# PORT ST MARY COMMISSIONERS ORDINARY BOARD MEETING 24<sup>th</sup> JUNE 2020

### **AGENDA - OPEN SESSION**

Item Number	Item	Action Required			
1.	OPENING OF THE ME	ETING			
1.1	Welcome, Apologies & Declarations	As required by Board members			
2.	MINUTES				
2.1	Minutes of the Annual General Meeting held on the 27 <sup>th</sup> May 2020	For Board approval			
2.2	Minutes of the Ordinary Meeting held on the 27 <sup>th</sup> May 2020  For Board approval				
3.	MATTERS ARISI	NG			
3.1	Matters arising from previous meetings	Clerk to provide necessary updates			
3.2	Attendance Allowances 2019/20	Board to approve			
4.	MOTIONS - No	ne			
5.	FINANCE				
5.1	Invoices for payment in June 2020	For Board approval			
6.	PROJECTS				
6.1	Mariners Shelter For noting				

6.2	Manxonia House	For noting
6.3	Remembrance Garden	For noting
6.4	Skate Park	For noting
6.5	Public Conveniences	For noting
6.6	Happy Valley Colonnade	For noting
6.7	Boat Park	For noting
6.8	Jetty Repair	For noting
6.9	Bay Queen Exhibition	For noting
6.10	West Room	For noting
7.	HOUSING	
7.1	Housing Report	For noting
7.2	Tenancy Arrears Report	For noting
8.	PUBLIC CORRESPONDENCE & C	OMMUNICATIONS
8.1	Street Trader Licence request	For noting

8.2	Correspondence from J Watterson SHK re Armed Forces Day 27 June 2020	For Board discussion					
9.	PLANNING MATT	ERS					
9.1	Planning Application	For noting					
9.2	Planning Amendment	For Board discussion					
9.3	Notice of demolition For Board discussion						
10.	POLICY & RESOURCES						
10.1	2019/20 Internal Audit Report For Board discussion						
10.2	Manx Utilities public lighting maintenance contract 2020/21	For Board discussion					
10.3	2020 - 2021 Meeting Dates	For noting					
11.	PUBLIC CONSULTA	TIONS					
11.1	DEFA Bathing Water Consultation for Local Authorities	For Board discussion					
11.2	Landlord Registration (Private Housing) Bill 2020 Public Consultation  For Board discussion						
12	INVITATIONS - N	lone					
13	ANY OTHER BUSINESS OF AN (BY PERMISSION OF TH						

### MATTERS ARISING & PUBLIC CORRESPONDENCE REPORT

### **Matters Arising**

NFU Health & Safety Report - Project on hold due to Covid-19

**Policies under review –** The Whistleblowing & Fairness At Work Policies are being reviewed by Internal Auditors prior to be put to the Board for approval.

**Perwick Road/Bay –** A letter drop will be undertaken shortly.

**Boat Park space** – The owner of the untidy space was written to and situation is being monitored.

**Ballagawne Manx Utilities request –** The Clerk corresponded with Manx Utilities, the matter is now closed.

**Street Art Project** – No confirmation has been received regarding the continuation of the project.

### **Public Correspondence**

**Letter from Port Erin Commissioners regarding merged Authorities –** The Board response was issued.

Letter to Minister & Director for Planning re building control and height of buildings – The letter was issued as requested, a response is awaited.

**Street trader licence request –** The licence was issued on the terms stated by the Board.

### Local Government Act 1986 Schedule 2 Section 6 - Annual Report on Meetings and Attendance thereof:

### Port St Mary Village Commissioners Board Meetings ( public and private sessions)- Attendance for Year Ending 31 March 2020

Name	10/04/19	24/04/19	May meeting deferred to 12/06/19	26/06/19	24/07/19	28/08/19	25/09/19	23/10/19	29/11/19	17/12/19	23/01/20	26/02/20	25/03/2020 Meeting cancelled	Total attendance	%	Тс	otal paid
Dr M E K Haywood	1	1	1	1	1	1	1	1	1	1	1	1	0	12	100%		360.00
Mr A J Grace	0	1	1	1	1	1	1	1	0	0	1	1	0	9	75%		270.00
Mr R Hirst	0	1	1	1	1	0	1	0	0	N/A	N/A	N/A	N/A	5	56%	T	150.00
Mr N McGregor Edwards	1	1	1	1	1	1	1	1	1	1	1	1	0	12			360.00
Mr A Merchant	0	1	1	1	1	1	1	1	1	1	1	1	0	11			330.00
Mr A P Phair	1	1	1	1	1	1	0	1	N/A	N/A	N/A	N/A	N/A	7	88%		210,00
Mr I P Skelly	1	1	1	1	0	1	0	1	N/A	N/A	N/A	N/A	N/A	6	75%		180,00
Mr A L Vaughan-Williams	1	1	1	1	1	1	0	1	1	1	1	1	0	11	92%		330.00
Mrs C B Williams	1	1	1	1	1	1	1	1	0	1	1	0	0	10			300.00

Total Paid £ 2,490.00

Deceased - Mr R Hirst -Resignations of Mr A P Phair and Mr I P Skelly - 27 November 2019

I certify the above is a true record of the attendances made by Commissioners at formal business of the Commissioners of Village District Port St Mary

### Port St Mary Village Commissioners Private Extraordinary Meetings - Attendance for Year Ending 31 March 2020

	I	I		
		Manx Utilities		
Name	EGM	Meeting14/08/		
	05/04/19	2019	Total attendance	Total paid
Dr M E K Haywood	1	1	2	£31.25
Mr A J Grace	1	0	1	£20.00
Mr R Hirst	0	1	1	£18.75
Mr N McGregor Edwards	1	1	2	£31.25
Mr A Merchant	0	1	1	£11.25
Mr A P Phair	1	1	2	£23.75
Mr I P Skelly	1	1	2	£11.25
Mr A L Vaughan-Williams	1	1	2	£31.25
Mrs C B Williams	1	1	2	£31.25

Total Paid £ 210.00

### Notes

### There were no travelling allowances claimed for extraordinary meetings

I certify the above is a true record of the attendances made by Commissioners at formal business of the Commissioners of Village District Port St Mary

### Item 5.1

### PORT ST MARY COMMISSIONERS

# INVOICES TO BE PAID IN JUNE 20 Rate Born Expenses

Inv#	Date	Inv Number	Supplier	Description	House	Category	NL Code	Total Net	VAT	T	otal Cost
1595	28/05/2020	4130559	Appleby	Land Advice	N	Professional Fees	5040	2145.00	429.00	£	2,574.00
1596	09/06/2020	96139	BHW Printing	Office stamp - SSHJB	N	Recharge - SSHJB	6113	16.00	3.20	£	19.20
1597	29/05/2020	SINV00292489	внх	HP - Printer toner	N	Stationary and Printing	5050	257.40	51.48	£	308.88
1598	29/05/2020	SINV00292363	внх	Envelopes	N	Stationary and Printing	5050	153.50	30.70	£	184.20
1599	24/04/2020	1138 - APR20	Calvert Newsagents	Stamps/ Newspaper - April 20	N	Office expenses	5170	219.79	0.00	£	219.79
1600	11/05/2020	G20C1415	Colas	Doggy bin liners and gloves	N	Refuse - Misc	5270	163.69	32.73	£	196.42
1601	19/05/2020	G20C1497	Colas	Stores - materials - PPE	N	Stores	6020	127.50	25.50	£	153.00
1602	30/05/2020	1270300520	Cooill Brothers	Stores - milk - May 20	N	Stores	6020	24.60	0.00	£	24.60
1603	15/05/2020	401023	DOI	Ground rent - Sea wall - May 20	N	Chapel Beach	5850	1.00	0.20	£	1.20
1604	15/06/2020	l a	Douglas Borough Council	FRS102 report 31/03/20	N	Professional Fees	5040	185.40	37.08	£	222.48
						Subtotal		£ 3,293.88	£ 609.89	£	3,903.77

### INVOICES TO BE PAID IN JUNE 20 Rate Born Expenses (continued)

Inv#	Date	Inv Number	Supplier	Description	House	Category	NL Code	Total Net	VAT	Т	otal Cost
1605	08/06/2020	15	IOM Munincipal Association	Subscription - 20/21	N	Stores	5081	270.00	0.00	£	270.00
1606	20/05/2020	23088	Island IT	Troubleshooting PC - PF53	N	Computer Expenses	5140	27.50	5.50	£	33.00
1607	21/05/2020	23104	Island IT	Troubleshooting backup issues	N	Computer Expenses	5140	68.75	13.75	£	82.50
1608	21/05/2020	23106	Island IT	MS 365 amendment	N	Computer Expenses	5140	27.50	5.50	£	33.00
1609	29/05/2020	23143	Island IT	Workshop troubleshooting PC	N	Computer Expenses	5140	55.00	11.00	£	66.00
1610	03/06/2020	23158	Island IT	Server and NAS checks - June 20	N	Computer Expenses	5140	55.00	11.00	£	66.00
1611	03/06/2020	23168	Island IT	Troubleshooting - Simone PC	N	Computer Expenses	5140	41.25	8.25	£	49.50
1612	05/06/2020	23175	Island IT	MS 365 and exchange online - 07/05/20 to 06/06/20	N	Computer Expenses	5140	83.50	16.70	£	100.20
1613	09/06/2020	23202	Island IT	EPS Install	N	Computer Expenses	5140	41.25	8.25	£	49.50
1614	28/05/2020	2086044	J Qualtroughs	TH Office refurb - materials drywall	N	Town Hall -New Office	5156	354.01	70.80	£	424.81
1615	18/05/2020	2084019	J Qualtroughs	Benches - maintenance materials	N	Outdoor seating	5810	194.26	38.85	£	233.11
1616	13/05/2020	21203	JRB Enterprises	Dog dispenser refill bas	N	Refuse - Misc	5270	146.00	29.20	£	175.20
1617	27/05/2020	1830	Magnet Group Ltd	TH Office refurb - oak	N	Town Hall -New Office	5156	255.73	51.15	£	306.88
1618	15/05/2020	961161638	Manx Gas	TH - Gas - 17/03/20 to 15/05/20	N	Heat and Light Office Telephone	5151	585.71	29.29	£	615.00
1619	01/06/2020	13829453	Manx Telecom	Telephone - June 20	N		5160	103.26 £ <b>2,308.72</b>	20.65 £ 319.89	£	123.91 <b>2,628.61</b>

# PORT ST MARY COMMISSIONERS INVOICES TO BE PAID IN JUNE 20

### Rate Born Expenses (continued)

Inv#	Date	Inv Number	Supplier	Description	House	Category	NL Code	Total Net	VAT	To	otal Cost
1620	26/05/2020	U1587510	Manx Utilities	Gellings ave - Water -30/09/19 to 31/03/20	N	Public Conveniences	5400	7.27	0.00	£	7.2
1621	26/05/2020	U1587662	Manx Utilities	Quay - Water - 30/09/19 to 31/03/20	N	Public Conveniences	5400	118.34	0.00	£	118.34
1622	01/06/2020	12664	Orb Ltd	Payroll admin - May 20	N	Office Expenses	5170	60.50	12.10	£	72.60
1623	28/05/2020	34488	Signrite	Counter screen panel	N	Town Hall Expenses	5150	45.00	9.00	£	54.00
1624	28/05/2020	34489	Signrite	Bench sign - NHS	N	Outdoor Seating	5810	25.00	5.00	£	30.00
1625	31/05/2020	202000000414	Station Garage	Sandfield - mower fuel		Recharge - SSHJB	6113	9.48	1.90	£	11.38
1626	05/06/2020	45145	WDS Ltd	Town Hall - Hand towels	N	Town Hall - Cleaning	5152	161.61	32.32	£	193.93
1627	05/06/2020	45242	WDS Ltd	Hygeine hand rub and dispensers	N	Town Hall - Cleaning	5152	662.60	132.52	£	795.12
1628	11/06/2020	45516	WDS Ltd	Bleach	N	Town Hall - Cleaning	5152	2.67	0.53	£	3.20
1629	20/05/2020	381939	Wi Manx	Internet - May 20	N	Computer Expenses	5140	225.11	45.02	£	270.13
						Subtotal		£ 1,317.58	£ 238.39	£	1,555.9

### PORT ST MARY COMMISSIONERS INVOICES TO BE PAID IN JUNE 20 Housing Expenses

				Tiousing Expense						
Inv#	Date	Inv Number	Supplier	Description	House	Category	NL Code	Total Net	VAT	Total Cost
				Fire extinguisher maintenance - May						
1630	20/05/2020	91953	UFP Ld	20	СВ	Housing	6100	101.80	20.36	£ 122.1
			Andrew Mcewan							
1631	30/05/2020	9BB - MAY 20	Carpentry	9BB - supply and fit new kitchen	9BB	Housing	6100	3357.28	0.00	£ 3,357.2
1632	22/05/2020	133936	SCS Ltd	8PR - replace extractor fan	8PR	Housing	6100	155.58	31.12	£ 186.7
1633	29/05/2020	134072	SCS Ltd	9BB - electrical check	9BB	Housing	6100	203.48	40.70	£ 244.1
			Manx Glass and							
1634	08/06/2020	32598	Glazing	9BB - installation glazed windows	9BB	Housing	6100	359.50	71.90	£ 431.4
1635	12/06/2020	9BBPAINT	T&E Decorators	9BB - interior decorating	9BB	Housing	6100	1200.00	0.00	£ 1,200.0
1636	08/06/2020	12CBPAINT	T&E Decorators	12CB - interior decorating	12CB	Housing	6100	850.00	0.00	£ 850.0
				•		Subtotal		£ 6,227.64	£ 164.08	£ 6,391.7
						Total		£ 13,147.82	£ 1,332.25	£ 14,480.0

Catagory		Amount
Chapel	£	1.00
Computer	£	624.86
Heat and	£	585.71
Housing	£	6,227.64
Office	£	280.29
Telephon		
e	£	103.26
Outdoor	£	219.26
Profession	£	2,330.40
Public	£	125.61
Recharge -	£	25.48
Refuse -	£	309.69
and		
Printing	£	410.90
Stores	£	422.10
Town Hall	£	826.88
Town Hall	£	45.00
-New		
Office	£	609.74
Total	£	13,147.82

Rate Born Payments in May 20	Salaries Gross	Employers' NI Contribution	Government Pension Scheme Contributions	Members Allowances
Office	£ 9,646.29	£ 1,445.83	£ 4,619.48	
DLO	£ 9,148.28	£ 974.03	£ 3,023.35	
Members Allowances	_			£ 150.00
Total	£18,794.57	£2,419.86	£7,642.83	£150.00

### **PROJECTS UPDATE**

6.1	Mariners Shelter
0.1	Repairs are ongoing by Estate Services.
6.2	Manxonia House
0.2	Viewings are now being permitted again.
6.2	Remembrance Garden
6.3	Lighting options for the new sentinels are currently being explored.
6.4	Skate Park
0.4	Project on hold.
	Public Conveniences
6.5	The new West Room door has been fitted.
	The Foreman is currently meeting with contractors regarding the repair work required to the floor.
	Happy Valley Colonnade
6.6	Discussions are ongoing with the contractor, the project is being restarted and Expressions of Interest sought.
6.7	Boat Park
0.7	The project is on hold and will be resumed shortly.
6.8	Jetty Repair
0.8	A response from the Department is still awaited and has been chased.
6.9	Bay Queen Exhibition
0.5	The project is on hold.
6 10	West Room
6.10	Verbal update to be given.

# Housing Officer's Report to Port St Mary Commissioners ${\bf 24}^{th}$ June 2020

CB

Sought  1. To note summary of housing works & repairs 2. To note update re Bathroom Refurbishment Scheme 3. To note property allocations update 4. To note mutual exchange 5. To note shared housing waiting list update 6. To note transfer list 7. To note garden inspections update 8. To note callouts in May  May2020 Summary of Housing Works & Repairs  1 responsive repair was carried out by DLO in May  6 responsive repairs were carried out by contractors in May: 1 responsive repairs were carried out by contractors in May: 1 responsive repairs were carried out by contractors in May: 1 responsive repairs were carried out by contractors in May: 1 responsive repairs were carried out by contractors in May: 1 responsive repairs were carried out by contractors in May: 1 remaining tenants were contacted and all are happy for the work to replace their bathroom to re-commence. However, the Health & Safety Practitioner still requires the contractor to undertake a Safe Operating Procedure' before any works start. It hoped to start works on 22 <sup>nd</sup> June.  Property Allocations  Mutual Exchange  A tenant successfully applied for a mutual exchange with a relative living in a property of another housing authority. All procedures we followed and the exchange is scheduled to be completed on 6 <sup>th</sup> Jul The new tenant will be placed on an initial temporary six month licence.  Fixed Five Year Tenancies & Temporary Licences  Southern Shared Housing  1. To note undertake a Safe Operating Procedure' before any works start. It hoped to start works on 22 <sup>nd</sup> June.  One new application was processed and placed on the wait list in May.	v		
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110 40 1119			
Waiting List			
Transfer List There is currently one family on the transfer waiting list.			
<b>Garden</b> A follow up inspection is was undertaken on 8 <sup>th</sup> June 2020. Two of	the		
Inspections five tenants with unacceptable gardens had not conducted the	.ne		
Update requested work. A further letter was sent on 9th June and one tena	nt		
has contacted the office apologising for lack of action with promise	to		
rectify. Negotiations with the other tenant are still ongoing.	2000 1		
Garden inspections are based on the tenancy requirement which			
states "The Tenant shall throughout the Term keep the garden plot	5,		
yard and fences at the Property in clean and tidy condition. All priv or other growing shrubs when planted by the fence or boundaries	et		
must be kept trimmed and neat and shall under no circumstances			
cause an obstruction to any thoroughfare. Notwithstanding any			
requirement for planning permission no fence or isolated shrub in a			
case to exceed one metre in height at the front, and to the rear no	nv		
fence or isolated shrub to exceed two metres."	ny		
Out of Hours None	ny		
Callouts in May	ny		
2020	ny		

### **PORT ST MARY COMMISSIONERS**

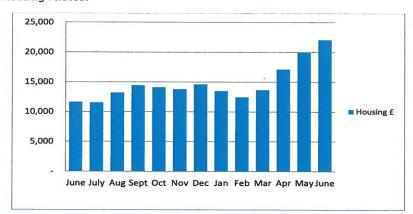
**Tenancy Arrears Report for June Meeting** 

Week 11 2020 commencing 15th June 2020

### **Management Summary**

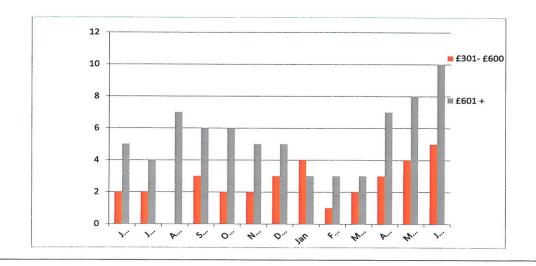
Unpaid rents currently stand at £ 22,048.92 an increase of £ 2107.42 since the previous report.

