lighting**

Local authorities have power to provide street-lighting within their district<sup>14</sup>. Street-lighting for new developments will normally be provided by the developer and adopted by the local authority for future maintenance. Some authorities have contracts with the MEA or a private contractor for the maintenance of street-lighting.

## **2.7 Environmental Health**

Local authorities are responsible for enforcing certain legislation relating to environmental health within their district, in particular that relating to —

- statutory nuisances (excluding noise)<sup>15</sup>
- verminous premises<sup>16</sup>
- closure, demolition and clearance of unsanitary and unfit housing<sup>17</sup>
- regulation of flats<sup>18</sup>

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<sup>13</sup> Ibid. s.69

<sup>14</sup> Local Government Consolidation Act 1916 s.254

<sup>15</sup> Public Health Act 1990 ss.1-9

<sup>16</sup> Ibid. s.81

<sup>17</sup> Housing Act 1955 Parts I and II

<sup>18</sup> Housing (Flats) Regulations 1982 (SD 293/82)

- prevention of overcrowding<sup>19</sup>
- dangerous and ruinous buildings and untidy land<sup>20</sup>
- unsanitary drainage etc.<sup>21</sup>

In order that local authorities may have any necessary technical assistance in performing these functions, the Department of Environment, Food and Agriculture makes the services of qualified officers in such areas available on request. These services are provided free of charge at present.

## **2.8 Public conveniences**

Local authorities may provide and maintain public toilets in their district<sup>22</sup>.

## **2.9 Parks, playgrounds and other leisure facilities**

Local authorities to whom the Recreation and Leisure Act 1998 has been applied<sup>23</sup> have wide powers to provide recreational and entertainment facilities in their district, including public parks, gardens, recreation grounds, sports facilities, skate parks, swimming pools, theatres, concert halls, conference facilities and restaurants. Other local authorities have more restricted powers.

The powers to provide swimming pools have been exercised by joint boards in the north, south and west. Oversight of the administration of these regional pools lies with the Department of Community, Culture and Leisure with the capital and deficiency funding managed by the Department of Infrastructure

## **2.10 Control of dogs**

Local Authorities may make byelaws for the control of dogs, as follows<sup>24</sup>:

- banning dogs from specified open spaces (primarily children's playgrounds) and, or beaches;
- requiring dogs to be under effective control within specified open spaces and, or beaches;
- requiring owners to clean up after their dogs in specified open spaces and, or beaches - "poop scoop".

Such byelaws are subject to the approval of the Department of Infrastructure. New provisions enable authorised officers of a Local Authority to issue Fixed Penalty Notices in respect of certain offences under the Act and under Byelaws made by an Authority.

## **2.11 Housing**

All local authorities have power to provide public-sector housing in their districts<sup>25</sup>, but the powers are only exercised by town authorities, village authorities (except Laxey and Michael) and Braddan, Malew, Rushen and Arbory parish commissioners. The Department of Social Care meets 100% of the deficiency on housing i.e. the

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<sup>19</sup> Housing Act 1955 Part III

<sup>20</sup> Building Control Act 1991 ss.22-24, Local Government (Miscellaneous Provisions) Act 1984 s.14

<sup>21</sup> Sewerage Act 1999 ss.29-35

<sup>22</sup> Sewerage Act 1999 s.36

<sup>23</sup> Castletown, Ramsey, Port Erin, Port St Mary, Andreas, Ballaugh, Bride, Jurby, Lezayre, Maughold, Arbory, Malew, Rushen, Santon, Peel, Michael, Patrick, German, Marown, Braddan and Douglas Corporation

<sup>24</sup> Dogs Act 1990

<sup>25</sup> Housing Act 1955 s.38

loan charges, less the income from rents after deducting 5% for administration and 30% for maintenance. A higher administration allowance of 7.5% is available if the Department agrees that the local authority meets certain required standards. The Department provides public-sector housing in other districts, in consultation with the local authority. Housing allocation follows a common criteria used by the Housing Authorities.

Sheltered accommodation for elderly persons is provided by Douglas Corporation and Onchan Commissioners in their districts, and by joint boards or committees elsewhere. The deficiency grants for sheltered housing are the same, except that 10% of rents may be retained for community facilities.

### **2.12 Car-parking**

Local authorities have power to provide off-street parking places within their districts<sup>26</sup>, and may make charges for their use (e.g. "pay and display" or contract charges) or, by arrangement with the Department of Infrastructure, provide short-stay disc parking.

### **2.13 Street-cleaning**

Street-cleaning is a function of the Department of Infrastructure, but is undertaken by certain local authorities as agents for that Department. Some authorities also provide litter bins which are emptied on a regular basis.

### **2.14 Building control**

Building standards are laid down by building regulations, supported by detailed guidelines contained in "approved documents" and British Standards, and are enforced by the requirement that plans for all new buildings and new work be deposited with the "building authority"<sup>27</sup>. Certain local authorities undertake the Building Control function for their area (currently Douglas and Onchan); elsewhere the Department is the building authority. The services of the Department's qualified building control officers are available to assist local authorities in this field. In many cases Planning Permission will be required in addition to Building Regulations approval.

### **2.15 Planning**

Planning applications are determined by a number of means, either by the Planning Committee of the Department of Infrastructure, the Director of Planning and Building Control or the Senior Planning Officer under their delegated powers, or where the application is being made by the Department, or is one in which the Department has a vested interest, by the Governor in Council. In all cases the local authority is consulted on all applications affecting land in its district and can lodge an appeal against a decision. The local authority is automatically party to any appeal in its district provided that the required time constraints are respected. Local authorities are also consulted on any amendment to the Development Plan and any designation of a conservation area or registration of a building within their district. The Department last reviewed the planning process in 2005. A further review of the process is currently ongoing and will lead to amendments to the Town & Country Planning Act 1999.

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<sup>26</sup> Road Traffic Regulation Act 1985 ss.10-13

<sup>27</sup> Building Control Act 1991 s.11



Planning enforcement complaints are handled by the Directorate in accordance with the Department's published policy.

***Please refer to the Department's Code of Conduct for Local Authority Members regarding interest in planning matters.***

### **2.16 Sewerage**

The Isle of Man Water and Sewerage Authority are responsible for all sewerage and sewage disposal in the Island. The Authority and a local authority may agree that the former's functions be delegated to the local authority, on such terms as may be agreed<sup>28</sup>.

### **2.17 Libraries and museums**

Local authorities have power to provide public libraries and museums within their district<sup>29</sup>. At present only the authorities for Douglas, Onchan, Peel, Castletown, Ramsey and Port Erin provide lending libraries, which may be used free of charge by residents of their district, and by non-residents at an annual subscription. A Local authority can, with the consent of the Department of Infrastructure, enter into an agreement with another local authority to discharge a function on its behalf.<sup>30</sup> i.e. one local authority can provide library facilities for another local authority. Some local authorities now provide computer facilities at libraries.

### **2.18 Abandoned vehicles**

A local authority has power to remove a vehicle illegally parked, or causing an obstruction or danger, from a road in its district, and (subject to compliance with certain requirements) to remove from a road or any land in the open air in its district a vehicle which appears to be abandoned<sup>31</sup>. It must deliver the vehicle to the Department of Infrastructure for disposal<sup>32</sup>, but may be able to claim the cost of removal should the vehicle subsequently be recovered by the owner. The Waste Management Unit of the Department is currently responsible for dealing with abandoned vehicles.

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<sup>28</sup> Sewerage Act 1999 s.2

<sup>29</sup> Local Government Consolidation Act 1916 s.333-338

<sup>30</sup> Local Government Act 2006, s6

<sup>31</sup> Local Government (Miscellaneous Provisions) Act 1984 s.2

<sup>32</sup> Ibid. s.4

## C. THE MAIN LOCAL GOVERNMENT LEGISLATION

The Acts of Tynwald relating to local government were last consolidated in the Local Government Consolidation Act 1916, which dealt with the structure of local government, the constitution and management of local authorities and their entire functions. The 1916 Act was frequently amended and supplemented over the years. So far as it related to the constitution and management of local authorities and their general powers, but not to their specific functions, it was replaced by the Local Government Act 1985, which contains a single modern code applicable to all local authorities. In 2006 a new Local Government Act was introduced which amended certain enactments relating to local government

**Local Authority Members have a duty to uphold the law, on all occasions.**

### 1 LOCAL GOVERNMENT ACT 1985

The main Act governing the constitution, proceedings and general powers of local authorities is the Local Government Act 1985 ("the Act"), which came into force on the 1st April 1986. It is divided into 8 parts, as follows.

#### ***Part I — Central supervision of local authorities***

##### *1. General*

This Part gives the Department of Infrastructure responsibility for supervising local authorities. Accordingly, matters arising within Government which relate to local authorities will be referred to the Department for action.

##### *2. Provision of assistance (See Section 2 of Act)*

The relevant Department<sup>33</sup> defined as the Department of Environment, Food and Agriculture, Department of Infrastructure, and the Department of Social Care, is required to make such arrangements as appear to it to be necessary for the provision of technical assistance to local authorities in the performance of their functions under any enactment<sup>34</sup>. The relevant Department may, by regulations and after consultation, prescribe charges for such assistance. This responsibility is explained in more detail in the previous section.

##### *3. Inquiries, reports and returns (see Section 4 of the Act)*

The relevant Department is empowered to conduct inquiries into the activities of local authorities and to require reports and returns from them with respect to the exercise of their functions; compliance can be enforced by an order of the High Court<sup>35</sup>.