The first graph shows the rent arrears by sector over the last 12 months. As in previous months, all arrears are housing related.



### **Number of Debtors and Actions Taken**

The second graph shows the number of debtors categorised by how much they owe.



**TENANCY ARREARS REPORT** 

# Tenancy Arrears Report for June Meeting Week 11 2020 commencing 15<sup>th</sup> June 2020 (Continued)

Below is a detailed analysis of the arrears and the separate action being taken for each tenant.

### **Uncontrolled debt**

There are currently 3 tenants with uncontrolled debt.

### Tenant 1- Arrears £863.34

Arrears to be noted and left on account at year end.

### Tenant 2 - Arrears £3,542.83 (no payment since last report)

Small claims court application has been returned to us by the courts to be served to ex-tenant, to be served shortly.

### Tenant 3 - Arrears £ 9026.48 (increased by £ 481.60 since previous report)

The first small court order initially served upon tenant , has escalated to the attachment of earnings , with a hearing occurring in August 2020.A second small claims court order has been served on the tenant for the remainder of the outstanding recent debt incurred , to which we await an response. The tenant has remitted circa  $\pounds$  500.00 in May 2020, expecting another June 2020.

### **Controlled Debt**

The following tenants have controlled debt but due to the amounts, are being brought to the Boards attention:

### Tenant 4 - Arrears £ 945.10 (decreased by £ 86.80 since previous report)

The tenant informed the housing officer that they would make regular incremental payments to try clear the arrears once returned to employment and circumstances improved.

### Tenant 5 - Arrears £ 557.80 (decreased by £ 183.16 since previous report)

The tenant has been notified in writing of the newly established arrears. Tennant has been paying a bit more towards clearing the arrears, to be expected at the end of each month.

### Tenant 6 - Arrears £ 917.76 (new addition to housing arrears report)

Tenant will clear arrears by 30 June 2020.

### Tenant 7 - Arrears £ 876.00 (increased by £ 216.84 since previous report)

Tenant is unemployed due to pandemic, will remit payments when able to do so.

Making increased incremental weekly payments to clear arrears.

Tenant 9 - Arrears £ 773.69 (new addition to housing arrears report)

Tenant's means affected by pandemic, will remit payments when able to do so.

Tenant 10 - Arrears £ 627.77 (increased by £ 78.28 since previous report)

Tenant will make additional incremental payments when able to do so.

Tenant 11 - Arrears £ 516.83 (increased by £ 29.20 since previous report)

Tennant currently awaiting sick pay payments to remit outstanding arrears.

Tenant 12 - Arrears £ 1149.55 (increased by £ 132.18 since previous report)

Has recommenced rent payments by direct debit and will pay additional when possible to do so.

Tenant 13 - Arrears £ 660.90 (new addition to housing arrears report)

Tennant to remit outstanding arrears in due course, housing officer monitoring same.

Tenant 14 - Arrears £ 519.92 (new addition to housing arrears report)

Tenant will remit outstanding arrears by close of business 19 June 2020.

Tenant 15 - Arrears £ 508.68 (new addition to housing arrears report)

Tennant will pay off arrears plus an additional two weeks rent by Thursday 25th June

### **PUBLIC CORRESPONDENCE - STREET TRADER LICENCE REQUEST**

From: >

Sent: 07 June 2020 20:29

To: >

Subject: Re: vegan food trailer

Further to our emails. Re: "Simply V" catering trailer application to trade.

**Rubbish disposal**: The packaging used for customers food is all recyclable. I will therefore provide a bin for this purpose and ensure that this IS recycled. The none recyclable rubbish, created from my own stock purchases will be kept in the interior bin and disposed of through Southern Tyres commercial bin if this is an acceptable arrangement with yourselves.

**Noise**: I have a "silent" generator to run the fridge. This requires minimal power as it maintains a sufficiently cold temperature for sometime without power. Therefore the generator would only be used intermittently through working hours. The fridge stock will be moved overnight.

**Seating**: I do not specifically require seating, however it would be beneficial in the future with the relaxation of COVID 19 restrictions.

The previous land I had referred to was the at the Station car park however unfortunately this is no longer an option.

As discussed I am particularly interested in the location of Kallow Point, at the end of Queens Road. I have the support from Andrew Dixon the current owner of the PSM Golf Pavillion. I have also looked at other food establishments throughout the village so not to coincide, and as a result my proposed initial opening times would be:

Saturday 9am - 3.30pm

Sunday 9am – 6pm

Monday 11.30am - 8pm

With regard to the food I will be producing, this will include vegan burgers, sausage baps, fast food, sandwiches, tea, coffee, and plant based specials for the more health conscious – again something that is not currently provided as a takeout option. The food I propose to serve would be directed at a specific market not already covered within the village.

As previously mentioned, there isn't currently a vegan only catering establishment available on the Isle of Man. This would be the first, and given that many vegans travel to Ramsey for a take out burger, I believe they will travel to Port St Mary, something that will bring more people to the village and additional revenue to other businesses. \*

I am, if required, able to move the trailer to and from the location on the days it is closed. It is imperative to me to ensure I do not receive any grievances from residents or business owners due to any aspect of my business. I would be extremely grateful for the opportunity to open in the Port and believe I have a flexible attitude to resolve any issues should they arise or close if necessary. I am also extremely eager to start trading as soon as possible, if you could consider approving a trial period with a review and hopefully a view to renew.

I look forward to your response.

Kind Regards

### Kelly Debnam.

\*There is a website called Happy Cow used throughout the UK and includes the Isle of Man where vegans and vegetarians can search for eateries catering for their needs. Visitors/holidaymakers will often search & choose a holiday location based predominantly on the proximity to somewhere they can conveniently eat out. Hence I believe this would provide more revenue for the B&B's within Port St Mary once our borders re-open..

From: >

Sent: 01 June 2020 12:46

To: Subject: Re: vegan food trailer

Afternoon Margaret hope your well I would definitely be interested in mallow point if this would be possible I will provide my own Bin also I would like to put a couple of small tables out for people to sit and have tea coffee and food I will also have a silent generator that will only be used when open and I would only be open a few days a week just to see how it goes I think it's the perfect spot and would definitely bring more people in to port at Mary thank you

# 

### SPEAKER OF THE HOUSE OF KEYS





House of Keys Legislative Buildings Douglas Isle of Man IM1 3PW British Isles

Y Chiare as Feed Oikyn Slattyssagh Doolish Ellan Vannin IM1 3PW Ny Ellanyn Goaldagh

Our Ref: JW/jel

15th June 2020

Port St. Mary Village Commissioners Town Hall Promenade Port St Mary Isle of Man IM95DA

Dear Clerk Hayley

### Armed Forces Day Saturday 27 June 2020

As you will appreciate, this year's Armed Forces Day will look very different from the norm. Despite easing of gathering restrictions, the significant amount of organisation required to make AFD happen will not be possible in time for this year's event. However, I hope you will agree that this is still an occasion worth marking.

To this end, I have been liaising with Chairman of the Armed Forces Day Committee, Major Charles Wilson, to see how we can mark this occasion virtually.

I have suggested that serving and Veterans post a picture of themselves in uniform on social media on the day. If the Commissioners have any Members, present or past who have been involved in the regulars, reserves or cadets, perhaps put up a

The Hon. Juan Watterson BA(Hons) BFP FCA CMgr FCMI SHK

Telephone

+ 44 (0) 1624 685507/685501 juan.watterson@gov.im

Email:

picture on social media? If you are able to fly the Armed Forces Day flag, or have any stories about service these would all add colour!

I am hoping that this will include media coverage by the newspapers and local radio, so please think about engaging with this. Charles will be taking the lead on media.

Please note that this is Armed Forces Day, a celebration of those who serve in the armed forces, and not Remembrance Day which focuses on the sacrifices made by those in conflict.

Further resources can be found at <a href="https://www.nwrfca.org.uk/support-armed-forces-week-2020/">https://www.nwrfca.org.uk/support-armed-forces-week-2020/</a> and a toolkit at <a href="https://www.armedforcesday.org.uk/get-involved/events-toolkits-resources/">https://www.armedforcesday.org.uk/get-involved/events-toolkits-resources/</a>

Should be relatively simple, remarkably cheap and hopefully effective!

Yours sincerely

cc. Charles Wilson

Chief Minister

### **PLANNING**

### **Item 9.1 Planning Applications**

PA20/00491/B Port St Mary Methodist Church, Athol Street, Port St Mary.

Alterations, infilling of an existing opening and formation of a new opening within boundary wall and creation of an access ramp.

### **Item 9.2 Planning Amendments**

PA20/00459/B Island Seafare Ltd, Manesca Building, The Quay, Port St Mary. Siting of steel shipping container for storage of shellfish.

See correspondence on next page



Planning & building control directorater the descerning chef Murray House Mount Havelock Douglas IM1 2SF

09 06 20

SEIVED ON POL 0 9 1011 2020 OF THE ENVIRONMENT

- A SHELLING

Dear sirs

REF 15/00839/B.

Firstly, apologies for the confusion as I quoted the wrong reference relating to a different application for a container.

The container in question serves the purpose of a cold store holding frozen raw material to process and processed products for dispatch. It is integral to the operation of the business and we would be unable to function without it.

When we applied for the 4 year period it was our intention was that we would look to build a coldstore onto the factory offering something more permanent. During the period from 2015 we have seen a downturn in the supply of our core raw material of king & queen scallops due to quota restrictions. This meant we had to invest heavily installing live holding tanks allowing us to diversify into crab & Lobster thus pushing a permanent coldstore further down the line.

We have recently renewed our lease with DOI and it has been noted that given there is the likelihood of a marina in the future, we would probably be required to relocate. Therefor going to the expense of erecting a permanent fixture when we can manage adequately with a moveable coldstore just does not make sense during these austere times.

With the blessing of the department we would ask for an extension on the current term so that we may be able to continue our business and give much needed employment opportunities within the village.

ours sincerely

20/00459/B Additional Information 9-6-2020

hm Croft

Island Shellfish Limited The Quay, Port St Mary, Isle of Man IM9 5EA

Tel. 01624 834494 Fax: 01624 835550 Mob: 07624 456086 E-mail: info@isleofmanqueenies.co.uk Web: www.isleofmanqueenies.co.uk ©islandshellfish

Company reg: 118753C Valino: GB 003030557 Directors: Mr William Caley, Mr Tim Croft

# PORT ST MARY COMMISSIONERS PLANNING



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

Rheynn Chymmyltaght, Bee as Eirinys

Please reply to the signatory Our Ref: RBA/DEM3/TS Your Ref:

Port St Mary Commissioners Clerk To The Commissioners Town Hall Promenade Port St Mary Isle Of Man IM9 5DA Tel: (01624) 686446
Fax: (01624) 685875
Email: buildingcontrol@gov.im
Jennifer Chance, MRTPI
Director of Planning & Building
Control

10th June 2020

Dear Sir/Madam,

# Building Control Act 1991 (as amended by Public Health (Amendment) Act 2000)

I write to advise you that the Department has received notice of an intention to demolish the property/buildings detailed below:

Address: Bayqueen Hotel The Promenade Port St. Mary Isle Of Man IM9 5DG

Re: Demolition of existing hotel building

**Applicant:** Hartford Homes Ltd

Agent:

Contact EMAIL - paul@hartford.im PHONE - 631000

details:

Under the terms of the Act, you may write to the Department in respect of those matters set out in Section 27, (5) (a) to (k) inclusive (that detail is copied for your benefit overleaf).

Any written comments must be submitted no later than 1st July 2020.

Should you have no comment to make but wish to be copied any Notice Direction, if and when it may be authorised, please contact the signatory at your earliest convenience.

Yours faithfully,

Mr Thomas Sinden Technical Officer

Department of Environment Food and Agriculture, Planning and Building Control Directorate, First Floor, Murray House, Mount Havelock, Douglas IM1 2SF Tel 685902 email <a href="mailto:buildingcontrol@gov.im">buildingcontrol@gov.im</a>

### January 2020

### **Internal Audit Review of Port St Mary Commissioners 2019/20**

This report has been prepared at the request of the Clerk and is limited to the areas and the processes and procedures connected with the Commissioners' Offices and Board functions.

Traditionally, internal audit ("IA") functions have mostly focused on topics related to compliance and internal control systems. Adding value and providing insights on the key risks of an organisation has typically not been a key priority of IA. A modern IA function needs to understand the organisation's key risks and proactively identify emerging risks in order to add value.

It is important to recognise that internal audit is a much broader discipline than just finance risk management, covering such areas as logistics, IT, change management, project management, regulation and strategic planning. We need to identify the top risks we feel will apply to you as a Local Government Board in the Isle of Man.

Looking at these areas helps us to establish the risks that are known, those that are emerging and are not yet fully visible regarding magnitude. These can then be divided into non-standard/exceptional risks that should be considered for a one-time audit and those risks that should be considered on an ongoing basis and form a recurring part of the strategic audit plan. This information can be used to highlight the recommended level of monitoring of key risks. e.g., procedures, regulatory, legislative changes, IT governance, data analytics and mass data usage are risks that should be continuously considered on a rolling basis, throughout all governance activities. Non-standard/exceptional risks should be considered based on a triggering event (e.g. large projects or major local government restructure).

We at Alexander Elliott believe that, whilst always exploring those matters already identified as being moderate or high, carrying out a more detailed assessment of subjects that are identified by yourselves as causing concern or where you need to have more information to assess your risk fully, produces a more personalised report which you can utilise to mitigate those risks.

In accordance with the policy stated above, all items which were reported in the previous report as representing a risk level of moderate and above, have been reviewed and included in this document.

When performing an internal audit there are three main areas to be considered. These are:

**Organisational Control:** Financial

The preparation of reliable published financial statements.

Operational

The effectiveness and efficiency of the operations.

The safeguarding of resources against loss.

**Compliance** 

Adherence to laws and regulations.

**Governance:** The process conducted by the Board to authorise, direct and oversee

management towards the achievement of the Board's objectives.

**Risk Management:** The process conducted by management in order to understand and deal with

uncertainties.

In order to cover this spectrum of risk we have divided the report into two sections:

1. Section 1 reports on areas we have noted as requiring attention. It also reports briefly on areas of last year's report where remedial work is still in progress.

- a. Column 1 contains the topic name.
- b. Column 2 is a brief overview of the function and existing controls.
- c. Column 3 lists our views on the risk and any recommendations.
- d. Column 4 gives a risk grade from "catastrophic" to "low" for each area where:
  - i. Catastrophic Unacceptable risk activity should be ceased immediately
  - ii. High Unacceptable threat
  - iii. Moderate Hazard requires attention or consideration\*
  - iv. Acceptable Normal controlled risk level
  - v. **Low** Little or no danger
- 2.In a continuing endeavour to match the commitment shown by the Board, Section 2 consists of a short report. We have, in the past supplied reports which looked at the role and the risks to anyone undertaking the role of a Board Member. Given that elections take place this year and many members will be elected, we have received requests, from both Board Members and Officers, to reissue these documents. However, instead, we have updated and combined the two reports, not surprisingly under the title "The Role and Risks of the Elected Board Member". We hope this can prove useful to Members, old and new but should you require any assistance with this report please do not hesitate to contact us.

<sup>\*</sup> There are some areas where a risk grade will remain as "moderate" despite you having, in our opinion, taken those actions which in normal circumstances reduce that risk to "acceptable" or "low". In these cases, where it is only the nature of the activity that leads us include it at that level, we have added the word "mitigated" alongside the grading.