##### *4. Standards of performance (see Section 4A of the Act)*

The relevant Department may by regulations specify the minimum standards to be achieved by local authorities in the discharge of any functions specified in the regulations<sup>36</sup>.

##### *5. Default powers (see Section 5 of the Act)*

In certain cases, where a local authority is under a duty to perform a function and fails to do so or it fails to achieve a standard prescribed in (standards of performance) regulations, the relevant Department can make an order declaring the authority to be in default, and either

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<sup>33</sup> SD155/10 Schs 3,6 and 11

<sup>34</sup> s.2 of the Act

<sup>35</sup> Ibid. s.3 &4

<sup>36</sup> Ibid s.4A

transfer the functions to itself or, with the consent of another authority, to another authority<sup>37</sup>. Default Powers are also available under other legislation, e.g. in relation to housing<sup>38</sup>.

### ***Part II — Alteration of areas, etc.***

The Department of Infrastructure has power to make orders relating to the areas and constitution of local authorities, subject to Tynwald approval<sup>39</sup> —

- altering the boundaries of any district (and making consequential and supplemental provision)
- merging 2 or more local authorities with their consent.
- establishing joint boards and vesting functions of the constituent authorities in them
- creating special districts for rating purposes
- dividing a town or village district into wards for electoral purposes

### ***Part III — Proceedings of local authorities***

#### *1. Meetings*

Each authority must hold an annual meeting in May (at which the chairman or mayor is elected) and at least one meeting in each quarter other than that in which the annual meeting is held. 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 1**; the authority's standing orders<sup>40</sup> will make further provision as to the conduct of meetings (see IV – 6). Individual Commissioners can only exercise their powers at meetings of the Commissioners in accordance with Schedule 1 of 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.

#### *2. Attendance of the public*

Members of the public are not entitled as of right to attend meetings of a local authority. Whether to admit the public is entirely at the discretion of the local authority but authorities are encouraged to allow them to do so unless the nature of the items to be discussed (i.e. housing allocation, staff matters or other sensitive issues) requires the proceedings to be held in private session. If members of the public are to be allowed to speak during a local authority meeting then the protocol for this can be laid down in the Authority's Standing Orders and reinforced at the beginning of each meeting. The Chairman of the local authority has control of the meeting. There is no reason why an individual Commissioner should not raise matters at meetings of the Commissioners on behalf of rate payers, although it might generally be better for any problems to be referred to the Clerk to the Commissioners.

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<sup>37</sup> Ibid. s.5.5

<sup>38</sup> Housing Act 1955 s.83

<sup>39</sup> Sections.6-9 of the Act

<sup>40</sup> S.27(1) requires standing orders to be made

*The custom of asking a Captain of the Parish to call a public meeting is well established although there appears to be no legal duty on the Captain to comply. Meetings are usually required for the purpose of examining the policies of candidates for political office but occasionally they may relate to some purely local matter. The costs involved in calling public meetings normally fall on those requiring the meetings and to recoup the cost there might be a collection taken from those present.*

### 3. Minutes

Minutes of meetings are a record of what was *done*, not of what was *said*: 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>41</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.

The style of the Minute may vary from local authority to local authority, however guidance is provided in the Code of Conduct which accompanies this Handbook.

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 of 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 and land transactions, 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

Further guidance on Minutes can be found in **Appendix 3** in this booklet.

### 4. Allowances

Allowances are payable at a rate prescribed by order of the Department of Infrastructure. The authority must in each year publish, and send to the Department, a report of the number of meetings of the authority, its committees and sub-committees, the number of each member's attendances and the total amount of allowances paid to each member<sup>42</sup> No member is obliged to claim attendance or travelling allowances. Schedule 2 (**Appendix 1**) prescribes the provisions of Attendance and Travelling Allowances.

### 5. Pecuniary interests

Members of local authorities are **obliged** to disclose any "pecuniary interest" in any contract or other matter discussed at any meeting of the authority or its committees at which he/she

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<sup>41</sup> Ibid s.34

<sup>42</sup> Ibid. Sch.2

is present, and forbidden to take part in the discussion or to vote on it<sup>43</sup>. This subject is dealt with further below. Members should be mindful that they represent the whole community and not just those who voted for them or an outside organisation they may be a member of (**See Code of Conduct**).

#### ***Part IV – Discharge of Functions***

##### *1. Delegation of functions*

A local authority may arrange for the exercise of any of its functions<sup>44</sup> —

- 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.

##### *2. 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>45</sup>. Committees (including joint committees) may appoint sub-committees; 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>46</sup>. Joint Committees are NOT CORPORATE ENTITIES and cannot own property or employ staff.

##### *3. Officers*

Every local authority must, subject in every case to the approval of the Department of Infrastructure, appoint a clerk and a Responsible Financial Officer, and may appoint other officers (e.g., warden, surveyor etc).<sup>47</sup> Officers are also required to disclose any pecuniary interest in a contract or other matter<sup>48</sup>.

##### *4. Premises*

Local authorities have power to provide offices and other premises for transacting their business and exercising their functions.<sup>49</sup> The Local Government (Miscellaneous Provisions Act) 2001 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>50</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.

##### *5. 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

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<sup>43</sup> Ibid. ss.11-15 & 20(2)

<sup>44</sup> Ibid. ss.17(1) & 18

<sup>45</sup> Ibid. 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>46</sup> Ibid. s.18

<sup>47</sup> Ibid. s.21(1), (2), (3), (3A)

<sup>48</sup> Ibid. s.23

<sup>49</sup> Ibid. s.24

<sup>50</sup> Local Government Act 1963 s.26(1)(c)

Tynwald<sup>51</sup>. The procedure for consent is set out in the Department's Petition Procedures handbook (to be updated and re-issued in due course) which has been issued to all local authorities. A local authority has power to acquire land compulsorily for the purpose of any of its functions; this power can only be exercised with the authority of a resolution of Tynwald, and the compensation is determined by arbitration<sup>52</sup>.

#### 6. *Standing orders*

A local authority **must** make standing orders governing its proceedings (including its committees and joint committees), and **must** have standing orders relating to contract procedures (including a requirement for competitive tendering, except in limited circumstances)<sup>53</sup>. The Department recommends that local authorities have at least 6 such standing orders covering the management of meetings, tenders, contracts, exclusion of members with specified interests etc. Model standing orders are included at **Appendix 2**.

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.

### ***Part V – General provisions relating to local authorities***

#### 1. *Byelaws*

A local authority has 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>54</sup> All byelaws made by local authorities (including those made under other Acts)<sup>55</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>56</sup> in question.

#### 2. *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>57</sup> (**See Code of Conduct**).

#### 3. *Other matters*

Part V also contains detailed provisions relating to the service of notices on an Authority; the authentication of documents, inspection of minutes, powers of entry on land and to obtain particulars of owners of land, and offences of obstruction.

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<sup>51</sup> Local Government Act 1985 s.25

<sup>52</sup> Ibid. s.26; Acquisition of Land Act 1984

<sup>53</sup> Ibid s.27

<sup>54</sup> Ibid 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>55</sup> Ibid s.30

<sup>56</sup> Ibid s.30

<sup>57</sup> Ibid s.41

## **Part VI – Financial Provisions**

### *1. Finance*

This Part deals with the finances of local authorities, with the exception of rating. Rating powers are covered under Local Government Act 2006 s11 – see page 30.

### *2. Funds*

Every local authority is required to set up a district fund<sup>58</sup> into which all receipts and out of which all expenses are to be paid, except where otherwise allowed. It may also, with the consent of the Department of Infrastructure, establish other funds<sup>59</sup>. Expenses of a local authority must be charged on the whole district, unless a "special district" has been established, on which particular expenses can be exclusively charged<sup>60</sup>.

The Department may cap the amount held in a local authority reserve account and such direction shall be laid before Tynwald.

### *3. Borrowing*

Local Authorities are given power to borrow money for specified purposes, subject to the consent of the relevant Department<sup>61</sup>

From the 1<sup>st</sup> August 2011, responsibility for processing all housing (public sector or elderly persons' boards/committees) related petitions will rest with the Department of Social Care. This will include petition applications relating to refurbishment and maintenance works, such as, re-roofing, replacement of windows and doors etc, as well as any applications relating to works under the Kitchen Framework Agreement. The Department of Infrastructure will retain responsibility for administering all rate borne petition applications (e.g. street lighting works) made under Section 51 of the Local Government Act 1985, in addition to any requests from Local Authorities regarding the sale, lease or purchase of land, all of which fall under Section 25 of the Local Government Act.

The procedure for applications for consent is set out in the Department's Petitions Procedure handbook which has been issued to all local authorities. The Local Government Unit is working on new petitions guidance and a revised version will be issued in due course. In the meantime the contacts for further information are set out below.

In order to simplify procedures in certain cases, the Department, from time to time, may, with the approval of Tynwald, issue a general consent for borrowings of a specified amount, subject to such reasonable conditions as are deemed necessary. Temporary borrowing by way of overdraft does not require consent.

Contact:           Housing Petitions Officer   - Jade Weir  
                          (Department of Social Care) 4th Floor Markwell House  
  Market Street, Douglas,  
  IM1 2RZ  
  
  Tel: 686493  
  
  Email: [Jade.Weir@gov.im](mailto:Jade.Weir@gov.im)

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<sup>58</sup> Ibid. s.42; the fund is called the "borough fund" in the case of Douglas and the "town fund" in the case of other town districts.

<sup>59</sup> Ibid. s.43; special provision is made for the superannuation fund managed by Douglas Corporation for all local authorities in the Island; see the Local Government Superannuation Scheme 1988 (GC 262/88).

<sup>60</sup> Ibid. s.44, and see also ss.7(4) & 8.

<sup>61</sup> SD 359/11 transfer of Funding Order 2011 Section 7

Petitions Officer  
(Department of Infrastructure)

- Steve Willoughby  
Local Government Unit  
Management Services Division  
Sea Terminal Building, Douglas  
IM1 2RF  
Tel: 686246  
Email: [Stephen.Willoughby@gov.im](mailto:Stephen.Willoughby@gov.im)

#### 4. *Other matters*

Part VI also deals with the recovery of expenses (including establishment charges).

#### ***Part VII – Legal Proceedings***

This Part deals with legal proceedings in which a local authority may be involved, specifically with evidence of decisions of the authority, appeals against certain decisions and actions (in particular notices by the authority requiring works to be carried out) and the assessment of compensation in certain cases.

Given the complexity of the law, listed below are some check points to assist in reviewing the lawfulness of local authority decisions:

- Is there a proper legal power for the decision?
- If so, is the decision clearly within an identified statutory right which the authority demonstrably relied on in making the decision?
- Is the decision consistent with the proper purpose of the authority?
- Is it consistent with the authority's fiduciary duty?
- Is the decision compliant with any appropriate statutory or internal procedures?
- What safeguards are there to ensure reasonable and lawful exercise of statutory discretion and fairness?

#### ***Part VIII – Miscellaneous and supplemental***

This Part includes provisions enabling a local authority to act as trustee of a charity and to accept gifts of property on charitable trusts, enabling Douglas Borough Council to confer the honorary freedom of the borough on persons of distinction, and enabling local authorities to provide chains and other insignia of office<sup>62</sup>.

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<sup>62</sup> Ibid. ss.64, 66 & 67



## 2 LOCAL ELECTIONS ACT 1986

This is the main Act governing elections of members of local authorities. A Local Authority General Election is held every 4 years with any necessary By-Elections taking place when required. The Act contains provisions relating to —

- conduct of local elections;
- qualifications and disqualifications for election and holding office;
- acceptance of office;
- casual vacancies;
- proceedings for disqualification;
- election of chairman

The Act is supplemented by the Local Elections Rules 2003 (as amended in 2008) and the Local Elections (Absent Voters) Regulations 2008 which include prescribed forms for use in elections. Some provisions of The Representation of the People Act 1995 apply to Local Elections and it is important that these provisions are known by local authorities. Every local authority should have an up-to-date copy of both these Acts, as well as the Rules and Regulations for reference.

It is very important that the timetable and procedures required by the Act, Rules and Regulations be complied with. Failure may render an election void, and may also result in legal proceedings, in which a person in default may be ordered to pay the costs of other parties.

The role of the Returning Officer in a local election is fundamental. The Returning Officer is usually the chairman of the authority or, if there is no chairman or the chairman is a candidate or absent or unable to act, a person appointed by the authority to act as Returning Officer.<sup>63</sup> The Returning Officer should be aware of the qualification/disqualification criteria of persons putting themselves forward for election in order that legislation is adhered to.

The Returning Officer is also responsible for ensuring that suitable persons are appointed to carry out the roles of certifying officer, poll clerk etc and there are prescribed fees for such appointments.

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<sup>63</sup> Local Elections Act 1986 s.2. In the case of Douglas, the mayor or a councillor appointed by the mayor to act in his place is the returning officer; if the councillor appointed is absent or unable to act, the council is to appoint a returning officer in his place.

### **3 THE HUMAN RIGHTS ACT 2001**

This Act gives direct effect in Manx law to the European Convention on Human Rights (ECHR). The Act came fully into force on the Island on 1<sup>st</sup> November 2006. The effect of the Act is as follows —

- it will make it unlawful for a public authority (including a local authority) to breach the Convention rights of an individual, unless an Act of Tynwald obliges it to do so;
- claims that an individual's Convention rights have been breached can be determined by the courts of the Isle of Man, and not reserved to the European Court of Human Rights in Strasbourg;
- a court or tribunal in the Isle of Man will be required to interpret Isle of Man legislation in accordance with the ECHR, if possible.

Some time ago information leaflets were issued to local authorities and training arranged for members and officers. Areas concentrated on included —

- raising awareness of the Act;
- familiarising everyone, members and officers, with the principles of the ECHR and how they relate to local authority functions;
- adopting the principles into day-to-day decision-making by local authorities and their committees and officers;
- ensuring specialist training for identified staff, particularly clerks and policy-makers.

## **D. DECLARATIONS OF INTEREST**

**(This is also dealt with in the Code of Conduct)**

### **1. 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.

### **2. 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>64</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;

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<sup>64</sup> Local Government Act 1985 ss.11 & 12

- 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**.

### **3. General disclosure**

A member of a local authority, if he or she so wishes, shall make a general disclosure (S13 LGA 1985) 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).<sup>65</sup> 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.

### **4. 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 £2,500 unless the member can prove that he or she was unaware of the interest<sup>66</sup>.

### **5. 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<sup>67</sup> 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.

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<sup>65</sup> Ibid. s.13

<sup>66</sup> Ibid. s.11(2)

<sup>67</sup> Ibid. s.23

## **E. CONFIDENTIALITY AND DATA PROTECTION**

**(Also see Code of Conduct)**

### **1. 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>68</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.

### **2. Data Protection**

The Data Protection Act 2002 stipulates that a person/organisation processing personal data must comply with the Eight Principles of good practice. If a local authority holds "personal data" whether it be on a computer or in manual records, the authority must be registered with the Isle of Man Data Protection Registrar. "Personal data" means any information which helps to identify a living individual — a name and address or telephone number is sufficient to identify a person. (Data held for payroll or accounting purposes only is exempt from registration.) A local authority should register as a "not for profit" organisation and specify the number of purposes this registration should cover. There is a nominal annual fee for registration. The Registrar has developed a standard template for this purpose, and further information can be obtained from the Office of Data Protection.

The eight Data Protection Principles in summary require that data shall be:-

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate
- not kept longer than necessary
- processed in accordance with the data subjects' rights
- secure
- not transferred to countries outside the EEA with adequate protection

A local authority should ensure it has the necessary procedures in place to ensure that information kept is secure and only accessed by authorised persons and such procedures could be tested through the Internal Audit which is required to be carried out in some local authorities. (Audit Act 2006 and Accounts and Audit Regulations 2007)

A member or officer of a local authority who allows personal data held by the authority to fall into the hands of a third party contrary to the Data Protection Act may be liable to pay compensation to the data subject for any loss or distress caused.

If a Member (or prospective candidate for election) holds information about ratepayers, he or she must also be registered.

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<sup>68</sup> Ibid. s.65

## F. LOCAL GOVERNMENT FINANCE

### 1. *Introduction*

Local authorities' income comes presently from three main sources —

- rates
- grants from Central Government
- income received from charges for services, rents and investment income

### 2. *Rates*

When an authority fixes its rate and budget for the forthcoming year, it first estimates how much it will spend in that year from its rate fund. Under section 11 of the Local Government Act 2006 a local authority has power to levy rates to cover all its expenses. A rate may be charged at a rate in the £ on the rateable value of properties, or as a lump sum plus a rate in the £, and this is to be set no later than 31<sup>st</sup> January before the beginning of the financial year. It then deducts the amount of grant it expects to receive from Government, its estimated income from other sources and any change in balances. The remaining sum is raised from local ratepayers through rates.

Although (or perhaps because) the rating system has been with us for over 150 years, there remain a number of major public misconceptions about rates, which inevitably have coloured discussions about the future of rates. Amongst these misconceptions are that —

- (i) *"rates are a payment for services delivered";*

It cannot be stressed too strongly that rates are a **tax**. They are a tax on the occupation of property, just as income tax is a tax on income and VAT is a tax on the supply of goods or services. Rates are **not** a payment for services, and ratepayers cannot seek to pay less on the basis that they do not use some of the authority's services.

- (ii) *"rates are only paid by property owners and so are not paid by a large proportion of the electorate";*

Rates are payable by the **occupier** of a property, not the owner. In the case of most rented property this cost may be hidden by it being included in an overall rent figure. So, contrary to popular belief, all public-sector housing tenants pay rates, just as they would if they were owner-occupiers.

- (iii) *"businesses make a higher relative contribution to rate income than individual property owners".*

This fails to take into account that the last General Revaluation of the Island took effect from May 1971, based on rental evidence from 1968-70. Over the following 30 years the rental growth on office and other commercial premises has considerably exceeded that on domestic properties. Since there has been no revaluation, however, the relative rentals have to be converted back to 1971 values for the purposes of setting rateable values. As a result, the domestic ratepayer is actually paying a higher relative contribution than the commercial rate-payer.

The main concern about the present system of rates is that it can place an undue financial burden on low income householders living in high rated property. The householder can avoid this situation, of course, by moving to a smaller property. However, this may not always be a practical or acceptable alternative. Rate bills on the Island are considerably less than equivalent council tax bills in the UK, and arrangements for instalment payments can help to reduce their impact. However, there will still be cases where rates can add further to financial hardship.

### **3. *Government grants***

Central Government presently meets 100% of the net cost of local authority housing. This is referred to as the 'housing deficiency'. A local housing authority proportions a certain amount of its rental income to the maintenance of the properties, an administrative allowance is also deducted and the remainder pays off any loans or capital schemes. In reality the rental income never covers the capital schemes, maintenance and administration of the public sector housing, hence the deficiency is met in full by central government.