### Section 1

# **Internal Audit Findings Report**

Modia problems	The ownership of Manyonia House continues	It is unfortunate that what is at best poorly	Moderate
Media problems	The ownership of Manxonia House continues to be an item of interest for the local press and on social media. It is difficult to fully determine the risk to the Board, its members and staff of the continued press interest in the property but it certainly includes:	It is unfortunate that what is, at best, poorly informed comment and, at worst, bullying, can affect the operation of a properly constituted Board.	/High
	<ol> <li>Direct cost: - Wages are paid to the Clerk and her staff to review, deal with and comment on posted items.</li> <li>Stress: - Adverse commentary on decisions and actions can severely effect all.</li> <li>Potential capital/income loss: - media pressures can increase the risk of short-term/poor decision making.</li> </ol>	The property was placed on the market around a year ago and this policy is due for review. It is suggested that, when a decision on the way forward has been made, consideration be given to preparing written press releases for issue to the official media. Whilst this might not remove the problem completely it may increase control, help to bring the press onside and assist in reducing negative comment.	
	The resignation of two Board members has led to further media comment and speculation. The time-consuming nature of this activity, especially when combined with that taken up in handling FOI requests has put pressure on staff and Board members alike.	It is appreciated that there is little that can be done in respect of social media. It is not easy to even put a definitive rating on this type of obtuse risk or to make effective recommendations as to how to mitigate it.  Nevertheless, it is recognised that this is may well be the most potent risk experienced by the Clerk and Board, at this time.	
Freedom of Information (FOI)	The Clerk has written and introduced procedures for the handling of requests. This includes the publishing on the website of all requests and replies. In last year's report, the actions of the Clerk, with the backing of the Board, were praised for helping to reduce follow-up and new requests in the short-term. To further help this process, it is intended to publish Private Meeting minutes on the website. This item, at the time rated "acceptable" was to be removed from future reports unless there is a change of perceived risk. We did point out, however, that there is no scientific way to fully assess how successful this process will be in stemming future time consuming demands.	We still highly commend the work the Board has undertaken in this area and consider this topic to be one of the non-standard/ exceptional risks referred to in our preamble to the report.	Moderate (Mitigated)
	Since the introduction of the procedures, the Information Commissioner has informed the Clerk and Board that, in his opinion, the FOI	Undoubtably, whenever something causes a risk to be amplified, then there is a need to reassess how it was mitigated originally. The	

	be able to demonstrate that the actions taken by the individual were not negligent in so much as there is a precedent, they are acceptable practice, or they are perfectly reasonable.	The importance of this should be stressed to all new members and to existing Board members.  The adoption and implementation of the Isle of Man Corporate Governance Principles and Code of Conduct goes a long way to reducing this risk	
	The financial risk is covered by insurance but the social threat or even the prospect of imprisonment is still a possibility.	There is always a need to be aware of the extra restrictions that will come with Office. Care must be taken, even when expressing a personal opinion, due to the risk of, as a public figure, being misquoted or abused, particularly in the media.	
	Due to its importance for the wellbeing of Board members, this mitigated moderate risk area forms permanent part of this report. The Clerk is attempting to set up a pack and training to assist new members, following the April 2020 elections.	This item remains in this report because it was reported as moderate risk in last year's report. As mentioned in the preamble, a paper entitled "Role of the Local Authority Board Member and Associated Risks", prepared by Alexander Elliott, makes up Section 2 of the report and covers this area in much greater detail.	
Data Protection	Legislation introducing "GDPR" was introduced in May 2018.	The implications of this legislation on Local Authority Boards in the Isle of Man are considerable, both in short-term preparation and long-term compliance.	Moderate
	A data matrix has been prepared and a copy of the privacy notice is available via the website.	There is still work to be completed before all records are fully compliant.	
	The Public Records Office have been assisting in the perusal of old records and, in addition to requesting those items of genuine historic interest be relocated to them, have been advising on document retention periods. The Clerk continues to work through records such as those relating to staff and former tenants.	The review of old records does take time. The Information Officer has continued to express the view that he is sympathetic with this. He has insufficient staff at present to make visits so will only investigate obviously failings and complaints. The Clerk's efforts to date have been considerable. We will continue to monitor progress during our visits in our role as Data Protection Officer.	
	Port St Mary email accounts have been set up for all Commissioners.	This procedure is considered satisfactory.	

	The Board have expressed a wish to demonstrate openness in all their actions.	Whilst it is appreciated that this is not easy to achieve, it is a very worthy ambition and matches the aims contained within the "Code".	
	The Private Meeting is now kept very short and the use of personal names in the minutes has been minimised. It is intended to publish Private Meeting minutes on the website.	This is considered to be a commendable aspiration. It could then permit them to be published on the website. This could be an aid in containing the number of Freedom of Information Requests.	
Health and Safety	A consultancy firm have been appointed to advise, when required.	This is considered good practice. This provides a backup for the internal staff, as their own knowledge is developed.	Moderate (Mitigated)
	The Clerk, Foreman and Housing Officer attended a risk management course, provided by Central Government, during the year.  The Board have, once again, set a good training budget for the coming year.	The Clerk would like to continue this process, leading to an increase in knowledge and qualifications within the Commissioners staff in this area.	
	Risk assessments have now been prepared and are available to staff in the Workshop. The Foreman intends to review the assessments on a regular basis, with input from the consultant, where applicable. The Foreman has started to prepare procedural notes for all tasks undertaken and these are issued to each member of staff who is assigned that job.	Preparation of risk assessments and procedural notes is a long and arduous process but extremely worthwhile in the long-term. It must be remembered, that once introduced, they must be strictly abided by, as the courts can be particularly severe on failures to adhere to policies introduced to counter recognised risks.	
	The Foreman runs "toolbox training" sessions on a regular basis. Training records are maintained, and the required number of staff are first aid and fire warden trained. The Foreman also runs induction courses for new members of staff, including a general working course for seasonal staff.  There is a system in place to carry out daily checks on the Commissioners vehicles.	The endeavours in this area are highly commendable. Health and safety is an area where the expectations of the courts are ever changing so it is important that those responsible for setting the procedures and standards continue to update their knowledge.	
	Three defibrillators are now in use and training has been undertaken and in-house refreshers are carried out twice a month.		

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The fireworks display has been outsourced to an external contractor who provided a risk assessment which was approved by the Board.	The outsourcing of "higher risk" activities to specialist organisations is considered to be prudent.	
There is no process in place for disaster recovery:  1. There is a verbal agreement with Castletown Commissioners to use each other's offices as a place of operation for a skeleton clerical staff in the case of an emergency. It is intended that this be formalised.  2. Data is stored on an external server.	The Clerk is keen to produce a plan which is recommended. However, with data, risk assessments etc. being available from the external server, provided software is easily available, then remote access, on purchased laptops, key members of Staff could perform basic functions within a very short period of time.	Moderate
There is no succession planning.	Due to the size and staffing it is not considered practical to have any form of succession planning. There will, of course, continue to be a risk associated with the inability to achieve this so it will remain a constant item.	
There is currently a website, a Twitter account and a Facebook page maintained by the Commissioners.  The Clerk has removed the ability of the public to comment on the Commissioners Facebook page. The Twitter page is not used by the Commissioners. It is monitored by the Clerk, who is seeking to close it.	As there is a danger that items posted can be missed or that the Commissioners Twitter account could be used as a forum, as it is not used To close it would make a great deal of sense.	Moderate
There is no Social Media policy in place for Board Members or staff but following recent events it is intended to introduce one.	Comments made by Members or staff, expressing a personal opinion, can be misinterpreted as voicing a view held by the Commissioners. A clear policy should avoid this.	
The final two characteristics protected under the Act became effective from 1 January 2020:  Age Disability	The Clerk's highly proactive approach in this area should help to reduce the risk of noncompliance with the Act.	Moderate
	an external contractor who provided a risk assessment which was approved by the Board.  There is no process in place for disaster recovery:  1. There is a verbal agreement with Castletown Commissioners to use each other's offices as a place of operation for a skeleton clerical staff in the case of an emergency. It is intended that this be formalised.  2. Data is stored on an external server.  There is no succession planning.  There is no succession planning.  There is no succession planning.  The Clerk has removed the ability of the public to comment on the Commissioners Facebook page. The Twitter page is not used by the Commissioners. It is monitored by the Clerk, who is seeking to close it.  There is no Social Media policy in place for Board Members or staff but following recent events it is intended to introduce one.  The final two characteristics protected under the Act became effective from 1 January 2020:  • Age	an external contractor who provided a risk assessment which was approved by the Board.  The outsourcing of "higher risk" activities to specialist organisations is considered to be prudent.  There is no process in place for disaster recovery:  1. There is a verbal agreement with Castletown Commissioners to use each other's offices as a place of operation for a skeleton clerical staff in the case of an emergency. It is intended that this be formalised.  2. Data is stored on an external server.  There is no succession planning.  There is no succession planning.  Due to the size and staffing it is not considered practical to have any form of succession planning. There will, of course, continue to be a risk associated with the inability to achieve this so it will remain a constant item.  There is currently a website, a Twitter account and a Facebook page maintained by the Commissioners.  The Clerk has removed the ability of the public to comment on the Commissioners by the Commissioners.  The Clerk, who is seeking to close it.  There is no Social Media policy in place for Board Members or staff but following recent events it is intended to introduce one.  The final two characteristics protected under the Act became effective from 1 January 2020:  Age  Disability  The Olerk's highly proactive approach in this area should help to reduce the risk of noncompliance with the Act.

on best practice.

The Clerk tries to consider aspects of the Act in all of the Commissioner's business, particular when organising events in the Town Hall.

properties do not fall within the scope of the Act, except where auxiliary aids are requested by, or on behalf of a disabled tenant. However, they can, in certain circumstances, be deemed to be the responsibility of the landlord so some consideration is required in this area.

Equality Act online training, provided by IOM Government, has been undertaken by all staff.

This is commendable. It is recommended that Members consider what additional knowledge they might require in this area.

### Ombudsman

From 1st July 2020 Complaints against commissioners can be investigated and councillors by members of the public could be investigated by an external body.

The Council of Ministers has agreed to extend the powers of the Tynwald Ombudsman, who's official title is 'Commissioner for Administration', to cover:

- all local authorities
- a joint committee of two or more local authorities and;
- a joint board being a body corporate established under an enactment and consisting of members appointed by two or more local authorities; or by the Department of Infrastructure and one or more local authorities.

Ms Angela Main Thompson OBE, is the current, holder of this role.

The complaints procedure will require amendment to reflect this change.

Letters responding to complaints will need to contain reference to the service. We would suggest that at the end of such letters you insert something along the lines of:

"If you not are satisfied with the final outcome of our investigation and wish to take this matter further please do not hesitate to take advantage of the Tynwald Ombudsman Scheme, details of which can be found online at <a href="http://www.gov.im/fsc/about/complaints.xml#sec3">http://www.gov.im/fsc/about/complaints.xml#sec3</a>.

Alternatively you may make contact with the scheme direct at:

By email <a href="mailto:ombudsman@parliament.org.im">ombudsman@parliament.org.im</a>

By post - Commissioner for Administration, Office of the Clerk of Tynwald, Legislative Buildings, Finch Road, Douglas, Isle of Man, IM1 3PW

### Section 2

### Role of the Local Authority Board Member and Associated Risks

### Background

There are many and varied reasons why people seek election to their Local Authority, and this tends to bring a cross section of individuals from differing backgrounds together to form a single Board.

Many of you will be taking up your role as a Member of one of the Island's Local Authority Boards for the first time in April 2020 and may already be thinking that getting elected was the easy part. As a new Board member, you may well feel overwhelmed by the variety of challenging complex issues and controversial policies demanding your attention.

Understanding your role as a Board member, as well as those undertaken by your officers and staff, may assist you in addressing these situations, avoid some of the pitfalls and hence manage your time effectively.

Alternately you may have years of experience of service in Local Government however we do hope that you will find some aspects of this paper useful.

What is common to all Board Members is that they are giving their time and experience free of charge. Will your generous and gratis work be widely acknowledged and praised by the general public at large and the local media? Whilst this should be the situation, on occasions it is regretfully not the case. Both the public and the media will be only too prepared to criticise and, in some cases, condemn Board Members for their actions, no matter how well meaning they have been.

Members have personal, individual and collective responsibilities for their Board's activities. In addition, as members of political groups or as independents, members will express political values and support the policies of the group to which they belong.

Local authorities are responsible for the provision of a range of public services and, by standing for the role, you have undertaken to promote the interests of our local community, including the social, economic, environmental, recreational, cultural, or the general development of your area. In our ever changing and litigious society, people are always ready to attribute blame. There is, therefore, an even greater need than ever to fully understand of the role and to be to be aware of the shifting nature of the risks relating to it.

Regrettably, there has, in recent years, been little in the way of direct training available for either the new or long experienced member. In the past, the Department of Infrastructure provided induction courses for members and staff of Local Authorities. Unfortunately, these are no longer available, although the Local Government Board are considering the possibility of a visit programme where you could discuss your needs and concerns.

The Isle of Man Municipal Association has tried to fill the gap left by the absence of the induction training by offering various courses in a selection of subjects. Despite these efforts, we at Alexander Elliott feel there is still a disparity between the available tuition and the complexity of the role and risks you face undertaking it.

We hope that this paper can assist in bridging that perceived gap.

### History of Local Government in Isle of Man

Many people believe that to carry out a role with optimum efficiency it is important to understand the where and how of what they do. Therefore, we have prepared a brief synopsis of the history of our local authority structure.

Local representation by elected officials became effective following the Town Act 1852. It was under this Act that boards of commissioners, each under the chairmanship of a High Bailiff, were constituted in the four towns. The boards undertook responsibility for such things as "paving, cleansing, lighting, and watching the streets.... and for making and keeping in repair public sewers therein, and otherwise improving the towns."

Douglas in 1860, Ramsey in 1864 and Peel and Castletown in 1883, under separate Acts, set up boards of Town Commissioners in a format very similar to those in existence today.

It was around this time that Village districts established their own elected bodies/commissioners. The first of these was Port Erin, which in 1884 had been constituted a sanitary district, with an elected sanitary authority under the Public Health Act 1884. It was constituted a village district by the Local Government Act 1886. This was followed by Port St Mary in 1890, Laxey and Onchan 1895, and Michael in 1905, the later under the Local Government Amendment Act 1894. The same 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, reporting to the Local Government Board (abolished in 1987 and replaced by the Department of Local Government and the Environment, headed by a Minister).

Douglas was incorporated as a municipal borough by an act of Tynwald in 1896, leading to the Town Commissioners being replaced by a Council consisting of the mayor, aldermen and councillors (the office of alderman being abolished in 1989).

After 1905, apart from a few insignificant bits and some minor boundary changes, nothing much happened to the shape of local government until 1986, when the parish district and village district of Onchan were merged. The parish district and village district of Michael were likewise merged in 1989. As you will be aware, the village district of Laxey with the parish districts of Lonan and Maughold merged in 2015 to form Garff Commissioners and Rushen and Arbory Parrish Commissions will merge on 1 May 2020, to become Arbory and Rushen Parish District Commissioners.

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.

Since the Town Act of 1852, the complete restructuring of local government, has been, and continues to be, a constant debating point both inside and outside of Tynwald. To pick up on some of the more recent developments:

- 1. 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.
- 2. 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 have been issued by the Department of Local Government and the Environment under the overall title "Time for Change".
- 3. 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.
- 4. 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.
- 5. 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.
- 6. On 1st April 2010 a re-structure of Government took place. Under the Transfer of Functions (New Departments) (No.2) Order 2010 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:
  - a) Department of Infrastructure Planning and Building Control; Health and Safety Inspectorate; Waste Management, Estates and Architecture
  - b) 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

We would expect that the debate will continue, and it is inevitable that some change will be instigated. It is incumbent on those in a position to influence these decisions to protect the interests and rights of the ordinary resident. A role you have voluntarily undertaken.

### The Role

Local authority elected members are the equivalent of company directors. The primary role of a Board is to focus on policy development and strategic delivery of services in the public interest. Local government decisions are made to direct the operational work and realise the planned goals that are set out in the local government's corporate plan.

Members are directly elected to represent the people and therefore must consider not just the interests of their local electorate, but those throughout the whole area to create a harmonious local environment.

As a Board member, the range of responsibilities expected of you require flexibility, patience, willingness to learn, leadership, being accountable to the community and planning for the current and future needs of your local government area.

Local government decisions are taken by a majority vote of all the elected members. Each member of the Board has an equal vote. That means a decision by a majority of votes at a local government meeting is considered a decision of local government.

The collective will and decision making of the Authority is paramount and an individual member's views are secondary to the majority view. If you find yourself in the minority on a particular issue, once a majority decision is taken, you should not seek to undermine the decision because you did not personally vote in favour of it. It is important to realise that you are elected to represent the overall public interest of the whole local government area, regardless of whether disputes exist within the Board.

The internal day-to-day work of local government is carried out by your employees under the direction of the chief executive officer/clerk. This operational work is directed by the decisions of the Board through its annual operational plan. Whilst every service provided by a Board is managed in their name and the smooth running of the operation is everyone's responsibility, ideally your role should revolve around the areas of good governance and future strategy.

It is human nature the anyone in a senior management to try to be involved in every aspect of the decision making process, something we are all guilty of at some time or another, but as Board members you should try to minimise your involvement in day to day issues and concentrate on the complex role you have undertaken.

As a Board member you already have multifaceted responsibilities and must act in number of different functions. You have a representative, a policymaking, governance and a stewardship role to play in your municipality, whilst acting as a guardian of transparency and ensuring accountability.

Often these roles will overlap. You will be called on to consider and make decisions on issues that will sometimes be complex and controversial. Most of those decisions will have long-term consequences that extend beyond your term of office and should be made in the context of long-term health and welfare of your community.

### Community Representative

You were elected by your constituents to represent their views as closely as possible when dealing with issues that come before the Board. However, your constituents have many views and opinions, and you cannot represent all of them all the time. Members of the community may/will lobby members about individual interests. These community members often expect their elected representative to act according to their wishes at all stages of the application process.

With many issues, you will have to consider a variety of conflicting interests and make decisions that will not be popular with everyone. You should use your judgment and decide based on the best interests of the electorate as a whole. In practice, there is no single, correct approach to the representative role and on most issues, you may find that you fall somewhere between the two opposing viewpoints.