Central Government also pays the cost of services provided by local authorities under delegated powers from Departments, e.g. sewerage.

Government used to also provide grant assistance towards the cost of items such as disabled toilets and playground equipment. This has however not been provided since a departmental decision back in April 2010.

### **4. *Money-laundering***

The Anti-Money Laundering Code 1998<sup>69</sup> imposes requirements on certain institutions, including local authorities in respect of any activities involving raising money, to establish anti-money laundering procedures, training and record keeping etc. Failure to comply with the Code is an offence, carrying a maximum penalty of 6 months' custody or a fine of £5,000, or both. The code affects the raising of money by the issue of stocks and bonds to the public, and places responsibilities on members and officers to maintain a robust system of internal controls designed to prevent involvement in money laundering. Copies of the Code have been issued to all local authorities and briefing sessions have been held. Each local authority should have in place registers, procedures and controls for the administration of stocks and bonds, and ensure that members and staff concerned are aware of them. However since the former Department of Local Government and the Environment and Treasury entered into a borrowing agreement with the Isle of Man Bank Limited to give consistency to the interest rates paid by all local authorities, one of the impacts of this new system has been the demise of bonds as a means of financing by local authorities.

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<sup>69</sup> made by the Department of Home Affairs under the Criminal Justice Act 1990 s.17F

## **G. EMPLOYMENT OF STAFF**

Staff are an extremely valuable asset and appointing the most suitable person for a specific role is one of the most important decisions a local authority will make.

**A Guide to Recruitment is attached at Appendix 4.**

### **1. Job descriptions**

The Department strongly recommends that all persons employed by local authorities have current job descriptions, agreed between both parties and reviewed on a regular basis. A model job description is included in Appendix 4.

### **2. Statement of particulars/Contract of Employment**

Every employer is obliged (Employment Act 2006), not later than 4 weeks after commencement of employment, to give to every employee a written statement of particulars of the contract of employment, specifying —

- the parties
- the date when the employment began
- the date when the employee's period of continuous employment began
- the scale or rate of remuneration
- the intervals at which remuneration is paid
- hours of work (including normal working hours)
- entitlement to holidays and holiday pay
- incapacity for work due to sickness or injury (including sick pay),
- pensions and pension schemes, including the normal retiring age
- length of notice to be given or received to terminate the employment
- the job-title
- disciplinary and grievance procedures

A model statement of Terms and Conditions is annexed at Appendix 4.

The conditions of service of local authority officers are normally based on the National Joint Council for local authorities' administrative etc. staff in England and Wales ("the purple book"). The Whitley Council Constitution, under "Scope", states "the functions of the Council as specified in Clause 7 hereof shall relate to all manual workers and craftsmen in the employment of Government Departments and Local Authorities..... (there are some exceptions but not applicable to local authorities).

### **3. Remuneration**

At present each authority prescribes its own pay scale for officers, although a commonly used comparator is the National Joint Council pay scale spine points. An authority should take into account the following when calculating a salary —

- hours worked
- tasks to be performed



- whether employment is temporary or permanent
- training required
- experience (e.g. finance, local authority background/special knowledge necessary)
- whether accommodation or equipment is provided
- whether employment is pensionable
- whether pension scheme is contributory
- any supervisory skills required

The pay scales for manual workers are laid down by the Isle of Man Whitley Council for the Public Service.

#### **4. Local Government Pension Scheme (LGPS)**

If you become employed in local Government (other than for a parish authority), you will automatically become a member of the IoM LGPS unless you opt not to join or you are a casual employee. If you have previously opted out or are a casual employee you can join, but must elect to do so. A person employed by a parish authority may only be a member if they are covered by a relevant resolution

#### **5. Approval**

It should be noted that appointments of Clerks/Town Clerks and Responsible Finance Officers by all local authorities are subject to the approval of the Department of Infrastructure.

#### **6. Sex discrimination**

Local authorities should also be aware that discrimination in employment on the grounds of sex or marital status is prohibited<sup>70</sup>. Members or officers of a local authority who discriminate against a person on any of those grounds in relation to employment by the authority may be personally liable for compensation.

#### **7. Rehabilitation of Offenders Act 2001**

The Rehabilitation of Offenders Act 2001 and associated Regulations came into force on 21 June 2001. The Act provides that, subject to a number of exceptions, certain convictions for criminal offences are regarded as "spent" and the convicted person "rehabilitated" at the conclusion of a specified period of time. Local authorities concerned with the provision of leisure and recreational facilities and supervision or training of persons under 18 years which enables an employee access to such persons should be aware of this Act.

#### **8. General**

The Department of Infrastructure is available to give support and advice on any appointments made by local authorities. Advice on the Whitley Council conditions and pay scales for manual workers may be obtained from the Isle of Man Government Personnel Office.

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<sup>70</sup> Employment (Sex Discrimination) Act 2000

**9. Health and safety at work**

Local authorities must be aware of their responsibilities to their employees and the public under the legislation relating to health and safety at work<sup>71</sup>. Guidance on all matters relating to health and safety can be obtained from the Department's Health and Safety at Work Inspectorate. Training is also available on risk assessment in the workplace

**10. 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. Also any areas of development can be identified and suitable training offered. 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.

**11. 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.

If a local authority is not familiar with Grievance and Disciplinary Procedures then advice should be obtained before any initial attempt at starting the process is contemplated. Advice can be obtained either from the Personnel Office or the Local Government Unit.

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<sup>71</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)

## H. COMPLAINTS

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 an individual ratepayer or group of ratepayers"*

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 ratepayers or customers about the service they have received or believe 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/Council 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/Council**, 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/Council 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 ratepayers/customers to make known their grievances.

Complaints may be categorised into Levels 1 -3 in order of seriousness i.e. Level 1 – serious in nature; Level 2 – complaints that require an individual response; Level 3 those defined as standard complaints.

## **Who can complain?**

Any ratepayer, member of the public, organisation or company who receives a service from the local authority.

There should be a separate procedure for complaints made via an elected member.

## **Form of complaints**

A Complaint may be made either verbally, in writing, by fax 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.

## **Receipt of Complaints**

In the case of an oral complaint this should be made to the person dealing with the enquiry, who should be asked to make a record of it. This will then be passed to the Chief Executive/Clerk (or Complaints Officer) who will undertake an investigation. If an oral complaint is being made about the member of staff dealing with the enquiry, a request should be made to speak to another person, who will make a record of the complaint. 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**

The complaint should be acknowledged within seven working days and recorded on the authority's Complaints Register.

The authority should attempt to send the complainant a substantive response within 14 working days of receiving the 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 working days, giving an explanation for the delay and an indication of when a substantive response can be expected.

It should be an objective to resolve all complaints within 20 working days.

The timescale of 10-20 working days may be extended for complaints which are referred to an Independent Arbitrator, but the complainant needs to be informed of the extension.

## **Right of Review**

The local authority may wish to have a mechanism in place for any complainant who is dissatisfied with the decision on their complaint.

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

The Department has power to make inquiries into the manner in which any functions of a local authority are carried out by the authority<sup>72</sup>, thereby providing a further mechanism for the investigation and resolution of complaints.

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<sup>72</sup> Local Government Act 1985 s.4(1)(d)

## **I. WHISTLEBLOWING**

Isle of Man Government has a Whistleblowing Policy for its employees. However, the provisions of Part IV of the Employment Act 2006 afford (from 30th September 2007) statutory protection to a worker who makes a protected disclosure. For any disclosure to qualify for a 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 2007, as appropriate. This statutory provision would also apply to a local authority employee as all employees should be employed under the conditions of the Employment Act 2006. The Local Government Act 1985 S.41 also provides protection for members and officers of local authorities who act in good faith for the purposes of the local authority's functions.

## **J. PUBLIC RECORDS ACT 1999**

The administrative records of local authorities are "public records" for the purposes of the Public Records Act 1999. "Records" includes not only written documents but also records conveying information by any other means whatsoever<sup>73</sup>.

Under the Act local authorities are responsible for making arrangements with 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 Records Office on the procedures for selection and deposit; notes on the Act and on electronic records have been issued by the Office.

Deposit 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 are normally available for public inspection 30 years after creation. However, certain records are closed for longer periods<sup>74</sup>.

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<sup>73</sup> Public Records Act 1999 s.8(1)

<sup>74</sup> Ibid. s.4, and see Public Records Order 2000 (SD 110/00)

## K. ASSISTANCE TO ELECTED MEMBERS

### 1. *The Clerk*

A good clerk is an essential asset to every local authority and therefore the appointment of a competent and skilled clerk is pivotal to the smooth running of a local authority. The role of the clerk is to administer the local authority's business and to take action on the authority's decisions. The clerk acts as an impartial advisor to the authority and this role should be respected and supported by the elected Members. In larger authorities the clerk will delegate a considerable number of duties to other employed staff, depending on the number of services provided by that authority. In the smallest authorities the clerk may be the only employee, however it has to be borne in mind that a local authority **shall** appoint a **clerk, Responsible Financial Officer**<sup>75</sup> and **Litter Officer**<sup>76</sup> so consideration has to be given to the suitability of a part-time clerk being capable of undertaking all these roles.

Members seeking advice on matters relating to their or the local authority's functions should approach the clerk to the authority in the first instance. The clerk is appointed to provide advice and guidance on local authority matters and 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
- items considered previously
- bylaws
- finance
- legislation
- applications for the consent of the Department to land transactions, borrowing etc.

However the local authority must ensure that the advice and information it receives from the clerk is clearly understood and in the required format. This may mean that appropriate training and adequate equipment is provided to facilitate this.