Members may be able to ensure that the decision makers are aware of their constituents' views. However, their statutory obligations as members of the "Responsible Authority", sometimes mean that they cannot act on these views. Community members may not understand that members are not always able to vote in favour of the constituents' position.

### Policy Maker

The Board are responsible for establishing general principles to help guide future actions. Some policies can be specific, such as a byelaw requiring dogs to be kept on leashes in public areas and others can be more general, such as the approval of an official vision and plan.

### Corporate Governance

As you will no doubt be aware that a phrase "Corporate Governance" which is much used when discussing how a Board, be it in local government or in the private corporate sector, has discharged its obligations; but what is it?

Corporate governance is the system of rules, practices, and processes by which an organisation is directed and controlled. Corporate governance essentially involves balancing the interests of a bodies many stakeholders, such as the electorate, shareholders, senior management executives, customers, suppliers, financiers, the government and the community. Since corporate governance also provides the framework for attaining objectives, it encompasses practically every sphere of management, from action plans and internal controls to performance measurement and corporate disclosure.

The Local Government Unit issued the Isle of Man Corporate Governance Principles and Code of Conduct (the Code") to local boards back in 2005. Whilst adoption of these was not compulsory, most boards have done so, and those that haven't do accept them as best practice.

The adoption and implementation of the Code will help you with all aspects of corporate governance relating to your Board. A copy of the Code can be found at:

 $\underline{www.gov.im/media/324555/corporate-governance-principles-and-code-of-conduct-guidance-pdf.pdf}$ 

You will have already been supplied with a copy of your own Standing Orders which cover the management of meetings, tenders, contracts, exclusion of members with specified interests etc. These should be reviewed on a regular basis. A copy of the Department's Model Standing Orders can be found at:

https://www.gov.im/media/324559/local authorities handbook.pdf.

### Accountability and Transparency

Ensuring that policies are clearly set out and accessible to those who wish to examine them, and that day-to-day operations are transparent has always been the goal of all responsible Board members, if difficult to achieve. The implementation of the Freedom of Information Act 2015 has highlighted this area and extenuated the need.

# Available advice

In line with Board members in industry, the legal and moral complexities associated with your role continue to proliferate. With a few exceptions, your knowledge of health and safety, GDPR, the Equality Act and Freedom of Information legislation and regulation, will be limited. You will appreciate that you will need:

Your authority's chief executive officer/clerk/secretary or other officers are the professionals employed by your Board and they are employed to guide you in all matters. The role of the clerk is to give sufficient information to the Board in order that it can make reasoned decisions, administer the local authority's business and take action on the authority's decisions. They are employed to act as impartial advisors to the authority and are your first line of defence in mitigating risk. Often, they will need to recommend that further outside guidance is sought but they are trained to recognise when this is necessary.

If the Board is to discharge its duties effectively then there is a need for a mutual respect between members, officers and staff. The role of the clerk needs to be respected and supported by the elected members. Members seeking advice on matters relating to their or the local authority's functions should always approach the clerk in the first instance. The clerk and his staff must reciprocate this respect.

In particular, the clerk can advise with regard to:

- minutes
- accounts
- standing orders
- agenda items
- correspondence
- items considered previously

- byelaws
- finance
- legislation
- applications for consent of the Department to land transactions, borrowing etc.

Members must ensure that the advice and information they receive is clearly understood and appropriately utilised. This may mean suitable training and resources are available.

# Knowledge

To enable you to perform your duties in the most efficient and effective manner it is imperative you have some understanding of the statutory functions, legislation and proceedings by which you are bound.

It is necessary that members develop an understanding of the primary legislation that is applicable to Isle of Man Board members, which is the Local Government Act 1985.

The Act is the legislative framework that recognises Local Authorities as mature local governments with a range of powers and responsibilities. The Act balances increased local autonomy and flexibility with requirements for improved accountability and transparency of Local Authority operations.

Obviously, other legislation and regulation, covering areas such as health and safety, data protection, freedom of information and equality etc., do affect your operation. As already mentioned, the authority's chief executive officer/clerk/secretary and their staff are the primary source of this information. A lot can also be learned from communicating with other experienced members.

It would also be beneficial to take some time, if you have not already done so, to visit the webpage of the Local Government Unit Department of Infrastructure and read the handbook produced by them, called General Information for Members and Officers of Local Authorities. The webpage can be found at: <a href="https://www.gov.im/about-the-government/departments/infrastructure/local-government-unit-and-legislation/">https://www.gov.im/about-the-government/departments/infrastructure/local-government-unit-and-legislation/</a> and the handbook at: <a href="https://www.gov.im/media/324559/local">https://www.gov.im/media/324559/local</a> authorities handbook.pdf

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

In today's litigious society it is essential that we understand the risks and requirements associated with the positions we undertake. We cannot stress strongly enough the need for Board members to gather as much knowledge as they can. We therefore do not apologise that some references to training availability are a repeat of what was said under the background section.

Continuing education is increasingly important for both staff and members. Unfortunately, local authority induction training is no longer available, although the Local Government Board are considering the possibility of a visit programme where you could discuss your needs and concerns.

The Municipal Association has initiated a number of short courses, covering areas where members had identified knowledge gaps or learning needs within their organisations. Hopefully this assistance will continue to be available going forward.

Consideration has been given by the clerks, within their forum, to investigating setting up courses for new board members, those established members who would benefit from a refresher or even to help develop staff. Spreading the cost across several Boards/Authorities could prove a viable solution at an acceptable price.

Alexander Elliott has in the past been involved in the delivery of courses run by the Municipal Association and would be happy to assist as an advisor basis or as a provider.

# 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. 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.

The reference to former member should be borne in mind as, 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. In addition, the Data Protection Act 2018 stipulates that a person/organisation processing personal data must comply with the 6 principles which apply to the processing of personal data together with the overarching principle of 'accountability' which requires a controller to demonstrate compliance with the personal data processing principles. 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 may be liable to pay compensation to the data subject for any loss or distress caused.

# Conflict of Interest

Your fundamental role is to serve and represent the interests of your community as a whole. In the event of a conflict between the public and private interests of you or your related persons, the overall public interest must prevail.

You are required to disclose any personal interests which may influence your voting at local government and committee meetings. This includes interests that may result in a gain or loss for you or your related persons. This is known as a pecuniary or financial interest.

You are responsible for assessing your own circumstances and determining if you have a pecuniary or financial interest. You must disclose the interest to the meeting. Your Standing Orders will determine what actions you must take after you have declared your interest and the Chief Executive/Clerk will advise you. For further information on pecuniary or financial interest consult with your Chief Executive/Clerk or see section 13 of the handbook.

When a matter before a Board could reasonably be a conflict between your personal interests and the public interest, that might lead to a decision against the public interest, it is considered a conflict of interest. This is different to a pecuniary or financial interest because there is no financial gain or loss involved, however you must inform the Board meeting that you have a conflict.

You must deal with a real or perceived conflict of interest in a transparent and accountable way and there are several options for you to consider. It is important to note that you are responsible for dealing with a perceived conflict of interest because it may reduce public confidence in the integrity of the office. Failure to declare a conflict of interest is classified as misconduct within the Code.

# **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). A copy of this can be found at: https://www.gov.im/media/324555/corporate-governance-principles-and-code-of-conduct-guidance-pdf.pdf

# Risks for the Modern Elected Board Member

Unfortunately, in spite of the fact that you are unpaid to perform the role, we believe there are a number of personal risks associated with your role and that it is important that you understand what they are, in order that you can mitigate them, where possible.

Fortunately, we live in the Isle of Man where a lot of the risks listed within this paper are perhaps not as extreme as they might be if we were based in other parts of the world. Nevertheless, it is sensible to consider them and to adjust behaviour to further reduce the dangers.

In essence, the risks can be broadly divided under the following headings:

Personal safety/Physical risk

- Monetary risk
- Personal lifestyle risk

# Personal safety/Physical risk

# From the public

Sometimes you may find yourself in contact with someone with persistent grievances or strange personal causes. Most of the time such individuals do not present a serious risk and are unlikely to constitute more than a nuisance for you and your staff. However, Members are sometimes troubled by more threatening or intrusive attention from people.

There will be individuals, with what they consider to be an unresolved grievance against the Board or even just the establishment in general and feel they are getting nowhere, who will turn to you as an elected representative and expect you to find miraculous resolutions. When you cannot, on some occasions they will become angry and frustrated. In other instances, you may come across certain types where you, purely because of your position, will be a target for their jealousy or hatred.

As a recognisable figure, you may on occasions be stopped by such constituents or others in the street and other public places. In such circumstances it is important to adopt a pragmatic approach to your personal safety and, where applicable, that of your family and your staff:

- Be conscious of people's body language and behaviour.
- Trust your instincts.
- Remove yourself from the situation if something does not feel right.
- Do not isolate yourself.
- Do not arrange to meet an unknown constituent without staff knowing where you are, how long you expect to be and how to contact you.
- Report suspicious behaviour, concerns or threats to the police.
- Seek police advice if you feel it would be of benefit: they are there to help.

# At home

Whilst security at home is not the same problem in Isle of Man as it might be in other areas it still important to be aware of your surroundings both at home and at your workplace and to encourage your family and staff to do the same, so that unusual or suspicious behaviour may be easier to spot. You may also wish to consider the following:

- Install 5 lever mortice deadlocks to external doors.
- Ensure windows are fitted with a good lock appropriate for the window type.
- Check for signs of a break in before entering.

- Call the police if you think someone might have broken in or if you notice anything unusual such as an open door or window.
- Ensure you have adequate lighting around the perimeter of your home at night and consider using an automatic device or leaving some lights on if it will be dark when you get home.
- Promptly report suspicious vehicles or people to the police.
- Keep public life separate from private
- Do not encourage Commissioners' visitors to your home
- Meet at offices
- Make contact details available

# Suspicious post and packages:

# Be aware of:

- An unexpected item, especially if it has been hand delivered.
- A padded envelope ('Jiffy Bag') or other bulky package, which may feel unusually heavy for its size.
- An additional inner envelope or other contents that may be difficult to remove.
- Labelling or excessive sealing that encourages opening at a particular end or in a particular way.
- An oddly shaped or lopsided item.
- If the envelope flap is stuck down completely (normally gummed envelope flaps leave slight gaps at edges).
- If the letter or package is marked 'to be opened only by...' 'personal' or 'confidential' and this is unexpected.
- An item addressed to the organisation or a generic title rather than addressed to you as an individual.
- An item from an unexpected or unusual origin (be these postmark and/or the return address).
- The complete absence of a return address or where the return address that cannot be easily verified.
- Where an item is poorly or inaccurately addressed and/or address printed unevenly or unusually.
- Unfamiliar writing or unusual style.
- Unusual postmark or no postmark.
- More stamps than needed for size or weight of package.
- Greasy or oily stains emanating from the package.
- Odours emanating from the package.
- Obvious or protruding wires.

One of these signs on its own may not be enough to trigger suspicion but it may be that in combination they cause you to be suspicious of the item.

If you do suspect a letter or a parcel:

- Do not handle it further.
- Isolate the area.
- Call 999.

# Malicious phone calls

If you become target:

- keep the caller talking
- note any information
  - o age
  - o sex
  - o accent
  - o background noise
  - o write down the details
  - o report it to the chief executive officer/clerk/secretary/police

# Car safety and parking

- Do not park isolated area
- Park under street lighting
- Try other people loading boxes/bags
- Lock the doors once in the car
- Be alert to any visual changes to your vehicle.
- Report incidents
  - Chief executive officer/clerk/secretary
  - o Police

# Monetary Risk

## Board

The monetary risk to you as an individual of the decisions made by the Board as a whole is small and in the main will be covered by insurance. However, a Board *must always:* 

- do what the law requires it to do,
- may do *only* what the law says it may do
- must *not* do anything unless it has the legal power.

It must not act contrary to

- Law
- Rules & regulations
- Vision & plan
- Code of Conduct

If it does, then it's actions can be deemed to be Ultra Vires (beyond its legal power or authority). It is highly unlikely that any Ultra Vires act would be covered by Board's insurance.

In order to avoid acting Ultra Vires it is important that members understand the agenda.

Where you do not you should immediately seek advice from:

- The Chief executive officer/clerk/secretary
- The Municipal Association
- Legal representatives

If expert advice is sought, then the risk is reduced.

# Any Other Business

Particular care should be given when considering any items brought up under "any other business". Ideally these should be strictly limited to discussion of emergency items only.

Remember that there has been no prior notice so the you, your fellow Board Members and the Officers of the Board have not had the opportunity to:

- fully consider implications
- take advice

Therefore, there should be no decisions made on these items unless the situation is extreme. It is highly recommended that the Board's Standing Orders should require that there is suspension of the Standing Orders in order to vote on such items. "Any other business" should almost be treated as an opportunity to put it an item on the Agenda for a future meeting.

Well prepared, well informed Boards spend their energies serving their communities and keep their cash.

# Own Monetary Risk

There are a number of ways in which a Board Member can become personally liable but all of them are avoidable. Whilst this list is not exhaustive you should not:

- Act in away contrary to the requirements of Local Government Act 1985 by:
  - Disclosing confidential information
    - Any member or former member of a local authority who, without the consent of the authority, divulges any information communicated to him in confidence as such member shall be guilty of an offence and liable on summary conviction to a fine
  - Failure to declare a pecuniary interest\*
    - The Act imposes restrictions on local authority Members from voting (and taking part in any discussion) on matters on which they have a pecuniary (financial) interest whether direct or indirect.
    - 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
- Use council resources for (party) political purposes or other reason unless agreed.
- Unlawfully discriminate against any person.
- Commit the Board to financial obligations, when your own Board might rule you acted alone when doing so
- Act in a way to be litigated against, in particular for libel or slander remember you do not have Parliamentary privilege.

You should be aware that risk is increased to you personally if others:

- Are unsure of their roles, duties and responsibilities
- Don't work as a team
- Respect other's roles
- Don't communicate with each other
- Concentrate on scoring points
- Fail to listen / communicate with
  - Community
  - Other local committees
  - Central Government
  - Outside bodies
- Are not well-informed on topics to be discussed
- \*A pecuniary interest is a financial interest and would include:
  - a direct interest (in an investment, a property a company or a trust)
  - 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

# Personal Lifestyle Risk

It should be remembered at all times that the modern media show little sympathy to politicians. They appear to love to destroy public servants and are ruthless in the way that they deal with them. This was amply demonstrated by the way they treated Local Commissioners who had stood for the last Keys elections.

As respected members of your community you deserve better treatment than that, but it is not likely you will receive it. This type of reporting leads to a loss of status, usually unjustifiably. The consequences can affect:

- Lifestyle
- Relationships
- Future earnings
- Self-esteem

Acts, such as completing a declaration of interests on an annual basis, might seem to many like an infringement of their personal rights but in reality it usually serves as some form of protection against this particular form of sloppy journalism.

As mentioned earlier in the report, confidentiality is paramount for the role and breaking confidences is an illegal act. Additionally, it can be misinterpreted and lead to personal misunderstandings. Remember that your views are likely to be considered the views of the Board.

Extreme care should be exercised when using:

- Facebook
- Twitter
- Forums

While social media such as Twitter and Facebook have huge benefits, their use can also bring risks such as identity theft and harassment. Consider adopting the following approach on such networks:

- Be careful about the information you disclose, either in your profile or the information you share through posts and tweets.
- Could you be revealing information that you would not want to be in the public domain about where you will be at a particular time or about your family?
- Use strong passwords for social networking accounts and keep them secure.
- Remember that what goes online tends to stay online; even if it is later deleted, a copy or cached version is almost certain to remain somewhere.
- Make the most of in-built privacy features on social networking sites and, where practicable, think carefully about who you connect with.
- Be wary of clicking on links in posts or tweets that could take you to hoax websites which may be infected with malicious software.
- In order to protect other sensitive information: Use strong passwords and keep them secure. Never write them down. Passwords should be at least eight characters long, including at least three of these four categories: lowercase, uppercase, numbers and or special characters. They should be hard to guess; do not use examples like P@\$5w0rD!

Extra care is required when conversations are:

- In public places, particularly pubic houses
- With constituents

# Health & Safety at Work

It is the Officers who will remain your main source of advice in this area and have the prime responsibility for ensuring the Act is enforced. It must be remembered however that everyone must be aware of their responsibilities to their employees and the public under the Act. It is your duty to protect the health, safety and welfare of their employees and other people who might be affected by their business. Employers must do whatever is reasonably practicable to achieve this.

This means making sure that workers and others are protected from anything that may cause harm, effectively controlling any risks to injury or health that could arise in the workplace. Employers have duties under health and safety law to assess risks in the workplace. Risk assessments should be carried out that address all risks that might cause harm in your workplace or to the public. The employment of Health and Safety professionals, either directly or as consultants is the single largest mitigating factor for you in your role.

Remember that whilst the Corporate Manslaughter and Corporate Homicide Act 2007 is a UK Act, UK case law is extremely persuasive on Courts in the Isle of Man.

We would reiterate our earlier comments on the reduced risk to public servants in our fair Isle but would still recommend caution. Please do not hesitate to contact us if you wish to discuss any item or part of this report.

# Recommendation:

# Use the sources of Information available which will moderate your personal risk

First and foremost, when reaching decisions on any matter you should have regard to the relevant advice provided to you by: –

- 1. your authority's chief executive officer/clerk/secretary or other officers
- 2. your authority's chief finance officer

In addition to this there are a number of sources prepared by the Local Government Unit which do an excellent job in supplying the information you require.

It is from these same sources that the majority of the information contained within this paper has been acquired.