The clerk is the first point of contact for ratepayers and in most cases all correspondence should be referred through the clerk.

All clerks should have a Contract of Employment and a Job Description within which the number of hours worked and pay are agreed. A model contract and job description can be found in Appendix 3.

The clerk should be regularly appraised by the Chairman or a nominated Elected Member. This is an opportunity to discuss performance, set objectives and identify any training needs.

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<sup>75</sup> Under Regulation 5 of Accounts and Audit Regulation 2007 50 3/07

<sup>76</sup> Under Section 5c of Litter Act 1972

## **2. *Relevant Departments of Government***

Officers of relevant Departments are available to give advice and support to local authorities on the following matters —

- legislation
- procedures for applications for consent
- procedures for Tynwald approval
- financial regulations
- capital programmes
- Government grants
- training and induction courses
- environmental health
- housing
- planning
- waste management

The Department of Infrastructure provides Induction Courses, for members and staff of local authorities. The courses take place, on average, twice per year and are aimed at new members and staff, but are also useful as a refresher to update those with longer service. The course content covers a wide range of subject areas, and introduces members to the relationship between relevant Departments and local authorities in such areas as planning, housing, waste management and environmental health. There is also a session on the legislation appropriate to local authority functions, and by which they are bound. Delegates have the opportunity to tour the Tynwald Chambers, and visit off-site divisions of the Department such as the Government Laboratory or the Energy from Waste Facility.

**As of June 2011, the Department is consulting with Local Authorities on the content of Induction courses. Once a new format is decided upon an update will be provided to all Local Authorities.**

## **3. *Tynwald Library***

### **Central Reference Library – Tynwald Information Service**

The Tynwald Reference Library is located on the ground floor of the Legislative Buildings, entrance on Finch Road, and is open from 9.00am to 5.00pm, Mon – Fri. It is open to members of the public as well as Government staff and Members of Tynwald.

The library has a general reference section and a more specialised collection of parliamentary and legal titles. There is also an extensive collection of titles with a Manx theme including documents relating to Manx history. The library catalogue is now online at <http://heritage.tynwald.org.im>.

Copies of all Acts of Tynwald, Tynwald Hansard, parliamentary and government publications are held. Copies of many of the documents held are available to purchase, for a copy fee and subject to any restrictions. Increasingly material is available electronically for which there is usually no charge.



The Library holds copies of all Island newspapers for the past five years along with some regional island newspapers which are held for twelve months. National newspapers; the *Times* and *Sunday Times* are retained for twelve months and the *Telegraph*, *Financial Times*, *Independent*, *Guardian*, *Irish Times* and *Scotsman*, including weekend editions for three months. In addition, there are various general, political and legal periodicals.

Tours of the Tynwald buildings can be arranged through the library and there is a gift shop stocking a range of bespoke Tynwald gifts alongside general Manx items. Within the same area there is also a small exhibition space which may be used by local organisations for Manx themed displays. There is no hire charge, just a small commission percentage on any sales.

For information call library enquiries on 685520 or email [library@tyrwald.org.im](mailto:library@tyrwald.org.im).

#### **4. Office of Human Resources**

The Office of Human Resources of the Isle of Man Government is a source of information and advice regarding public-sector conditions of service (in particular the Whitley Council Agreement) and employee relations.

Contact: (tel: 685000) (current 2011)

#### **5. Local Government Legislation**

The Department of Infrastructure advises local authorities to keep copies of the following legislation for reference —

- Local Government Act 1985
- Local Government Act 2006
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1984
- Local Elections Act 1986
- Representation of the People Act 1995 (certain sections apply to local elections)
- Local Election Rules 2003 (as amended in 2008)
- Local Elections (Absent Voters) Regulations 2008
- Local Authority Members (Attendance Allowances) Order 2006 currently in force
- Local Authorities Members (Travelling Allowances) Order 2000 currently in force
- Public Health Act 1990

The up-to-date text of all Acts of Tynwald is published as *The Statutes of the Isle of Man*. Printed volumes are available from the Attorney General's Chambers (tel. 685452). A CD-ROM edition is available from Blackhall Publishing (e-mail [goconnor@blackhallpublishing.com](mailto:goconnor@blackhallpublishing.com)).

**Local Authorities are responsible for obtaining their own legal advice on matters concerning their own areas.**

## L. USEFUL CONTACTS

### Department of Infrastructure

Chief Executive	Tel.686603	email: <a href="mailto:Ian.Thompson@gov.im">Ian.Thompson@gov.im</a>
Head of Corporate Services	Tel. 686603	email: <a href="mailto:Amanda.Craig@gov.im">Amanda.Craig@gov.im</a>
Director of Planning & Building Control	Tel. 685919	email: <a href="mailto:Michael.Gallagher@gov.im">Michael.Gallagher@gov.im</a>

Planning Tel. 685950  
Email: [Planning@gov.im](mailto:Planning@gov.im)  
Website: [www.gov.im/transport/planning](http://www.gov.im/transport/planning)

Enforcement Tel. 685909  
Email: [Planning@gov.im](mailto:Planning@gov.im)  
Website: [www.gov.im/transport/planning/plan/enforcement.xml](http://www.gov.im/transport/planning/plan/enforcement.xml)

Building Control Tel. 685902  
Email: [Buildingcontrol@gov.im](mailto:Buildingcontrol@gov.im)  
Website: [www.gov.im/transport/planning/build](http://www.gov.im/transport/planning/build)

Conservation Officer Tel.685944  
Email: [Steven.moore@gov.im](mailto:Steven.moore@gov.im)  
Website: [www.gov.im/transport/planning/conservation](http://www.gov.im/transport/planning/conservation)

Mapping Section Tel. 685924  
Email: [Mapping.DOI@gov.im](mailto:Mapping.DOI@gov.im)  
Website: [www.gov.im/transport/planning/cartography.xml](http://www.gov.im/transport/planning/cartography.xml)

Finance Office (DOI) Tel. 686616  
Email: [Kevin.birch@gov.im](mailto:Kevin.birch@gov.im)

Health and Safety Tel. 685881  
Inspectorate (HSWI) Email. [Worksafe.doi@gov.im](mailto:Worksafe.doi@gov.im)  
Website: [www.hswi.gov.im](http://www.hswi.gov.im)

Legislation and Policy      Tel: 685890  
    Email: [Roy.corlett2@gov.im](mailto:Roy.corlett2@gov.im)  
    Website: [www.gov.im/transport/msd/corporate/legislation](http://www.gov.im/transport/msd/corporate/legislation)

Local Government      Tel: 686246  
 Unit Manager              E-mail: [Stephen.Willoughby@gov.im](mailto:Stephen.Willoughby@gov.im)  
    Website: [www.gov.im/transport/msd/corporate/local](http://www.gov.im/transport/msd/corporate/local)

WOMU                      Tel: 686540  
 (Waste Operations)      E-mail: [Womu@gov.im](mailto:Womu@gov.im)  
    Website: [www.gov.im/transport/operations/wastemanagement](http://www.gov.im/transport/operations/wastemanagement)

Architects                Tel: 685961  
    E-mail: [Architects.DOI@gov.im](mailto:Architects.DOI@gov.im)  
    Website: No website.

***Department of Social Care***

Department of Social Care      Tel: 686179  
    E-mail: [housing@gov.im](mailto:housing@gov.im)  
    Website: [www.gov.im/socialcare/housing](http://www.gov.im/socialcare/housing)

Housing Petitions Officer      Tel: 686493  
    E-mail: [Jade.Weir@gov.im](mailto:Jade.Weir@gov.im)

***Department of Environment, Food and Agriculture***

Department of Environment      Tel: 685894  
 Food and Agriculture (DEFA)      E-mail: [Steven.Callister@gov.im](mailto:Steven.Callister@gov.im)  
    Website: [www.gov.im/defa/enviro](http://www.gov.im/defa/enviro)

Fax Numbers:	Chief Executive, Department of Infrastructure	686617
	Local Government Unit	685915
	Planning	686443
	Health & Safety	685160
	WOMU (Waste Operation Management Unit)	686566
	Department of Social Care – Housing	685943
	Dept of Environment, Food & Agriculture	685773
	Government Analyst	642222

***It should be noted that these numbers and e-mail addresses could change from the date of publication of this handbook.***

## **M. INTERNET AND E-MAIL FACILITIES**

The Department of Infrastructure is actively seeking ways to link local authorities to the Department via e-mail and internet, thus facilitating easier transfer of information. At the time of printing this handbook, 21 of the 24 local authorities have an e-mail address and this information, along with other contact details for all the authorities is contained on the Department's website, and can be accessed by following the link below:-

<http://www.gov.im/transport/msd/corporate/local/welcome.xml>

The opportunities regarding e-mail and intranet use are vast, leading to greater access of data and provide the prospect for local authorities to involve the ratepayers to a greater extent in the business of their district. Some already provide IT access areas within their buildings.

Some local authorities already have their own website and this facility is, in some cases, used by authorities to provide local ratepayers with access to minutes, public notices, planned schemes, etc. The Department can also provide a link to these websites through its own Government site.

## **N. 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 detail than others.

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).

## APPENDIX 1

### Schedule 1

#### Meetings and Proceedings 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>77</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 subparagraph (3), be left at or sent by post to the usual place of residence of every member of the authority.
- (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.

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<sup>77</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).

- (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 sub-paragraph (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.