We would highly recommend that all members read and regularly refer to the following sites:

# **Local Government Unit and Legislation**

https://www.gov.im/about-the-government/departments/infrastructure/local-government-unit-and-legislation/guidance-and-legislation/

# **General Information for Members and Officers of Local Authorities**

https://www.gov.im/media/324559/local authorities handbook.pdf

Department of Local Government and the Environment Corporate Governance Principles and Code of Conduct Local Authorities

https://www.gov.im/media/324555/corporate governance local authorities.pdf Page **47** of **113** 

Prepared by:

Alexander Elliott February 2020

# PORT ST MARY COMMISSIONERS

# Manx Utilities public lighting maintenance contract 2020/21

@manxutilities.im> on behalf of MU, Public Lighting
<publiclighting@manxutilities.im></publiclighting@manxutilities.im>
<b>Sent:</b> 21 May 2020 11:24
To: Hayley Fargher <h.fargher@portstmary.gov.im></h.fargher@portstmary.gov.im>
Cc: MU, Public Lighting <publiclighting@manxutilities.im> Subject: Public lighting maintenance contract 2020/2021</publiclighting@manxutilities.im>
Subject. Public lighting maintenance contract 2020/2021
Good morning
Please find attached Manx Utilities 2020/21 Public Lighting Maintenance Contract, along with covering letter. Please can I ask you to review, sign page 15 and return preferably electronically to <a href="mailto:public.lighting@manxutilities.im">public.lighting@manxutilities.im</a>
Additionally Manx Utilities have recently awarded Urbis Schrader a five year contract to supply the latest generation of LED street light fittings to MU which has concluded in a reduced unit cost to MU and local authorities as detailed in Appendix E of the maintenance contract. Brochure detailing all the features and specification is attached for your records.
Kind Regards
Dale
Administration Officer
Network Services



e-mail: lee.smith@manxutilities.im / Direct Line: 687691

Ms H Fargher Port St Mary Commissioners Town Hall Promenade Port St Mary IM9 5DA

Our Ref: LS/2020/SLIGHTCONTRACT/1 21 May 2020

Dear Ms Fargher,

Further to my letter sent on 31 January 2020 outlining the adjustment of fees to provide public lighting services in 2020/21, please find enclosed the 2020/21 Street Lighting Maintenance Contract for Port St Mary Commissioners.

Please can I raise attention to changes in:

- Appendix A, Pricing Schedule
- · Appendix E, Schedule of Rates for Additional Works

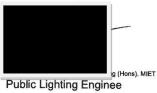
Manx Utilities have also recently awarded Urbis Schrader a five year contract to supply LED street light fittings to MU which has concluded in a reduced unit cost to MU and local authorities as detailed in Appendix E.

As a result, MU will now be moving away from the Ampera model to the AXIA 3 range of fittings, although Ampera fittings can be sourced on a case by case basis. The Axia 3 range of fittings have number of features and benefits such as improved future proofed connectivity, reduced ecological impact and wide range of applications but please see enclosed brochure for all key features.

We trust you will find the above acceptable and are pleased with the level of service that we have provided over the years and going forward. If you have any queries regarding the enclosed contract please do not hesitate to contact me on 687691 to discuss in more detail.

Thank you for your continuing support and co-operation with the Manx Utilities.

Yours sincerely



Manx Utilities • PO Box 177 • Douglas • Isle of Man • IM99 1PS e: enquiries@manxutilities.im • t: 01624 687687 • www.manxutilities.im



Dated: 1 April 2020

# **MANX UTILITIES**

and

**Port St Mary Commissioners** 

**CONTRACT FOR PUBLIC LIGHTING** 

IN

Port St.Mary

# 1.0 INTRODUCTION

- 1.1 Definitions
- 1.2 Entire Agreement
- 1.3 Contract Period

# 2.0 PROVISION OF SERVICES

- 2.1 General
- 2.2 Authority Property
- 2.3 Equipment
- 2.4 Staff
- 2.5 Co-ordination
- 2.6 Use of Authority's Premises
- 2.7 Right of Access to Authority's Premises
- 2.8 Manner of Providing the Services
- 2.9 Standards
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- 3.1 Payment
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### 4.0 PROTECTION OF INFORMATION

- 4.1 Security
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# 5.0 LIABILITY INDEMNITY AND INSURANCE

- 5.1 Liability
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# 7.0 CONTROL OF CONTRACT

- 7.1 Transfer and Sub-Contracting
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- 8.0 DEFAULT AND TERMINATION
- 8.1 Force Majeure

8.2 Termination on Default

8.3 Consequences of Termination

9.0 DISPUTE RESOLUTION

10.0 LAW AND JURISDICTION

Appendix A: Pricing Schedule

Appendix B: Specification of Services

Appendix C: BACS Payment Details

Appendix D: Variation to Contract Form

Appendix E: Schedule of Rates for Additional Works

# THIS CONTRACT is made this day 1st of April 2020

### BETWEEN:-

- (1) Manx Utilities whose principal place of business is at Isle of Man Business Park, Cooil Road, Douglas, Isle of Man, IM2 2QZ (the "Contractor"); and
- (2) Port St Mary Commissioners (the "Authority").

### BY WHICH IT IS AGREED AS FOLLOW:

### 1.0 INTRODUCTION

#### 1.1 Definitions

### 1.1.1 In this Contract:-

**Approval** and **Approved** refer to the written consent of the Authority's Representative;

**Authority's premises** means land or buildings owned or occupied by the Authority, or those contracted to the Authority for the provisions of services relating to the Authority's business;

**Authority's Property** means the Lamps, Clocks and pillars to be maintained by the Contractor

**Authority's Representative** means any of the individuals authorised to act on behalf of the Authority for the purposes of this Contract;

BACS means the Bankers Automated Clearance System;

Commencement Date means the date on which this Contract starts as set out in clause 1.3;

Completion Date means 31 March 2020 or such earlier date if this Contract is terminated prior to that date;

**Contract Period** means the period of the duration of this Contract in accordance with clause 1. 3;

**Contractor's Representative** means the individual authorised to act on behalf of the Contractor for the purposes of this Contract;

**Equipment** means all equipment, materials, consumables and plant (including vehicles), other than the Authority's Property, to be used by the Contractor in the provision of the Services;

**Force Majeure** means any event or occurrence which is outside the control of the Party concerned and which is not attributable to any act or failure to take preventive action by the Party concerned, but shall not include any industrial action occurring within the Contractor's organisation or within any subcontractor's organisation;

Parties means the Authority and the Contractor;

Personnel means persons directly employed by the Authority;

**Premises** means land or buildings owned or used by the Authority or our customers and in or at which the Contractor may provide Services;

Quarterly Charge means the price payable per three month period of the contract calculated by multiplying the rates per Lamp or Clock by the number of these items as set out in Appendix A.

**Services** means the services set out in the this Contract and, in particular, in the Specification of Services – Appendix B;

Staff means all persons used by the Contractor to perform the Services.

**Repair Charge** means the price payable per repair activity undertaken as set out in Appendix B.

- 1.1.2 The interpretation and construction of this Contract shall be subject to the following provisions.
  - the headings in this Contract are for ease of reference only and shall not affect its construction or interpretation;
  - (b) references to "person" or "persons" include, where the context permits, references to a company or unincorporated association;
  - (c) where the context allows, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa;
  - the Appendices hereto shall form part of this Contract and shall be construed accordingly.

# 1.2 ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

#### 1.3 CONTRACT PERIOD

- 1.3.1 This Contract shall take effect from 1 April 2019 and shall expire on 31 March 2020, unless it is otherwise terminated earlier in accordance with the provisions of this Contract, or otherwise lawfully terminated, or extended under clause 1.3.2.
- 1.3.2 This agreement shall be renewable at the end of the current term for a successive 12 month term unless either party gives written notice of its intention not to renew a minimum of 30 days before the expiration of the current term.

#### 2.0 PROVISION OF SERVICES

#### 2.1 General

- 2.1.1 The Authority and the Contractor shall act as stated in this Contract in a spirit of mutual trust and co-operation.
- 2.1.2 The Contractor shall perform the Services in accordance with the provisions of this Contract.
- 2.1.3 Communications between the Authority and the Contractor will be in writing where required in this Contract and by other means as agreed by the Parties.

### 2.2 Authority Property

- 2.2.1 The Contractor shall not be liable for any loss of or damage to the Authority's Property unless the Authority is able to demonstrate that such loss or damage was caused by the negligence of the Contractor.
- 2.2.2 The Contractor shall not in any circumstances have a lien on any of the Authority's Property and shall take all steps necessary to ensure that the title of the Authority and the exclusion of any lien are brought to the attention of any third party dealing with any of the Authority's Property.

# 2.3 Equipment

- 2.3.1 The Contractor shall provide all the Equipment necessary for the provision of the Services and shall ensure that such Equipment is in good and serviceable condition.
- 2.3.2 All Equipment shall be at the risk of the Contractor and the Authority shall have no liability for any loss or damage to any Equipment unless such loss or damage is as a result of any negligence of, or breach of contract or other duty by, the Authority.
- 2.3.3 The Contractor shall provide for the haulage and carriage of necessary Equipment and its off-loading and removal when no longer required for the provision of the Services.

### 2.4 Staff

- 2.4.1 The Contractor shall ensure that all Staff shall possess the qualifications and competence appropriate to the tasks for which they are employed
- 2.4.2 The Contractor shall provide, at all times, an adequate number of Staff required to fulfil its obligations under this Contract.
- 2.4.3 The Contractor will provide all Staff with appropriate Personal Protective Equipment (PPE) for the provision of the Services.

### 2.5 Co-ordination

The Contractor shall co-ordinate its activities in the provision of the Services with those of the Authority.

# 2.6 Use of the Authority's Premises

- 2.6.1 The Contractor shall not use the Authority's Premises for any purpose or activity other than the provision of the Services.
- 2.6.2 The Contractor shall not deliver any Equipment to the Authority's Premises for any purpose or activity other than the provision of the Services.
- 2.6.3 The Contractor shall remove all Equipment and shall clear away from the Premises all waste arising from the performance of the Services.
- 2.6.4 Whilst on the Premises, all Staff shall comply with such rules, regulations and other requirements as may be in force in respect of the conduct of persons attending and working on the Authority's Premises and which have been made known to the Contractor by the Authority.

# 2.7 Right of Access to the Authority's Premises

- 2.7.1 Where the Services are to be performed on the Authority's Premises, the Authority shall grant to the Contractor reasonable access to the Authority Premises.
- 2.7.2 Where Staff are required to have a pass when working on the Authority's Premises, the Authority's Representative shall arrange for passes to be issued.
- 2.7.3 The Contractor shall (and shall procure that the Staff) promptly return all passes upon completion of work to the Authority.

# 2.8 Manner of Providing the Services

2.8.1 The Contractor shall perform the Services with all due care, skill, and diligence and in accordance with good industry practice.

- 2.8.2 Where the Contractor fails to perform, satisfactorily or at all, any of the Services, the Authority shall be entitled to withhold payment for those elements of the services that are not performed or are performed unsatisfactorily.
- 2.8.3 Repeated or persistent failure on the part of the Contractor to comply with the Specification will constitute a default by the Contractor entitling the Authority to terminate this Contract in accordance with clause 8.3.

#### 2.9 Standards

- 2.9.1 Materials and processes used in connection with the provision of the Services shall be in accordance with relevant safety guidelines and, where applicable, the recommendations of the manufacturer of the relevant equipment.
- 2.9.2 The quality of the Services provided will be monitored by the Authority to ensure that appropriate and acceptable standards are being maintained.

#### 2.10 Overtime Working

The Contractor shall not normally be prevented from working reasonable overtime hours in relation to the Services if it is required but such voluntary overtime shall be at no additional cost to the Authority.

### 3.0 PAYMENT

#### 3.1 Payment

- 3.1.1 In consideration of the provision of the Services by the Contractor in accordance with the terms of this Contract and detailed in appendix A and B, the Authority shall pay the Contractor in accordance with the provisions of this clause 3.
- 3.1.2 For each three month period from the Commencement Date to the eve of the first anniversary of the Commencement Date, the Authority shall pay the Contractor the Quarterly Charge for Inspection as detailed in Appendix B together with charges for energy use in the period as set out in Appendix A.
- 3.1.3 For each three month period from the Commencement Date to the eve of the first anniversary of the Commencement Date, the Authority shall pay the Contractor the repair charge(s) for repair activities undertaken in the period as set out in Appendix A and B. Repair works will be undertaken autonomously unless otherwise stated in writing by the authority.
- 3.1.4 The Contractor shall submit to the Authority, quarterly an original invoice in respect of the Services provided for that month supported by documentation as required by the Authority's Representative in order to substantiate the invoice.
- 3.1.5 All third-party damage will be repaired and invoiced separately, after consulting with the local authority, to enable the local authority to pursue a claim for the damage.

- 3.1.5 Payment to the Contractor shall be made by the Authority within 30 days of receipt of the Contractor's original invoice.
- 3.1.6 Payment will be made to the Contractor via BACS unless other arrangements are agreed by the Authority. The Contractor should complete the details in Appendix C.
- 3.1.7 Where the Contractor has failed to provide the Services or to provide the Services adequately due to its own neglect the Authority may reduce any payment in respect of any Services, providing that the Authority has given prior notification to the Contractor. Any such reduction in payment shall be reasonable and shall be limited to the costs incurred by the Authority in providing the Services, which the Contractor failed to provide or to provide adequately, to the required standard.
- 3.1.8 In the event that the Authority requests the Contractor to perform any additional services not set out in the Specification of Services in Appendix B and the Contractor agrees to perform such additional services the Contractor shall be entitled to invoice the Authority separately for the provision of those additional services in addition to the sums referred to in clause 3.1.2. The cost of any such additional services shall be agreed between the Contractor and the Authority and shall be agreed prior to the works being carried out.

### 3.2 Value Added Tax

In addition to the Price the Authority shall pay the Contractor value added tax at the applicable rate.

# 3.3 Recovery of Sums Due

Any overpayment made by the Authority to the Contractor shall be recovered by the Authority together with interest at the rate of the prevailing base rate of the Isle of Man Bank from the date of overpayment until repaid.

# 4.0 PROTECTION OF INFORMATION

# 4.1 Security

- 4.1.1 The Contractor shall take all reasonable measures to ensure that the Authority's Property remains safe and secured whilst in their care.
- 4.1.2 Whilst on the Authority's Premises, Staff shall comply with all security measures implemented by the Authority in respect of all Personnel attending those Premises.
- 4.1.3 The Contractor shall co-operate with any investigations relating to security which is carried out by the Authority or by any person who is responsible for the Authority's security matters and when required by the Authority's Representative.

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In addition to the Price the Authority shall pay the Contractor value added tax at the applicable rate.

# 3.3 Recovery of Sums Due

Any overpayment made by the Authority to the Contractor shall be recovered by the Authority together with interest at the rate of the prevailing base rate of the Isle of Man Bank from the date of overpayment until repaid.

# 4.0 PROTECTION OF INFORMATION

# 4.1 Security

- 4.1.1 The Contractor shall take all reasonable measures to ensure that the Authority's Property remains safe and secured whilst in their care.
- 4.1.2 Whilst on the Authority's Premises, Staff shall comply with all security measures implemented by the Authority in respect of all Personnel attending those Premises.
- 4.1.3 The Contractor shall co-operate with any investigations relating to security which is carried out by the Authority or by any person who is responsible for the Authority's security matters and when required by the Authority's Representative.

#### 4.2 Confidentiality

### 4.2.1 Each Party shall:-

- treat as confidential all information obtained from the other Party under or in connection with this Contract;
- (b) not disclose any of that information to any third party without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of this Contract; and
- not use any of that information otherwise than for the purposes of this Contract.

### 4.3 Publicity

Neither party shall make any public statement relating to the existence or performance of this Contract without the prior approval in writing of the other party which shall not be unreasonably withheld.

# 5.0 LIABILITY, INDEMNITY AND INSURANCE

### 5.1 Liability

The Contractor shall be liable to the Authority for any damage or loss caused to the Authority's Premises and any of the Authority's Property whilst in the custody, possession or care of the Contractor, the Staff or any of their respective agents or servants and which is due to negligence.

# 5.2 Indemnity

- 5.2.1 The Contractor shall fully indemnify the Authority against any loss, liability or expense (including, without limitation, any legal costs on a full indemnity basis) whatsoever which may be suffered or incurred by the Authority as a direct or indirect result of any act or omission of the Contractor (whether or not such act or omission constitutes a breach of the terms of this Contract or negligence), including any claims, proceedings or actions made or taken against the Authority by any of its customers or any third parties, unless such loss, liability or expense is the result of any negligence, act, default, omission, misconduct or breach of duty by the Authority or any employee or agent of the Authority.
- 5.2.2 The Authority shall fully indemnify the Contractor against any loss, liability or expense (including, without limitation, any legal costs on a full indemnity basis) whatsoever which may be suffered or incurred by the Contractor as a direct or indirect result of any act or omission of the Authority including any claims, proceedings or actions made or taken against the Contractor by any of the customers of the Authority or any third parties unless such loss, liability or expense is the result of any negligence, act, default, omission, misconduct or breach of duty by the Contractor or any employee or agent of the Contractor.

### 5.3 Insurance

- 5.3.1 The Contractor shall effect and maintain with a reputable insurance company, a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, in connection with, or in relation to, this Contract.
- 5.3.2 The Contractor shall hold employer's liability insurance in respect of Staff in accordance with all applicable laws and regulations.
- 5.3.3 The Contractor shall produce to the Authority's Representative, on request, copies of all certificates of insurance and insurance policies required to be effected and maintained by law and under the terms of this clause 5 or other evidence confirming the existence and extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.

# 6.0 LEGAL OBLIGATIONS

# 6.1 Gifts and Payments of Commission

- 6.1.1 The Contractor shall not offer, give or agree to give to any representative of the Authority, any gift or consideration of any kind as an inducement or reward for doing or not doing (or having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with the Authority, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority.
- 6.1.2 The Authority shall not offer, give or agree to give to any representative of the Contractor any gift or consideration of any kind as an inducement or reward for doing or not doing (or having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with the Authority, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority.

### 6.2 Health and Safety

- 6.2.1 The Authority shall notify the Contractor of all known health and safety hazards that may affect the Contractor in the performance of the services.
- 6.2.2 The Contractor shall promptly the Authority of any health and safety hazards that it may discover during the performance of the Services and which may affect the Contractor in the performance of the Services.
- 6.2.3 The Contractor shall inform all Staff engaged in the provision of Services for this Contract of all known health and safety hazards and shall instruct those Staff in connection with any necessary safety measures.

- 6.2.4 Whilst on Authority Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Personnel working on those premises and which have been made known to the Contractor by the Authority.
- 6.2.5 The Contractor shall notify the Authority's Representative immediately in the event of any incident occurring in the performance of the Services on the Premises, or elsewhere, where that incident causes any personal injury or any damage to property which could give rise to personal injury.
- 6.2.6 The Parties shall comply with the requirements of the Health and Safety at Work Etc Act 1974, as applied to the Isle of Man by the Health and Safety at Work Order 1998 (SD 155/98) and all other legislation, orders, regulations and Codes of Practice relating to health and safety, which may apply to Staff in the performance of the Services.

### 7.0 CONTROL OF CONTRACT

# 7.1 Transfer and Sub-Contracting

- 7.1.1 The Contractor shall not assign or in any other way transfer this Contract or any of the Services without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.
- 7.1.2 The Contractor may, acting reasonably, sub-contract the Services or any part of the Services with the prior written consent of the Authority (which may be given by email), which consent shall not be unreasonably withheld or delayed. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they were its own.

### 7.2 Variation

- 7.2.1 This Contract (including, for the avoidance of doubt, the Specification of Services set out in Appendix B) shall not be varied unless such variation is made in writing by means of a Variation to Contract Form as set out in Appendix D.
- 7.2.2 The Contractor may make request in writing to the Authority's Representative for a variation of this Contract.
- 7.2.3 The Contractor, where requesting a variation under clause 7.2.2, shall submit a request to the Authority which contains at least the following information:
  - a description of the variation requested together with the reason for the proposed variation;
  - (b) the revised Price where applicable; and
  - (c) details of the impact, if any, on other aspects of this Contract.
- 7.2.4 The Authority shall notify the Contractor of all new public lighting installations requiring maintenance and shall issue a Variation to Contract Form as necessary.

7.2.5 Where street lighting schemes are prepared by developers the Authority shall require that the developer submit the proposed plans and specifications for approval. The Contractor shall not be required to maintain public lighting that has not been agreed with the developer and accepted in writing by the Authority.

# 8.0 DEFAULT AND TERMINATION

### 8.1 Force Majeure

- 8.1.1 Neither Party shall be liable to the other Party by reason of any failure or delay in performing its obligations under this Contract which is due to Force Majeure, where there is no practicable means available to the Party concerned to avoid such failure or delay.
- 8.1.2 If either Party becomes aware of any circumstances of Force Majeure which give rise to any such failure or delay, or which appear likely to do so, that Party shall promptly give notice of those circumstances as soon as practicable after becoming aware of them and shall inform the other Party of the period for which it estimates that the failure or delay will continue.
- 8.1.3 Any failure or delay by the Contractor in performing its obligations under this Contract which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, subcontractor or supplier is itself impeded in complying with an obligation to the Contractor by Force Majeure.

### 8.2 Termination on Default

- 8.2.1 Either party may terminate this Contract, or terminate the provision of any part of the Services, by written notice to the other party with immediate effect if that party is in default of any obligation under, or has breached any of the terms of, this Contract and:
  - has not remedied the default or breach to the satisfaction of the other party within 10 days, or such other period as may be specified, after service of written notice specifying the default or breach and requiring it to be remedied; or
  - (b) the default or breach is not capable of remedy.

# 8.3 Consequences of Termination

8.3.1 In the event of this Contract being determined whether by the effluxion of time or otherwise, the Authority shall pay to the Contractor all arrears of payment and any other sums due under the terms of this Contract. However, the Authority may set-off against such sums due to the Contractor, any sums due from the Contractor to the Authority.

# 9.0 DISPUTE RESOLUTION

- 9.1 The performance of the Services shall not cease or be delayed because of any dispute between the Parties.
- 9.2 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Contract.

# 10.0 LAW AND JURISDICTION

Executed on behalf of

This Contract shall be governed by and interpreted in accordance with the laws of the Isle of Man and shall be subject to the exclusive jurisdiction of the Isle of Man Courts.

IN WITNESS WHEREOF THIS CONTRACT HAS BEEN DULY EXECUTED BY THE PARTIES ON THE DAY MONTH AND YEAR FIRST BEFORE WRITTEN

Manx Utilities:		
J P Quaylo	Design Services Manager	29 April 2020 Date:
Executed on behalf of Port St Mary Commissioners by:		
	Position:	Date:
	Position:	Date:

# APPENDIX A

# PRICING SCHEDULE

As of 1 April 2020 the unit cost of energy will be 16.2 pence per unit, plus any fuel cost adjustment and VAT as applicable at the time of invoice. There is no standing charge applied to unmetered street lighting connections and Manx Utilities offer a 1.0% prompt payment discount on energy invoices. Manx Utilities will calculate energy consumption based on the number and type of street lights, the lighting regime and wattage in use at the time of invoice.

The Inspection charge per lamp, per 3 month period shall be £4.66 per installation. The maintenance charge per clock, per 3 month period shall be £2.42 per installation. The Repair charge referred to in Appendix B shall be £95.00 per installation, per activity.

Port St.Mary		
9 Clocks at £2.42	Sub Total (Per Quarter)	£1,242.70
262Lights at £4.66	VAT (Per Quarter)	£ 248.54
	Total (Per Quarter)	£1,491.24
	Annual Inspection Total (ex. VAT)	£4,970.80

#### APPENDIX B

#### SPECIFICATION OF SERVICES

### Section 1; Inspection

The Inspection fee includes: -

- (i) Bi-monthly visits to inspect clocks and public lights controlled by clocks.
- (ii) Inspection months shall be May, July, September, November, January, and March
- (iii) Attend to faulty lights as detailed (A-H) below either identified during inspection visits or reported by the public or local authority office within 14 days, although Manx Utilities will use reasonable endeavour to make repairs as rapidly as possible on a priority basis.
  - A. Day Burning
  - B. Street Lighting Door Open / Off
  - C. Fitting loose on column
  - D. Lamp Dim
  - E. Lamp Flashing
  - F. Lamp out
  - G. Shade Off
  - H. Timing Out
- (iv) Development and technical guidance for street lighting Improvement schemes / strategies in line with British Standards and Local Authority Lighting Policy.
- (v) Provision of lighting calculations and design reports.
- (vi) Specification, technical review and procurement of electrical components and street lighting equipment to enable repairs and upgrades.
- (vii) Maintenance and repair of Manx Utilities supply equipment within street light pillars.
- (viii) Asset numbering and geographical recording of street lighting assets
- (ix) Maintenance of, and updates to Manx Utilities street light asset management database and reports.
- (x) Provision of street lighting plans, up to date asset information and burn regimes as required.
- (xi) Coordination of maintenance works and activities.
- (xii) Management and logging of reported faulted street lights reported during inspection visits and externally reported faults via digital media, DOI reporter app and and/or reports via direct communications.

- (xiii) Maintenance of clock(s) including two clock changes per year to account for change of seasons.
- (xiv) Periodic visual structural inspections of columns, brackets and arms

# Section 2; Repairs

The repair charge includes: -

- Replacement of faulty electrical components that make up the lighting installation as follows:
  - a) Lamps
  - b) Ballasts, both electronic and conventional
  - c) Igniters
  - d) Photo-cell units, both electrical and micro-processor controlled
  - e) Time clocks, both electrical and micro-processor controlled
  - f) Capacitors
  - g) Fuses
  - h) Replacement Street light column doors
  - i) Lamp Shorting plugs
- (ii) Repairs incurred as a result of inspection visits or reported faults shall incur an additional charge as detailed in Appendix A and will be undertaken autonomously unless otherwise requested by the authority in writing.

### Section 3; Exclusions

The inspection and repair charges in this agreement do not cover: -

- The repair of brackets and supports where lamps are installed on Manx Utilities poles or wall mounted.
- (ii) Lighting column replacement and street light lantern repair either due to corrosion, wear, environmental damage or other third-party damage or negligence.
- (iii) Replacement and repair of wooden pole mounted bracket arms or supports due to corrosion, wear, environmental damage or other third-party damage or negligence.
- (iv) Repairs to non- Manx Utilities Street lighting cables due to third party damage or faults, unless the cable forms part of the Manx Utilities mains cable network.
- (v) Repairs or replacement of non- Manx Utilities street light pillars.
- (vi) Fully automatic photo-cell controlled lights will not be subject to the monthly inspection, but will be maintained as required.
- (vii) Additional costs incurred to access columns using scaffolding or other unusual means where access is restricted on an exceptional basis.

- (viii) Additional costs incurred for required traffic management to undertake repair works on the authority's assets.
- (ix) The removal of vegetative growth where this affects access to, or the function of, a street light asset covered by the provisions of this contract.

Manx Utilities use a limited range of recommended columns and lanterns in order to minimise costs, if Local Authorities wish to change the type or pattern of any items of equipment, this will require special ordering arrangements and may attract additional costs for installation and incur delays in receiving replacement parts.

# APPENDIX D

# **VARIATION TO CONTRACT FORM**

CONT	RACT TITLE: Public Lighting	
FOR 7	THE PROVISION OF: Maintenance of P	ublic Lighting Equipment
CONT	RACT REF:VARIAT	TION No: DATE: / /
BETW	/EEN:	
Man	x Utilities and Port St.Mary	
1	The Contract is varied as follows with effe	ect from:
2	Words and expressions in this Variation Contract.	shall have the meanings given to them in the
3	The Contract, including any previous Vaexcept as amended by this Variation.	ariations, shall remain effective and unaltered
SIGNE	D:	
For: T	he Authority	For: Manx Utilities
Ву:		Ву:
Full Na	ame:	Full Name:
Title:		Title:
Date:		Date:

# **APPENDIX E**

# SCHEDULE OF RATES FOR ADDITIONAL WORKS

The following schedule of rates provides the authority with estimated pricing for typical street light works which may be required in addition to the standard terms of the maintenance contract.

The new electricity service connection charge is currently £720.00; this is reviewed annually on  $1^{st}$  April.

# Appendix E Estimated Costs 2020 / 2021

Item	New Column and Street Light Fitting	£
1	6m Column and Axia 3.1 Fitting, Inc. Network Connection and Civils	£1,698.00
2	6m Column and Pilzeo Fitting, Inc. Network Connection and Civils	£1,938.00
3	6m Folding Column and Axia 3.1 Fitting, Inc. Network Connection and Civils	£2,103.00
4	6m Folding Column and Pilzeo Fitting, Inc. Network Connection and Civils	£2,343.00
5	8m Column and Axia 3.2 LED Fitting, Inc. Network Connection and Civils	£1,959.00
6	10m Column and Axia 3.3 LED Fittng, Inc. Network Connection and Civils	£2,034.00
ltem	New Column Only	£
7	6m Column Only ,Inc. Network Connection and Civils	£1,375.00
8	6m Folding Column Only, Inc. Network Connection and Civils	£1,968.00
9	8m Column Only, Inc. Network Connection and Civils	£1,570.00
10	10m Column Only, Inc. Network Connection and Civils	£1,696.00
ltem	Street Light Fititng Only inc. flex & Install	£
11	Axia 3.1 LED Fitting Only, Inc. Installation	£ 323.00
12	Axia 3.2 LED Fitting Only, Inc. Installation	£ 368.00
13	Axia 3.3 LED Fitting Only, Inc. Installation	£ 373.00
14	Urbis LED Pilzeo Fitting Only, Inc. Installation	£ 563.00
ltem	Wooden Pole Mounted Street Lights	£
15	Axia 3.1 and 1m Pole Arm, Inc. Installation	£ 649.00
16	Axia 3.2 and 1m Pole Arm, Inc. Installation	£ 694.00
17	Axia 3.2 LED Fitting on 1m Pole Arm with Clock and Photocell, Inc. Installation	£1,050.00
18	Replacement 1m Pole Arm, Inc. Installation	£ 425.00
ltem	Miscellanious	£
19	Digital Clock And Installation	£ 329.00
20	Single Pole Mounted Power Supply Socket, Inc. Installation	£ 553.00
21	Painting of Street Lighting Column	£ 76.00

# ALL ESTIMATES ABOVE EXCLUDE VAT @ 20%

Manx Utilities reserve the right to review the estimate schedule when required due to significant material or labour price increase.

Any additional civil work other than a standard joint hole excavation must be estimated separately by a Manx Utilities site engineer and written agreement with the Local Authority must be obtained before the additional civil works progress. The Local Authority will be responsible for the provision of any Wayleaves or permissions that may be required in order to complete such work.

The columns and fittings allowed are a Manx Utilities standard i.e. Urbis AXIA 3/Pilzeo range fittings and Valmont Stainton standard columns. Manx Utilities continue to review their standard lighting fittings and columns.

ALL public lighting pillar installations will be priced separately to columns and fittings at the time of application.

ALL requests for Period columns and fittings MUST be priced separately at the time of application as they are of significantly higher material cost.

Request for work to be completed must be in written form on official headed paper or email and authorised by the Local Authority designated official "Clerk" or "Technical Officer". Any request from individual commissioners will be directed back to their "Designated Official" for approval.

NB Manx Utilities scope of supply is based on either a full service connection using the rates as above OR Manx Utilities will provide a new service or service transfers only.

If the Authority wishes to install their own privately purchased equipment at their own cost then Manx Utilities involvement will be limited to service transfers only, unless otherwise agreed by Manx Utilities in exceptional circumstances. Maintenance of these fixtures will be the responsibility of the Authority as Manx Utilities may not stock spares or replacement parts for such items.

Standard conditions of employment for Local Authority CS56LA applies to all applications.

### **MEETING DATES FOR 2020 - 2021**

2020 Meeting Dates			
8 <sup>th</sup> July 2020	Notice to be issued by 3 <sup>rd</sup> July if meeting required		
22 <sup>nd</sup> July 2020			
12 <sup>th</sup> August 2020	Notice to be issued by 7 <sup>th</sup> August if meeting required		
26 <sup>th</sup> August 2020			
9 <sup>th</sup> September 2020	Notice to be issued by 4 <sup>th</sup> September if meeting required		
23 <sup>rd</sup> September 2020			
14 <sup>th</sup> October 2020	Notice to be issued by 9 <sup>th</sup> October if meeting required		
28 <sup>th</sup> October 2020			
11 <sup>th</sup> November 2020	Notice to be issued by 6 <sup>th</sup> November if meeting required		
25 <sup>th</sup> November 2020			
9 <sup>th</sup> December 2020	Only 1 meeting held in December		
13 <sup>th</sup> January 2021	Notice to be issued by 8 <sup>th</sup> January if meeting required		
27 <sup>th</sup> January 2021			
10 <sup>th</sup> February 2021	Notice to be issued by 5 <sup>th</sup> February if meeting required		
24 <sup>th</sup> February 2021			
10 <sup>th</sup> March 2021	Notice to be issued by 5 <sup>th</sup> March if meeting required		
24 <sup>th</sup> March 2021			
14 <sup>th</sup> April 2021	Notice to be issued by 9 <sup>th</sup> April if meeting required		
28 <sup>th</sup> April 2021			

### PORT ST MARY COMMISSIONERS

### **PUBLIC CONSULTATIONS**

Subject: DEFA Bathing Water Consultation for Local Authorities

Dear All,

The Department of Environment, Food and Agriculture gained Tynwald approval in December 2019 to introduce the 2006 EU Bathing Water Directive Standards to the Isle of Man. The next phase of implementing this strategy is to seek the views of Local Authorities on the proposed process for the designation of bathing beaches.

The consultation document is attached along with the draft application form and guidance notes and DEFA would very much welcome the views of local authorities on these documents.

To allow sufficient time for each local authority to circulate all of the documents to board members and collate all comments we will open the consultation for an extended period of 8 weeks. Please advise if you would like any longer than this.

Please can all responses be emailed or posted back to the Environmental Protection Unit (environmentalprotection@gov.im) by 17:00 on Tuesday 14<sup>th</sup> July 2020.

All of the responses will be collated and discussed to assist the implementation of the bathing water standards for the 2021 bathing season and a summary of the outcome of the consultation will be available within 6 weeks of the closing date.

If you require any hard copies of the consultation documents to send to board members please reply to this email and DEFA would be please to arrange this.

Thank you and look forward to receiving your views in due course.

Kind Regards,

Danielle Coombes

**Environmental Protection Officer** 



Reiltys Ellan Vannin

# Consultation on the Bathing Water Strategy Implementation



**Department of Environment, Food and Agriculture** 

Rheynn Chymmltaght, Bee as Eirinys

Consultation Paper
May 2020

### Part 1 - Introduction

### 1. Background

### 1.1. History

In March 2018 the Environment and Infrastructure Policy Review Committee made a series of recommendations on future sewerage infrastructure options and how they might impact on Isle of Man bathing water quality in its report "First report 2017-18; Regional Sewage Treatment Strategy, Phase 2".