**Schedule 2**  
**Attendance and Travelling Allowances**  
**Section 10(2) [1983/23/1-9]**

1. [Para 1 repealed by Local Government Act 2006 s 14 and Sch 4.]
2.
  - (1) Subject to the following provisions of this paragraph, a local authority shall pay to each member of the authority an attendance allowance of the prescribed amount for each session during which the member undertakes an approved duty.
  - (2) Not more than one attendance allowance shall be paid to any person in respect of any one session.
  - (3) The aggregate of the attendance allowances paid to any one person by any one local authority in a financial year shall not exceed the prescribed amount.
  - (4) A member of a local authority may, by notice in writing to the clerk of the authority, elect not to accept any attendance allowances in respect of a financial year.
  - (5) Allowances under this paragraph shall be treated as allowances in respect of expenses and disbursements in the performance of the recipient's duties.
3.
  - (1) A local authority shall pay to each member of the authority who makes a claim in accordance with sub-paragraph (2) a travelling allowance at the prescribed rate for each approved duty which he undertakes.
  - (2) A member of a local authority who wishes to claim an allowance under this paragraph shall submit his claim in writing, in such form as may be approved by the just Department (i.e. Department of Infrastructure), to the clerk of the authority.  

[Subpara (2) amended by GC192/86.]
4.
  - (1) The Department may by order prescribe-
    - (a) the amount of an attendance allowance payable under paragraph 2(1);
    - (b) the maximum allowances payable by virtue of paragraph 2(3); and
    - (c) the rate at which travelling allowances shall be payable under paragraph 3(1).  

[Subpara (1) amended by GC192/86.]
  - (2) An order under sub-paragraph (1) shall not have effect unless it is approved by Tynwald, but may provide for its operation from such date (which may be before or after the making of the order) as may be specified therein.
5. Any sum payable under this Schedule shall be exempt from income tax and shall not be brought into account by the Assessor of Income Tax as part of the income of the recipient.
6.
  - (1) Every local authority shall publish a report in respect of each financial year, which shall state-
    - (a) the number of meetings of the authority;

- (b) the number of meetings of each committee or sub-committee of the authority;
- (c) the number of attendances of each member of the authority at meetings of the authority and each committee and sub-committee of the authority; and
- (d) the total sums paid to each member under this Schedule; during the financial year in question.

[Subpara (1) amended by Local Government Act 2006 s 14 and Sch 4.]

- (2) The authority shall send a copy of the report published under sub-paragraph (1) to the just Department, together with a certificate of the auditor appointed to audit the accounts of the authority that the information contained in the report is correct.

[Subpara (2) amended by GC192/86.]

7. In this Schedule-

'approved duty', in relation to a member of a local authority, means-

- (a) attendance at a meeting of the authority, or of a committee or sub-committee of the authority;
- (b) the doing of any other thing approved by the authority, or any thing of a class so approved, for the purpose of, or in connection with, the performance of function of the authority or of any committee or sub-committee of the authority; or
- (c) the doing of any thing as a member of a designated body for the purpose of, or in connection with, the performance of any function of that body;

'designated body', in relation to a member of a local authority, means a body (other than a joint board) designated by order of the Department for the purposes of this Schedule, of which the member has been appointed a member by or on the nomination of the authority;

[Definition of 'designated body' amended by GC192/86 and by Local Government Act 2006 s 14.]

'prescribed' means prescribed by order under paragraph 4;

'session' means a period of 4 hours in any day.

**APPENDIX 2**  
**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**

*Part 1 — General*

**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 3**

#### **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 (S55 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 (Schedule 1 Paragraph 9 of Local Government Act 1985). 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 May 2009 would be 09/05/01, the second would be 09/05/02 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 .....**

**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.

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. (See Part III Proceedings of Local Authorities)

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.

## **APPENDIX 4**

### **EMPLOYMENT OF STAFF**

All Local Authorities have a responsibility, as employers, to ensure that staff are employed in compliance with legislation and the recruitment process is an essential element of this duty by securing the right person for the job through a clear and transparent process.

Section 4A of the Local Government Act 1985 (inserted by the Local Government Act 2006, Section 2) enables the Department to make regulations specifying minimum Standards of Performance with regard to local authority functions and this guidance has been drawn up to assist Local Authorities with regard to the recruitment and selection of staff.

When a post becomes vacant there is an opportunity to review the tasks undertaken by the post holder, if appropriate, and also assess any requirements not previously considered. In most local authority recruitment the pivotal post is that of the Clerk where the qualifications and experience required will be determined by the size and functions undertaken by the Local Authority.

Every local authority will require the Clerk to undertake core duties (some of which may be delegated) and these include administration of meetings, preparation of accounts, compliance with legislation, refuse collection and annual collection of rates. Other local authorities act as housing authorities and employ a direct labour force, provide play areas, street lighting, tourism facilities, community halls, car parks and a wide range of other functions all of which require employing staff. As with any employer there is an expectation that the Local Authority will provide staff with an adequate workplace, equipment, training as well as ensuring that required procedures are in place for health and safety, grievance, disciplinary/capability, data protection, equal opportunities and disability discrimination. Awareness of these requirements is vital if a local authority is to provide a service through the proper employment of staff, all of which is funded through public money.

The important elements of the recruitment process are as follows:-

- Job Description**
- Person Specification**
- Selection Panel**
- Advert**
- Short Listing**
- Interview Process**
- Selection**
- Appointment**
- Continuous Employment**

The main Principles to be adhered to are that:-

**Adequate information regarding the job is supplied to prospective applicants.**

**Applicants are considered equally on merit**

**Selection is based on consistently applied criteria which is relevant and objective**

**Selection methods are reliable and free from bias**

The following Guidance is given on each element highlighted above:-

## **JOB DESCRIPTION**

Consideration should be given to Sex Discrimination legislation when drawing up a job description.

### ***Guidelines on Sex Discrimination Legislation in Regard to Recruitment and Promotion***

*The Employment (Sex Discrimination) Act 2000 came into force on the Isle of Man on October 17<sup>th</sup> 2001. This piece of legislation makes it unlawful to discriminate on the grounds of sex or marital status:-*

- *in the arrangements made for determining who will be offered a job (e.g. interview procedures, selection methods etc.);*
- *in the terms on which the job is offered;*
- *by refusing (or deliberately omitting) to offer a person the job;*
- *in access to opportunities for promotion, transfer or training;*
- *in respect of any other benefit, facilities or services provided to employees;*
- *in relation to dismissal and any other unfavourable treatment to which a person may be subjected.*

*Employers should therefore ensure that their selection procedures for recruitment, training and promotion are non-discriminatory, and offer equal opportunities to all employees or potential employees irrespective of their sex or marital status. Managers may also be held responsible for any breaches of this Act by their employees in the course of advertising, selection or recruitment, unless they can show that they took all reasonable steps to ensure this discrimination could not happen.*

*There are different forms of discrimination covered in the Employment (Sex Discrimination) Act which may constitute discrimination in employment. This behaviour is unlawful.*

**a) Direct Sex Discrimination** - *Treating a woman, on the grounds of her sex, less favourably than a man is, or would be, treated in similar circumstances. For example, refusing a promotion to a female applicant on the grounds that she is pregnant may be direct sex discrimination.*

- b) Indirect Sex Discrimination** - Applying a condition or requirement which, although it is applied equally to both sexes, is such that a considerably smaller proportion of women than men can comply with it and which the person applying it cannot show to be justifiable. Indirect sex discrimination in employment might arise, for example, if an employer required applicants for a job to hold a particular technical qualification which was not often acquired by women and which was not relevant to the job in question. Employers are advised to be particularly wary of discriminating against part-time workers as the majority of part-time workers are female and any less favourable treatment of them may constitute indirect sex discrimination.
- c) Direct Marriage Discrimination** - This is treating a married person, on the grounds that he or she is married, less favourably than a single person of the same sex is, or would be, treated.
- d) Indirect Marriage Discrimination** - Applying a condition or requirement which has the effect of discriminating against married people because considerably fewer married than single people of the same sex can comply with it, and which the person applying it cannot show to be justifiable. Indirect marriage discrimination might arise where, for example, an employer refused to recruit people who had children.
- e) Victimisation** - Treating one person less favourably than another because that person had, for example, asserted rights under the sex discrimination legislation, or had helped another person to assert their rights or because it is suspected that the person might do any of these things. For example a person who had given evidence on a colleague's behalf at an Employment Tribunal.

For further information on sex discrimination in the workplace you should contact Manx Industrial Relations Service on telephone – 672942 or email [iro@ir.gov.im](mailto:iro@ir.gov.im)

Every post to be advertised must have a current job description (**Annex A - Model Job Description**), endorsed by the Local Authority/Council. This summarises the key job information and in priority order describes the main duties and objectives of the job. This may not be an exhaustive list of all the tasks but should identify the principle responsibilities of the role. The Job Description can contain additional information which may identify training and development requirements and level of contacts with other areas (i.e. Departments of Government).

## Person Specification

Accuracy is important in compiling the Person Specification as it identifies the skills, experience, qualifications (and personal qualities) required of the post holder. It is the benchmark against which each applicant must be assessed in the short listing and interviewing process. Skills specified must be relevant to the post and justifiable. Care must be taken not to be discriminatory in the criteria.

Each requirement should be categorised as either 'Essential' or 'Desirable' and should be realistic, in the knowledge that any over restrictive criteria could restrict the number of potential applicants.