Within this report were two recommendations, subsequently agreed by Tynwald, which are f direct relevance to DEFA:

### Recommendation 5 (as amended at Tynwald Court 15th May 2018)

Provision must be made to adopt the 2006 EU Bathing Water Directive as an objective as supported by Tynwald in March 2016 and that necessary implementation work should be completed in accordance with a time bound plan agreed upon consideration of the scoping paper referred to in Recommendation 6.

### Recommendation 6

We recommend that the MUA and DEFA work together to produce a scoping report of what is needed to comply with the 2006 EU Bathing Water Directive, and report back to Tynwald by November 2018.

In October 2018 DEFA and MU responded to the E&I Policy Review Committee First Report through an "Interim Scoping Report of what is needed to comply with the 2006 EU Bathing Water Directive".

In October 2018 DEFA and Manx Utilities (MU) responded to the E&I Policy Review Committee report through an "Interim Scoping Report of what is needed to comply with the EU 2006 Bathing Water Directive". This report provided an outline of the work required to ensure the Isle of Man achieves compliance with the standards specified in the 2006 Bathing Water Directive.

Within the report, the Strategy for Delivery section included a target of November 2019 to "secure Tynwald approval to adopt bathing water quality standards based on the public health parameters contained in the 2006 Bathing Water Quality Directive and on a strategy for delivering those standards". The UK consultant APEM was appointed by DEFA in August 2019 to develop this strategy with Phase 1 being approved by Tynwald in December 2019.

### 1.2. Legal Framework

The Water Pollution Act 1993 will be used to introduce a new classification scheme for all controlled waters including bathing waters which will go to Tynwald in December 2020 for approval.

### 1.3. Bathing Water Strategy

The bathing water strategy document outlines recommendations for DEFA and MU to develop the procedures and collate evidence for the adoption of the 2006 Directive standards. This document has been approved by Tynwald in December 2019.

The bathing water season is defined within the strategy as the start of May to mid-September keeping with the existing bathing season on the Isle of Man.

DEFA will undertake the following for designated bathing waters;

- receive all application forms from Local Authorities and designate bathing waters as applicable,
- Monitor all designated bathing waters weekly within the bathing water season,
- Produce bathing water profiles on the Government website for the public to access for each designated bathing water,
- Develop signage for all designated bathing waters for the beach controller to place in an appropriate location to inform the public; this will include a QR code to easily access the Government webpage,
- Classify a bathing water at the end of each bathing season and investigate any non-compliance during the bathing water season via pollution investigations.

For a bathing water to be designated the Local Authority will need to agree to act as the beach controller. The role of the beach controller is to ensure the required information is displayed within the vicinity of the designated bathing water. Controllers do not have any responsibility for water quality.

The information provided at all designated bathing waters will allow the public to make informed choices about where and when to bathe. There will be additional information on all of the signs advising against bathing for 48 hours after adverse weather and to practice good hygiene after entering the marine environment.

### 2. Objectives

This consultation document has the following objectives;

- To seek views from local authorities on designating bathing waters on the Isle of Man
- To keep local authorities updated on the progress with implementing the bathing water strategy as approved by Tynwald in December 2019.
- To raise awareness of the roles which DEFA will be undertaking in the future when bathing waters are monitored against the 2006 bathing water standards in 2021

### Part 2 - The Consultation

**9** | Page

The Department of Environment, Food and Agriculture is seeking views on implementing the bathing water strategy which was approved by Tynwald in December 2019 and to be implemented for the 2021 bathing season.

The Department welcomes your responses to the following questions along with any additional comments on the proposals that you consider may be of relevance.

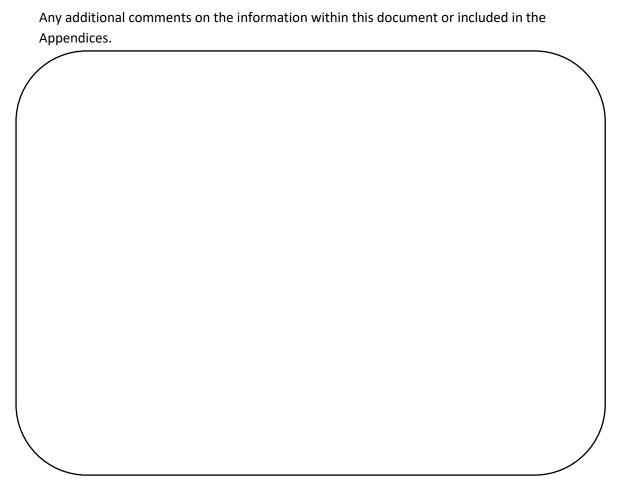
	with other board				
Question 2					
	each within your co	onstituency y	ou would like de	esignated as a bat	hing water?

### **Question 3**

<u>question s</u>
Are you as a Local Authority willing to act as the beach controller as recommended by the Bathing Water Strategy?
The role of the beach controller is to ensure the required information is displayed within the vicinity of the designated bathing water. Controllers do not have any responsibility for water quality. DEFA will undertake the monitoring programme and provide the beach signage, bath water profiles and investigate any pollution which may be causing a failure at the designated bathing water.
Question 4
Do you think there should be a requirement for specific facilities to be provided for a bathing water to be designated? Please provide an explanation; some facilities may include toilets, showers, cafes/restaurants/shops.

# Question 5 Please tell us your thoughts on Appendices 1 and 2 which are the draft application form and guidance notes.

### **Question 6**



Please note the following appendices to this consultation;

- Appendix 1 Draft bathing water designation application form
- Appendix 2 Draft bathing water designation guidance notes

### 3. Next Steps

Following this consultation, the information below details the next steps to apply for formal designation of a bathing water for the 2021 bathing season (start of May to mid-September).

- DEFA will send out application forms to all Local Authorities in August 2020.
- The deadline for Local Authorities to apply for bathing water designation will be **November 2020** however if DEFA receive the application forms earlier work will begin sooner.
- Bathing water profiles and beach signage will be developed by DEFA for all designated bathing waters between December 2020 and April 2021.
- For the 2021 bathing season (start of May to mid-September) monitoring will be undertaken
  at all designated bathing waters by DEFA and it will be assessed using the 2006 Bathing
  Water standard.
- Any non-compliance with the standard will be investigated by DEFA to improve the bathing water quality at the designated area.
- Local authorities will need to act as the beach controller.

### 4. Feedback to the consultation

### 4.1. Responses

Responses should be sent in writing or by email to:-

**Bathing Water Strategy Consultation** 

**Environmental Protection Unit** 

**Environment Directorate** 

Department of Environment, Food and Agriculture

Foxdale Road

St Johns

Isle of Man

IM43AS

Email - environmentalprotection@gov.im

Should you require a paper copy of the consultation document please contact the Environmental Protection Unit at <a href="mailto:environmentalprotection@gov.im">environmentalprotection@gov.im</a> or on 01624 685885.

Copies of this document may be downloaded from the Isle of Man Government website at https://consult.gov.im

It is important to note these proposals have been prepared for the purposes of consultation and that further refinement may take place in the light of responses received.

The closing date for the receipt of comments is 17:00 on Tuesday 14th July 2020.

Unless specifically requested otherwise (see below), responses received may be published either in part or in their entirety, together with the name of the person or body submitting the response. If you are responding on behalf of a group, it would be helpful to make your position clear. To ensure that the process is open and honest responses can only be accepted if you provide your full name with your response.

It may be useful when giving your feedback to make reference to the specific proposal(s) set out in the document that you wish to comment on/discuss.

The purpose of consultation is not to be a referendum. It is an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy. As with any consultation exercise, the responses received do not guarantee changes will be made to what has been proposed.

### 4.2. Other information

If you have any views or observations or there is some point of clarification you would like to receive in relation to the topics in this document or any other issue related to the subject of the consultation you are invited to submit these in writing to:

### **Environmental Protection Unit**

Department of Environment, Food & Agriculture Thie Slieau Whallian Foxdale Road St John's IM4 3AS

Email: <a href="mailto:environmentalprotection@gov.im">environmentalprotection@gov.im</a>

### 4.3. Confidentiality

In line with DEFA's policy of openness, at the end of the consultation period copies of the responses we receive may be published in a summary of the responses to this consultation. **If you do not consent to this, you must clearly request that your response be treated as confidential.** Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. Respondents should also be aware that there may be circumstances in which DEFA will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2015.

### 4.4. Handling Results

A summary of responses will be posted on the Department's website within 3 months of the close of the consultation period and will also be available from the Tynwald library and the Department's head office. Information received will be dealt with in accordance with the access to information regimes. These are primarily the Public Engagement and Consultation Principles and the Code of Practice on Access to Information.

This consultation follows the Isle of Man Government Public Engagement and Consultation Principles (October 2017). If you have any comments on how this consultation has been carried out, please contact Mr Richard Lole, Chief Executive of DEFA, at the Department's head offices in St Johns.



### Department of Environment, Food and Agriculture

Rheynn Chymmyltaght, Bee as Eirinys

Environmental Protection Unit Environment Directorate Thie Slieau Whallian Foxdale Road St Johns Isle of Man IM4 3AS Tel: (01624) 685885

**Bathing Water Designation Guidance Notes** 

In December 2019 Tynwald approved the Bathing Water Strategy which was developed by the Department of Environment, Food and Agriculture and Manx Utilities.

The bathing water strategy proposes bathing waters in the Isle of Man be designated and monitored throughout the bathing season which has been agreed as the start of May to mid-September.

Local authorities are invited to apply for designation of bathing water status for beaches within their constituency. The application process requires information to be provided on the approximate number of beach users throughout the defined bathing season; the facilities within 1 mile of the designated bathing water and details of any community environmental awareness activities in place to increase the protection of water quality.

If a bathing water application is approved the Local Authority will have the responsibility of beach controller. If the land is not owned by the Local Authority, please indicate on the application form that the landowner has been contacted and has given permission for the application to be submitted to the Department.

The beach controller is required to control the land immediately adjacent to the bathing water which is normally used to access the bathing water from the landward side and where the bathing water is tidal, control of such land above the high tide mark. This includes ensuring all the required information is displayed within the vicinity of the designated bathing water. Controllers do not have any responsibility for water quality. Monitoring and investigations will be undertaken by DEFA during the bathing season (start of May to mid-September).

### **Completion of application form**

On the application form please provide details of the following aspects to support the bathing water designation application.

- 1. Facilities at the Bathing Area
  - Public toilets
  - Changing facilities
  - Parking
  - First aid services
  - Kiosks and shops
  - Access facilities
- 2. The approximate number of beach users during the bathing season
- 3. The type of beach users e.g. swimmers, paddle boarders, kayakers
- Details of any charity events held at the bathing water e.g. Beach Buddies or Manx Wildlife Trust events

1 | Page

Please note it is not compulsory for these facilities to be provided, however their presence provides evidence that there is infrastructure in place to support and promote bathing.

### Submit your application

Please submit the completed beach designation application form to the address below for consideration;

Environmental Protection Unit Department of Environment, Food and Agriculture Thie Slieau Whallian Foxdale Road St Johns IM4 3AS

Or email it to environmental protection@gov.im

### What happens next?

DEFA will consult with Manx Utilities to determine whether there is the necessary infrastructure in place to support a bathing water designation application. Necessary infrastructure includes appropriate treatment of foul water and modelling of any discharges into the area.

DEFA will make the final decision on designations.

The Local Authority will be notified by DEFA of the outcome of its beach designation application within 3 months and include details of the process thereafter.

If the designation application is not successful, the Local Authority will be informed of the reasons for this and advise on what is required in order to achieve successful designation.

### If the site is designated

DEFA will develop a bathing water profile, beach signage and put plans in place to monitor and protect the bathing water.

A list of all designated bathing waters will be published on the Government webpage and monitoring data will be uploaded to the site on a weekly basis throughout the defined bathing season (start of May to mid-September).

### **Process and outline timescale**

- 1. Application and evidence received by DEFA and acknowledged.
- DEFA will assess the information provided by the Local Authority and discuss it with Manx Utilities to ensure the necessary infrastructure is in place.
- If more information is required to progress the application DEFA will contact the Local authorities and advise them of the information required in order to progress the application.
- DEFA will make the final decision and will feedback any concerns or comments to the Local Authority to be addressed.

At any point in the process DEFA may ask the applicant to provide additional information.

Version 1.0



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

Rheynn Chymmyltaght, Bee as Eirinys

## **Bathing Water Designation Application Form**

Please write clearly in	black ink a	nd use BLC	OCK CAPITALS.	For Official Use Only File Ref:
Name of Beach				
Local Authority				
Address				
Contact Number				
Email				
Do you (the Local Aut If the land is not own provide evidence that been contacted and g submit this application Please indicate if the	ed by you, the landow iven permis n. ne followin	please uner has ssion to	s are within 1 m	nile of the bathing water
Toilets	Tick	Location		
Showers				
Cafes/restaurants				
Shops				
Recycling Facilities				
water which is normal where the bathing wa includes ensuring all t	s required to a lly used to a ter is tidal, he required	co control the cocess the to control of sometime information.	pathing water fron such land above the n is displayed with	ly adjacent to the bathing on the landward side and he high tide mark. This hin the vicinity of the sibility for water quality.

Monitoring and investigations will be undertaken by DEFA during the bathing season

(start of May to mid-September).

# Please provide details of how your beach is regularly used

Additional Comments	
Mala Mala Mala Mala Mala Mala Mala Mala	
Deci	aration
I. I/We apply for the designation of the b Nater Pollution Act (1993) as described in	athing water mentioned above under the attachments.
2. I/We confirm that the Government will his application which might be material to	be informed of any changes in information in the designation of a bathing water.
3. I/We confirm that the local authority with the location mentioned above is designated.	ill accept the role of the 'beach controller' if ed as a bathing water.
Signed	Print Name
Position at Local Authority	Date

### **PORT ST MARY COMMISSIONERS**

### **PUBLIC CONSULTATIONS**





### **Introduction by Minister of Infrastructure**

Currently the Isle of Man does not have any formal regulation of the private rented sector other than enforcement of habitation standards which are overseen by the Environmental Health Team of the Department for Environment, Food and Agriculture on behalf of the Island's Local Authorities.

According to the last census of 2011 the private housing rental sector provides homes for about 16% of the population, equivalent to about 5,750 homes.

Whilst I have no doubt that the vast majority of landlords provide a good service and decent accommodation, there are unfortunately a number of privately rented properties which are in a substandard condition, and are often housing some of the most vulnerable in our society. It is important that as a nation, we are able to support the sector as it provides accommodation for so many people.

Bringing forward this Landlord Registration Bill will enable the Government to know which private landlords are operating on the Island, to collect the details on the number and location of privately rented properties and to bring about a consistent standard within the sector to benefit both landlord and tenant in the longer term.

I would strongly urge you to take the time to read the draft Bill and use this consultation as your opportunity to voice your opinion.

I welcome your feedback.

Hon Tim Baker MHK

Minister for Infrastructure

### Why we are consulting

The purpose of this consultation is to invite comments on the Landlord Registration (Private Housing) Bill 2020.

### **Background**

Isle of Man 2011 Census data indicated that around 16% of households on the Island are in the private rental sector.

Whilst the majority of those households are likely to be living in acceptable and appropriate housing with amenable landlord and tenant relationships, unfortunately there are a number of private sector rented properties which are known to be in poor repair and do not achieve standards of basic decency.

Since 2013 there has been a voluntary registration scheme and this has developed into a register of over 131 landlords with 334 properties. However this figure falls well short of the anticipated total, meaning that the true profile of the sector is unknown.

### Isle of Man Government's Programme for Government

Landlord Registration supports the Programme for Government theme 'Inclusive and Caring Island', and the outcome 'We have affordable and accessible housing which meets our social and economic needs, in particular as part of the enabling work to progress a rent deposit protection mechanism'. Without the detailed knowledge of the private rental market via landlord registration it would be difficult to progress and enforce deposit protection.

A related outcome of the Programme for Government 'We are tackling the inequalities in our Island society' is that the Treasury, via Social Security benefits, pays rent to many private sector landlords. It is estimated that as of 2019 approximately £4.5m per annum is being paid to private sector landlords specifically for housing costs without any guarantee or knowledge of the quality of accommodation being provided.

### **How to complete the Consultation**

A survey is available for you to complete and has been designed to follow the sections of the Bill as they are listed in the Index. For ease of reference, links to parts of the Bill relating to each section or other relevant information, such as the Minimum Standards Regulations, will be provided throughout the online survey.

The consultation can be completed online via the Consultation Hub (consult.gov.im) or alternatively by post or email to:

By post: Carrie Yates, Business Support Manager, 1st Floor Sea Terminal, Douglas, Isle of Man, IM1 2RF

By email: landlordregistration@gov.im

The consultation should be read in conjunction with the following documentation:

- Appendix A Draft Landlord Registration (Private Housing) Bill 2020
- Appendix B Draft Minimum Standards Regulations
- Appendix C Enforcement Divisions Summary Table

In the event you do not have access to the internet, or would prefer a hard copy, please contact the above address and likewise if you require assistance to complete the consultation.

### The closing date for responses is 5pm on Monday 27th July 2020

### What will happen next?

After the consultation, the responses will be considered by the Department and any necessary amendments will be made to the draft Bill before being finalised and laid before Tynwald.

A summary of the responses will be posted on the Consultation Hub once they have been reviewed.

# **Consultation Survey Personal Information** Q1. What is your name? Q2. Can we publish your response? Yes, you can publish my response in full Yes, you can publish my response anonymously No, please do not publish my response Please read our Privacy Policy (https://www.gov.im/about-the-government/departments/cabinetoffice/privacy-notice/) for more details and your rights. Q3. What is your email address? Q4. If you are completing the survey as an individual, please select the category that describes you best (please select one option) Politician (national) Politician (local) Private Landlord Homeowner Tenant (private sector) Health or Welfare Professional Tenant (public sector) Other (please specify) Q5. If you are completing the survey on behalf of an organisation, please provide the name of the organisation. 5

Q6. What typ	e of organisation do you represent? (Please select one option)  Local Authority
	Private Sector Letting Agent
	Private Sector Tenant Association or Group
	3 <sup>rd</sup> Sector Housing Charity
	Other (please specify)

Please continue to the consultation survey



### Landlord Registration (Private Housing) Bill 2020

### Part 1 - Introductory (pages 5 - 9 of the Bill)

The Introductory section of the Bill sets out the general objectives of the Bill, including when it will commence and definitions of technical terms used.

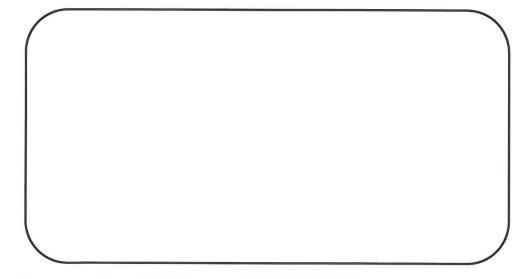
In summary, the Bill will provide for:

- The creation of a register of landlords that rent out privately owned property;
- · Enforcement of minimum standards relating to both a registered landlord and the property;
- The creation and regulation of a rent deposit protection scheme, and
- · Monitoring of the private rented sector.

Certain provisions of the Bill, in particular, the regulation and protection of occupancy (rent) deposits, may be implemented at a later date to be decided by the Department; however, your views are being sought now in order to help determine how they may work in practice and to provide the opportunity for early engagement in any future policy development.

This part of the Bill also describes what is meant by 'property management activity' which includes activities undertaken by the registered landlord or their representative in connection with an occupier's occupancy or intended occupancy of a rented dwelling; the activity requires direct contact between the landlord or their representative and the occupier or member of their household and includes things such as property viewings with prospective tenants and making arrangements to carry out repairs.

If you wish to make any comments on the introductory section of the Bill, please provide them in the box below:



### Part 2 - The Register and Registration (pages 9 - 25 of the Bill)

The Department will establish and maintain a register for all private landlords and each of their rented properties.

A relevant landlord is defined as a person who, under a lease or licence, grants an occupier the right to occupy a private dwelling or part of a private dwelling for a term in exchange for the payment of rent.

What follows is a summary of the provisions as set out in detail in the Bill.

### **Relevant Landlords**

A relevant landlord is defined as a landlord of a rented dwelling who is registered, or required to be registered, under clause 7 (1) of the Bill, and therefore does not meet any of the exceptions to registrations as listed below. When the Landlord Registration Bill comes into force relevant landlords will be required to apply for registration to the Department in order to legally operate as a landlord in the Isle of Man.

There are some exceptions and deferrals from registration for example, business tenancies and agricultural holdings. A full list of exceptions can be found at page 10 of the Bill.

### **Personal Conduct Requirements**

In order to become registered, landlords must reside permanently in the Isle of Man (or else must appoint a satisfactory representative). Registered landlords or their nominated representative must meet the following Personal Conduct Requirements:

Has not committed any offences involving fraud, dishonesty, violence, firearms, drugs or any offences under the Sexual Offences Act 1992	No evidence of practicing unlawful discrimination, harassment or victimisation on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation
No contravention or offences under housing related law within 3 years prior to application	Any other matter the Department considers relevant to the circumstances including any offences committed within other countries or jurisdictions.

### **Registration requirements**

In order to qualify for registration a landlord must meet the required Personal Conduct Requirements, and their properties and tenancy management activities must meet the Minimum Standards (Part 3 of the Bill). A landlord's registration will be subject to a fee and will last for a period of 5 years before it will require renewal. In order to obtain registration landlords will complete an application form, provide supporting documentation and sign a declaration to confirm

that they are providing true information and that their properties are being let to the required standards.

### Landlord's appointed representative

Landlords who do not ordinarily reside in the Isle of Man are required to nominate a representative, who must be accepted by the Department, to carry out all of their property and tenancy management duties. The representative must meet all of the Personal Conduct Requirements.

### The Voluntary Landlord Registration Scheme

Q7. Are the personal conduct requirements reasonable?

Landlords currently registered on the Voluntary Landlords Registration Scheme will automatically be treated as registered, as will any rented dwellings they have registered (when the Landlord Registration Bill is passed). The automatic move to the mandatory scheme will be subject to that Landlord completing a declaration of agreement within six months of their registration being transferred under the new legislation.

### Changes during registration period

Landlords will be required to notify the Department of any changes to their personal details, property details, changes of property ownership or the details of any appointed representatives. A full list of changes can be found on pages 22 to 23 of the Bill.

### **Disclosure of Registration**

Landlords will be required to include their unique landlord registration number in advertisements of properties to let to demonstrate that they are registered.

	YES	
	NO	
If you have an	swered 'No' please specify your reason here:	

	and the state of t
Q8. The Bill states that a landlord's period of registrati renewed. Is this a reasonable time period?	on is 5 years, after which it must be
YES	
NO	
If you have answered 'No' please specify your reason	here:
If you wish to make any further comments about the please do so here:	Register and Registration section of the Bill,

### Part 3 - Minimum Standards (pages 25 - 27 of the Bill)

A series of Minimum Standards Regulations (**Appendix B**) will be applied to the landlord's management and operation, and property portfolio. The Minimum Standards Regulations are a supporting regulation of the Landlord Registration Bill.

These standards will be in addition to existing regulations and duties under fire safety, flats, and houses in multiple occupation legislation covered in The Local Government Act 1985 and The Housing Act 1955.

### Minimum Standards for Landlords

The Regulations state that a landlord must meet a range of minimum standards which cover requirements for the tenancy agreement, for example, requirements for a rent book or similar style of record keeping and an itemised inventory of items to be used by an occupant.

The landlord is also required to keep records of their tenancy management such as occupancy records and records of complaints.

A relevant landlord must not discriminate against occupiers or prospective occupiers on the grounds of any of the protected characteristics linked to the Equality Act 2017.

### **Minimum Property Standards**

These are standards that registered landlords must ensure that their properties comply with. The standards are listed in Schedule 2 of the Minimum Standards Regulations.

### **Safety Standards**

Schedule 3 of the Minimum Standards Regulations lists the safety standards that landlords are required to adhere to. This includes, for example, safety standards for electrical, gas, oil and solid fuel installations and appliances and the frequency at which the safety of these appliances should be reviewed or serviced.

It will be necessary for landlords to retain records of the servicing and maintenance of these installations and appliances for at least six years and copies of these certificates may be requested by an authorised officer of the Department.

If you wish to add any comment	s about the Minimum Standards (Regulations), please do so here:

### Part 4 - Enforcement (pages 27 - 42)

The Enforcement section of the Bill is set out into five divisions. **Appendix C** (Enforcement Division Summary Table), explains what each Division covers and the enforcement action that could be taken. Special regard should be taken of this section of the Bill.

The landlord or their representative is initially given an opportunity to remedy the situation within an agreed timeframe. Failure to comply with the notice may lead to further action being taken by the Department and/or court action which may lead to revocation of registration, disqualification for up to five years or in extreme cases, a fine and/or imprisonment for the most serious offences.

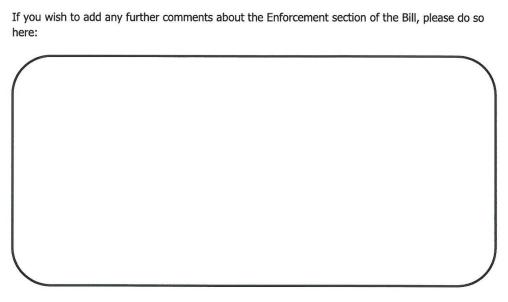
Other legislation provisions of Local Government Act 1985 and Housing Act 1955 may be used and will override the terms of the Landlord Registration Bill in cases that are applicable.

Q9. Division 1 reasonable?	relates to registration. Do you think the provisions in this Division	on are fair and
	YES	
	NO	
If you wish to	add any further comments, please do so here:	
Q10. Division and reasonable	2 relates to Minimum Standards. Do you think the provisions in the?	this Division are fair
	YES	
	NO	
If you wish to	add any further comments, please do so here:	

12

Q11. Division 3 relates to Breaches of Registration Requirements. Do you think the provisions in this Division are fair and reasonable?	
this bivision are fair and reasonable:	
YES	
NO	
If you wish to add any further comments, please do so here:	
Q12. Division 4 relates to Revocation of Registration. Do you think the provisions in this Division are fair and reasonable?	
YES	
NO	
If you wish to add any further comments, please do so here:	
Q13. Division 5 relates to other enforcement action. Do you think the provisions in this Division are fair and reasonable?	
YES	
NO	
13	

		nents, please do so here:		
O14 One of the	notential penalties i	s that a Landlord who fa	ils to comply with	an improvement
notice, may be	subject to legal action	n with the maximum per s fair and reasonable?	nalty of 12 months	s' custody and a fine
Υ	/ES			
N	NO			
If you wish to a	dd any further comm	nents, please do so here:		
Q15. An option to legal action w	is that a Landlord wh	no fails to comply with ar	ı improvement no	tice, may be subject
to legal action w	vith disqualification u	no fails to comply with ar p to five years. Do you t	ı improvement no hink this is fair an	tice, may be subject d reasonable?
to legal action w	is that a Landlord wh vith disqualification u	no fails to comply with ar p to five years. Do you t	ı improvement no hink this is fair an	tice, may be subject d reasonable?
to legal action w	vith disqualification u	no fails to comply with ar p to five years. Do you t	ı improvement no hink this is fair an	tice, may be subject d reasonable?
to legal action w Y N	vith disqualification u 'ES IO	no fails to comply with ar p to five years. Do you t estion, please specify yo	hink this is fair an	tice, may be subject d reasonable?
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to legal action w Y N	vith disqualification u 'ES IO	p to five years. Do you t	hink this is fair an	tice, may be subject d reasonable?
to legal action w Y N	vith disqualification u 'ES IO	p to five years. Do you t	hink this is fair an	tice, may be subject d reasonable?



### Part 5 – Appeals (pages 43 – 46)

The Appeals section of the Bill sets out the process by which a relevant landlord may appeal a decision made against them.

### **Decisions subject to appeal**

The following Departmental decisions are subject to appeal by a landlord:

- Refusal to grant a registration to a relevant landlord
- · Refusal to grant a registration of a rented dwelling
- A decision to impose conditions on the registration of the relevant landlord or rented dwelling
- A decision to issue a notice of non-registration to the relevant landlord
- A decision to issue an improvement notice relating to the minimum standards or regarding the period within which such a notice must be complied with
- A decision to issue a notice regarding personal conduct requirements
- A decision to revoke the registration of the relevant landlord or the landlord's registration for a rented dwelling

### **Application and appeal to the Commissioners**

A landlord must make an appeal to the Isle of Man Rent and Rating Appeal Commissioners ("the Commissioners") against a notice issued by the Department within 21 days of receipt of the notice.

On determination of the appeal, the Commissioners may confirm, vary or revoke the decision appealed against by the landlord. Their decision is binding on the landlord and the Department; however both parties may appeal to the High Court in certain circumstances.

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Q16. Do you agree with what is on the list of decisions that are subject to appeal?  YES
NO
If you wish to add any further comments, please do so here:
If you wish to add any further comments about the Appeals section of the Bill, please do so here:
Part 6 — Occupancy Deposit Regulation and Protection (pages 46 — 47)
It is the intention of the Department that a Deposit Protection Scheme should be established in the Isle of Man following approval of the Landlord Registration Bill.
Part 6 of the Bill has been drafted to enable future provision of a deposit protection scheme. This would be implemented as supporting regulation of the Landlord Registration Bill and will be subject to Tynwald approval. The scheme would enable the protection of tenant deposits, usually paid at the time of taking out a tenancy.
16

A deposit is classified as a sum of money which acts as a guarantee against—

- · damage to the property;
- cleaning bills if the property is left in a poor condition;
- · bills that are left unpaid, like fuel or telephone bills; and
- · unpaid rent.

Deposit protection schemes are primarily designed to hold or monitor deposits on behalf of landlords and tenants, to ensure that the tenant receives their money back when they vacate the property or in cases where funds are held back, that this process is fair and within relevant laws and regulations.

Deposit protection schemes can also offer other services such as mediation and dispute resolution. Some examples of other schemes operating in neighbouring jurisdictions are:

- England www.mydeposits.co.uk
- Scotland- www.safedepositsscotland.com
- Jersey www.mydepositsjersey.je

The regulation for deposit protection may also include a cap for the maximum allowable amount that a landlord is permitted to charge for a deposit, with the intention that it will be specified as a defined maximum amount of weeks' rent.

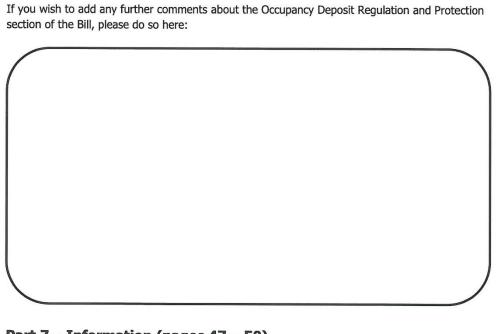
The Bill allows the Department to consider operating the scheme by the Government or appointing a third party to administer the scheme on their behalf.

Q17. Do you support the principle of a Rent Deposit Protection Scheme in the Isle of Man?

YES	
NO	
If you wish to add any further comments, please do so	here:
Q18. Should there be a maximum amount that a landlor	rd is able to charge tenants as a deposit?
YES	
NO	

17

If you have a	nswered 'No' to this question, please specify why here:				
If you have a	nswered yes then please answer Q19				
If you have a	nswered no, please continue to Q20				
Q19. Please select an option for what you think the maximum weeks' rent is suitable to charge as a deposit?					
	4 weeks				
	6 weeks				
	8 weeks				
	Other timescale				
Q20. The Scheme should be operated by (please select 1 option)					
	Government				
	Third Party organisation e.g. My Deposit				
	Other (please specify below)				
Please tell us more about the reasons for your selection in the box below:					



### Part 7 – Information (pages 47 – 50)

### Monitoring the private rented sector

This part of the Bill outlines the powers the Department has in respect of obtaining the necessary documentation from relevant landlords, their nominated representatives or other persons noted as having a relevant interest in a rented dwelling.

The purpose of the collection of data and relevant information is to enable the Department to develop and improve services.

Information requested by the Department, will ordinarily be used for anonymised statistical data gathering. In the unlikely event that personalised data is to be published the Department will only do so in accordance with the General Data Protection Regulations; which include seeking permission to do so.

### Power to obtain documents

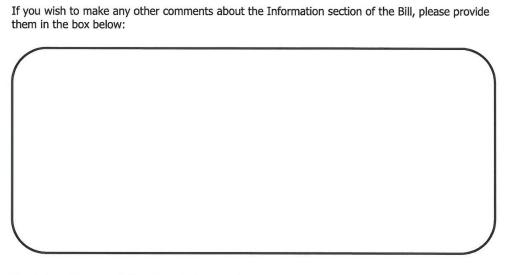
In order to exercise any of the functions within the Landlord Registration Bill the Department will require documentation to be provided by applicants and other parties. If a person is not willing to supply the Department with documents reasonably and lawfully requested then the Department could issue notices to enforce this request. If refusal still occurs then, in the most extreme cases, this will be an offence which could result in a fine of up to £5000.

### Disclosure & sharing of information

The Department is permitted to request information from a specified body or organisation for the purpose of ensuring the Bill is acted upon. The body will be required to supply the information requested, despite confidentiality obligations.

The Department may also be required to disclose information it holds on the register, where it is

necessary to the statutory functions of the Government, Statutory Board where there is a specific request for information in accordance with regular 22 of the Bill.	
Q21. Failure to comply and to provide relevant documentation will result £5000 as ordered by the Courts. Do you think this is fair?	in a maximum penalty of
YES	
NO	
If you have answered 'No', please give your reason why here:	
Q22. The £5000 penalty is applicable to a landlord or their representative has an estate or interest in a rented dwelling. Is it fair that this penalty who has an estate or interest in a rented dwelling?	
YES	
NO If you have answered 'No', please give your reason why here:	
20	



### Part 8 - General (pages 50 - 52)

This section covers the general powers and supporting law or regulation within which the Landlord Registration Bill will operate. Nothing within the Bill affects other statutory law relevant to landlords, landlord representatives, tenants or licensees or their rights to occupy a dwelling.

**Powers of entry:** Under the existing Local Government Act 1985 an authorised officer can only enter a dwelling with the consent of the occupier or with a warrant obtained under the Local Government Act 1985.

Upon entering a dwelling an authorised officer is permitted to:

- · Examine or record film, photographs and documents
- Copy documents or remove documents (to be returned to the occupier)
- Remain at the dwelling only as long as reasonable

**Statutory documents:** Any scheme, order or regulation made under the Bill can include:

- Discretion in respect of the specific parts of a scheme, order or regulation
- Allow the Department to add saving provisions into the schemes or supporting regulations

**False or misleading statements:** It is an offence to provide false or misleading information relating to this Act or its subsequent regulations.

**Guidance:** The department will issue guidance about any provisions of the Act and its subsequent schemes, this information will also be published on our website.

If you wish to make any comments about the General section of the Bill, please provide them in the box provided.