The Person Specification (**Annex B - Model Person Specification**) usually covers the following elements:-

- Qualifications (Covering standard of general or further education/technical/professional/specialised training)

- Experience – this identifies the type and level of experience required and can be defined over a period of time i.e.
  - 2 years office experience
  - Experience of taking minutes
  - Experience of writing reports
- Knowledge and Skills – this identifies the particular knowledge and skills/abilities required for the post, either through experience, acquired skills or specialist knowledge. Examples include:-
  - Knowledge of legislation
  - Management/interpersonal skills
  - Organisational skills
  - Financial awareness
  - Oral/written communication skills

### **Disposition**

This category identifies particular personal attributes such as:-

- Reliability
- Motivation
- Attitude
- Leadership
- Team Player

### **Circumstances/Interests**

This could cover ability to drive, access to own vehicle, work permit status, out of hours/weekend working. Also it is an opportunity to assess interests out of work which may be positively viewed to the post.

**Care must be taken to ensure that all the above requirements are not discriminatory.**

### **Selection Panel**

The Selection Panel should consist of at least two persons, one of whom usually would be the current Chairman/Mayor.

**Any allegations of bias should be avoided so that no-one with a close family connection, friendship or pecuniary involvement to an applicant should be involved in the selection process and care should be taken with regard to any possible conflict of interest with regard to any political involvement.**

### **Advertising the Vacancy**

Posts should be filled on the basis of fair and open competition and should be advertised with the intention of attracting the best possible available applicant. In certain circumstances posts need not be advertised i.e. return from maternity leave.

Normally posts are advertised in the local press and the job centre but if it is felt appropriate then off-island adverts can be placed too. The availability of Manx workers needs to be taken into account.

## **The Advert**

The advert should include

- Brief description of job/organisation/location
- Any necessary criteria
- Remuneration
- Application process (i.e. closing date)

Applications should be addressed to The Chief Executive/Clerk and marked 'Private and Confidential'.

## **Application Form**

All applicants are required to submit an **Application Form and a curriculum vitae**, which should contain the following information:-

- Name, address and telephone, email address for contact purposes
- Date of Birth (if there is an upper age limit on recruitment)
- Educational qualifications, including grades, dates obtained and educational establishments attended
- Full employment history (dates of employment and employers)
- Any courses undertaken
- Motivation and reasons for applying
- Work Permit Status

It may be appropriate to ask for any relevant criminal convictions (i.e. fraud). In deciding the relevance of convictions the following will be considered:-

- The nature of the conviction and appointment
- The date the offence occurred
- The frequency of offence
- Conduct of the individual since conviction
- The responsibilities of the vacant post

The application should be acknowledged promptly and an indication of when short listing will take place may be appropriate.

Applicants should be advised on the application form that their details will be held on computer.

(This is a requirement under the Data Protection Act).

## SHORTLISTING

A short listing Form summarising the key information relating to applicants should be compiled (**Annex C**) and **Interview Arrangement Form (Annex D) completed.**

## SHORTLISTING MEETING

All members of the selection panel should meet and go through all the applications received and agree on a shortlist.

Short listing **must be** based only on the information contained in the application form using the job description and person specification as the criteria. This must be consistently applied to all applicants who should be assessed against the criteria and not against each other.

## APPLICANTS WITH A DISABILITY

Where an applicant has a disability, the panel should consider that person is not disadvantaged at interview or when taking any assessment test. (i.e. access to the building/interview room, specially adapted materials etc).

## APPLICANTS REQUIRING A WORK PERMIT

Applicants can be divided into three categories as follows: -

- **Isle of Man Workers** - applicants who meet the definition of an IOM Worker in the Control of Employment Act and who do not need a work permit.
- **Applicants eligible to a 3(a) Work Permit** - applicants who are eligible to the automatic grant of a permit for 1 year because their spouse has been granted a full work permit. 3a permits are normally renewed each year providing that the holder continues to meet the requirements of Section 3(a) of the Act.
- **Applicants requiring a Work Permit in their own right** - applicants who require a Work Permit are subject to the full conditions of the Control of Employment Act.

Applicants in the third category may only be considered for appointment if it can be shown that **no suitable** Isle of Man Workers have applied for the post. Therefore, it is very important that the Selection Panel can clearly demonstrate, through the recruitment process undertaken, that any Isle of Man Workers who have applied do not meet the person specification to such an extent, that they are not capable of undertaking the duties of the post to an acceptable standard. Furthermore the Work Permit Committee may ask whether a Manx Worker, with training, would then be able to perform the duties within say six months.

Information on how to submit applications to the Work Permit Committee can be obtained from the Department of Economic Development.



## **SHORT LISTING FORM**

A short listing form must be completed by the Selection Panel, the form should clearly show the Panel's reasons for short listing/non-short listing of applicants, having matched the information on the applications with the required criteria in the Person Specification.

## **INTERVIEW SCHEDULE**

The Panel should agree a date, time and venue and length of time to be allocated for each interview and also which areas of the Person Specification each member will cover at the interview.

## **NOTIFYING UNSUCCESSFUL APPLICANTS**

Unsuccessful applicants can be notified as soon as short listing has taken place.

## **REFERENCES**

The Panel may wish to consider seeking references for all short listed applicants immediately following the short listing process and ideally, they will have been received back by the date of the interviews. Another option is just to obtain references for the chosen candidate. It is good practice to seek a reference from the present or most recent employer, however applicant(s) must give consent to this action. It should be a condition of offer of employment though that a satisfactory reference is obtained from this source if appropriate. References should be kept Confidential.

## **INTERVIEWS**

### **SUPPLEMENTARY SELECTION METHODS**

It may be necessary for short listed applicants to undertake a supplementary test to assess any required skills prior to the Interview, any such test needs to be relevant to the post and unbiased.

### **INTERVIEWING**

The Recruitment Panel should decide on a number of questions for each member to ask based on the different elements of the person specification drawn up. Each candidate should be asked the same questions.

The Recruitment Panel must keep adequate notes of the interview including reasons for selection or non-selection, a useful Interview Assessment Form is attached (**Annex E**), based on the person specification.

Interview questions must be related to the requirements and circumstances of the post and must not be of a discriminatory nature.

It is always useful to ask the applicant if they have any expectations as to a starting salary (salary scale will have been advertised with the job). The reason for this is if the job is

offered to someone at a salary scale outside of the person's expectations then the offer will be rejected. Also the panel may decide the candidate's preferred salary is not acceptable.

## **NOTIFICATION OF THE SELECTION DECISION**

Once the Recruitment Panel has made a decision, the Chairman must advise all short listed applicants by telephone, as soon as possible, as to whether they have been successful or otherwise. It is best practice to restrict comments at this stage only to confirming the outcome of a recruitment process. Further feedback can be given at a later date if requested.

Any offer of employment is subject to any outstanding pre-employment checks e.g. satisfactory references, and satisfactory medical and requires the Department of Infrastructure's approval under the Local Government Act 1985 – Section 21(3) – only for Clerks and Responsible Finance Officers (RFOs) see Section 21 (3A).

## **OFFER OF EMPLOYMENT**

The Offer of Employment Letter should be sent as soon as practicable after the interviews and will be conditional on the successful applicant fulfilling the requirements outlined above. The letter should detail the following:-

**Salary and Annual Leave Entitlement:** (an indication of salary will have been discussed at interview).

**Local Government Pension Scheme:** *If you become employed in local Government (other than for a parish authority), you will automatically become a member of the IoM LGPS unless you opt not to join or you are a casual employee. If you have previously opted out or are a casual employee you can join, but must elect to do so. A person employed by a parish authority may only be a member if they are covered by a relevant resolution.*

## **Pre-Employment Health Screening**

The purpose of pre-employment health screening is to make sure that successful applicants are physically and mentally fit to do the work that they have applied for.

The letter will also confirm any allowances which may be payable, (Shift Disturbance Allowance etc) and any variations from the normal terms and conditions of service, (e.g. not eligible for premium pay or overtime etc.; requirement to work an on-call roster; requirement to work evenings, nights or weekends; waiver for termination for fixed-term appointments, requirements to wear a uniform, requirement to undertake specialist training). Where an officer is appointed to a post on the condition that he successfully completes a specialist training course within an agreed and reasonable time scale, the officer will be required to sign a form of undertaking agreeing to repay all or part of the costs of training in certain circumstances.

The offer letter will normally be sent within 2 days of the interviews.

## **UK applicants**

Where an applicant is based in the UK he/she should be referred to their own GP. The local authority may decide to reimburse this expense or otherwise.

Where the Medical Report form indicates a health problem, the following options may be considered :-

- Withdraw the offer of employment
- Allow the existing offer to stand

### **If the results of the Medical recommends that officer is not fit enough to work**

Responsibility for determining whether to appoint a prospective employee rests with the employing authority. However, no applicant will be refused employment for health reasons unless appropriate medical advice has been sought, the applicant has had the opportunity to discuss issues raised with a qualified health professional, and the local authority has given full consideration to all of the relevant information.

### **All medical information must be treated sensitively and in the very strictest confidence at all times.**

Medical information should only be made available to those persons who need to know the contents of the report and any subsequent restrictions.

## **Work Permit Form**

Applicants who do not qualify as "Isle of Man Workers" will require a work permit to be granted before they can start work. The offer letter will therefore include a Work Permit Form (CEA3) for the applicant to complete Part 2. A supporting Report will be required for the application to be considered by the Work Permit Committee.

## **Verifying Education Qualifications**

Applicants who must hold specific qualifications for a particular post and whose certificates have not been verified should be asked to do so in the offer letter. Only the original certificates will be accepted or alternatively, when an applicant cannot produce their original educational qualification certificates, an original letter on headed paper from the applicant's school or examining board stating their examination results is acceptable.

## **Police Checks**

Police checks will be required for posts where for example :-

- the employment involves substantial unsupervised access to children and vulnerable people

The police check will be determined by the criteria for the post.

The revised offer letter should be accompanied with a **CONFIDENTIAL** letter containing details of the reason for the restriction as detailed exactly in the email from the Personnel Office.

## **APPOINTMENT**

Once the Acceptance form has been signed and returned by the applicant and all pre-employment checks have been satisfactorily completed, the local authority will issue an appointment letter.

Various documents are sent to new staff with their appointment letter.

**Any offer of appointment for local authority Clerks is subject to Department approval**

### **Department Approval**

The approval of the Department of Infrastructure is required under Section 21 of the Local Government Act 1985 for the appointment of all local authority Clerks.

In addition, RFOs are subject to Department of Infrastructure approval under Section 21(3) of the Local Government Act 1985.

In considering the local authority's request for approval the Department will need to assess that the recruitment process has been undertaken adequately and that the most suitable person is appointed to the role. This will require documented evidence of the short listing and interview process along with a copy of the job description, person specification etc. The Department will take into account the duties of the Clerk and the knowledge and skills required to carry out that role. Also it may be that person is required to fulfil the Responsible Financial Officer role and the Department will seek assurance that the person is capable of carrying out this function.

**Annex A**  
**Model Statement of Particulars of Job Description**

- POST:** (Job Title i.e. Clerk)
- AUTHORITY:** (Name of Local Authority)
- REPORTS TO:** (Person/Authority directly responsible to)
- RESPONSIBLE FOR:** (Any staff management responsibility)

**PURPOSE**

(Brief description of purpose of the job) (i.e. to provide administrative and financial support and advice to ..... to enable the Board to carry out an efficient and effective service to the ratepayers of the district. To have management responsibility for all staff employed by the Board.

**MAIN ACTIVITIES**

(The list below is not exhaustive and will need to be adapted to the functions undertaken by the local authority)

- Be responsible for the organisation and administration of all local authority meetings, including sending out Agendas within the legislative timescale, taking and transcribing the Minutes at the meetings and ensuring that appropriate follow-up action is carried out.
- Prepare and submit the required detailed financial information to the Board to assist accurate and timely decision making in the carrying out of the Board's functions
- Maintain accurate financial records in accordance with the Audit Act 2006 and the Accounts and Audit Regulations 2007
- Be responsible for meeting deadlines within legislative and the relevant Department requirements
- Be responsible for keeping the local authority up to date with new legislation
- Research and prepare Reports to enable the local authority to make decisions
- Assist in Local Elections
- Day to day management of office staff and manual workers?

### **KNOWLEDGE AND SKILLS**

(Specific requirements to enable the job to be performed competently)

### **QUALIFICATIONS**

(It may be that certain qualifications are necessary to carry out the job)

### **COMPETENCY REQUIREMENTS**

(This could include a knowledge of local government structure and functions, ability to organise meetings and take minutes)

## Annex B

### Model Statement of Written Particulars of Terms and Conditions of Appointment

*(If Terms and Conditions are in accordance with the Whitley Council Memorandum of Agreement then this should be stated)*

**This document sets out your principal terms and conditions of appointment. It incorporates the Written Particulars required by the Employment Act 2006 and constitutes your terms and conditions of employment with .....**

#### **NAME**

#### **ADDRESS**

#### **THE ROLE**

This post is (title of post) on the staff of (Authority name)...

**PLACE OF WORK** – Your normal place of work will be.....

#### **START DATE**

Your start date in this role will be set out in your Confirmation of Appointment letter.

**INCREMENT MONTH** Your increment month will be (the same as the month that you commence in this role)

**CONTINUOUS SERVICE** (Previous service may be considered and credit allowed)

**DURATION OF EMPLOYMENT** (If applicable)

**PROBATION PERIOD** – Your appointment will be subject to a six month probation period, during which time your work and conduct will be carefully assessed by .....

**REMUNERATION** The post is graded at (Grade if applicable). Your salary on appointment would be £ on the salary scale £..... to £..... per annum

**METHOD OF PAYMENT** (i.e. Paid into Bank Account monthly on ? date etc)

### **HOURS OF WORK**

Your hours of work are 37 hours spread over the normal working week of Monday to Friday (as applicable)

For Part-time Employees - Your contract is for (insert number of hours contracted for work) and your salary will be calculated pro-rata.

Overtime will be paid for hours in excess of 37 hours, which have been agreed with you by the Council/Board (if applicable).

**ANNUAL LEAVE** This could be based on relevant qualification and experience, and an allowance given to reflect this. As a comparison Civil Service leave starts at 22 days on entry rising to 30 days on 15 years completed service

**PUBLIC HOLIDAYS** Clarification on the number of Public Holidays allowed may be required

**SICKNESS OF INJURY LEAVE** (Any pay entitlement should be specified and if so to cover what period) Requirement for notification of sick leave i.e. to whom and by what time and what means

**SMOKING POLICY** – If applicable

**OUTSIDE EMPLOYMENT** – Is this permissible?

### **RETIREMENT AGE**

**PENSION RIGHTS** (Please note the provisions of the LGPS and the Authority's obligation to staff)

### **NOTICE PERIOD**

**By the Authority**

**By the Employer**

**ALLOWANCES** (If applicable)

### **ACTIONS WHICH CONSTITUTE GROSS MISCONDUCT**

(These could already be included under terms of employment i.e. Whitley Council Manual Workers etc.)



**GRIEVANCE AND DISCIPLINARY PROCEDURES**

(As above and depending on nature and term of contract i.e. applicable after a certain period) Rights of appeal and who would hear appeal?

I acknowledge receipt of this Statement of Employment relating to the terms and conditions of my employment and have read and accept the same.

Signed .....

Name .....

Date .....

Bank Account/National Insurance Number (if required)

(one copy to be retained by the employee – signed copy to be returned to  
.....Authority)

.....

**The main legislation covering employment is the Employment Act 2006 and this should be referred to for guidance. Please note Part X of the Act covers unfair dismissal.**

## Annex C – Shortlisting Form

<b>Shortlisting Form</b>
--------------------------

<b>Post:</b>	<b>Grade:</b>	<b>Department:</b>
<b>To be completed by the recruitment Administration Section (RAS)</b>	<b>To be completed by the recruiting Manager:</b> Please review application against the requirements of the Job Description and Person Specification, and indicate whether the candidate is shortlisted for interview. Please explain reasons for decision. The Shortlist should be determined on the basis of objective criteria and not a preferred number.	
<b>Application No. 1</b> <b>Name:</b>  <b>Work Permit Required*?</b>  Qualifications checked by RAS: Criminal Convictions: Graduate: Comments:	<b>Relevant Qualification? Yes/No</b>  <b>Relevant Experience? Yes/No</b>  <b>Reasons:</b>  <div style="text-align: right;"><b>Shortlisted?</b> Yes/No</div>	
<b>Application No. 2</b> <b>Name:</b>  <b>Work Permit Required*?</b>  Qualifications checked by RAS: Criminal Convictions: Graduate: Comments:	<b>Relevant Qualification? Yes/No</b>  <b>Relevant Experience? Yes/No</b>  <b>Reasons:</b>  <div style="text-align: right;"><b>Shortlisted?</b> Yes/No</div>	
<b>Application No. 3</b> <b>Name:</b>  <b>Work Permit Required*?</b>  Qualifications checked by RAS: Criminal Convictions: Graduate: Comments:	<b>Relevant Qualification? Yes/No</b>  <b>Relevant Experience? Yes/No</b>  <b>Reasons:</b>  <div style="text-align: right;"><b>Shortlisted?</b> Yes/No</div>	

## Annex D – Interview Arrangement Form

<b>Interview Arrangement Form</b>
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**For Attention of:**

**Vacant Post:**

**Department:**

**Grade:**

Please find attached the Job File for the above post, together with shortlisting forms summarising the names and relevant details of all applicants. Following completion of the shortlisting process, could you please complete and return this form as soon as possible, so that arrangements can be made to invite shortlisted candidates for interview. Please allow 10 working days between shortlisting and interviews to enable references to be obtained and allow candidates sufficient preparation time for any supplementary skills tests (e.g. Presentations)

**Please return this form to:**

**Shortlisted Candidates**

No	Name	Interview Time	No	Name	Interview Time

<b>Interview Date</b>	<b>Venue</b>
-----------------------	--------------

**Selection Panel**

Panel Members	Chair	Dept Representative	Independent
<b>Name</b>			
<b>Designation</b>			
<b>Contact Address</b>			
<b>Contact Tel No.</b>			
<b>Trained Interviewer</b>	<b>YES/NO</b>	<b>YES/NO</b>	<b>YES/NO</b>

**Selection Methods**

Is the interview to include a supplementary skills test?	<b>YES/NO</b>
If so, please provide details below (or on a separate sheet) for inclusion in invite letters:-	

**Authorised by .....**(signature) .....(name)

..... (date)

**Annex E – Interview Assessment Form**

<b>Interview Assessment Form</b>
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<b>Post:</b>	<b>Department:</b>	<b>Grade:</b>
<b>Candidate:</b>		<b>Date:</b>

Attributes	Essential or Desirable	Interview Assessment
<b>Qualifications</b>		
<b>Experience</b>		
<b>Knowledge &amp; Skills</b>		
<b>Disposition</b>		
<b>Circumstances/Interests</b>		

<b>Comments taken from References</b>	
<b>Pen Picture</b>	
Note any aspect of personality etc. not covered elsewhere	
<b>Panel Recommendation</b>	
<b>Chairperson</b>	<b>Date</b>