



GENERAL INFORMATION FOR

MEMBERS AND OFFICERS

OF LOCAL AUTHORITIES

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INTRODUCTION

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

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

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

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

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

A. HISTORY OF LOCAL GOVERNMENT

1. The Structure of Local Government

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 The 1852 Act was repealed as to Douglas in 1860, Ramsey in 1864 and Peel and Castletown in 1883 by Acts which set up boards of Town Commissioners in the form we know today.

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

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

Douglas was incorporated as a municipal borough by Act of Tynwald in 1896¹, the Town Commissioners being replaced by a Council consisting of the mayor, aldermen and councillors (the office of alderman was abolished in 1989²).

Although the boundaries of town districts were altered from time to time, the structure of local government remained unaltered from 1905 until 1986, when the parish district and village district of Onchan were merged³. The parish district and village district of Michael were likewise merged in 1989⁴.

2. Reorganisation of local government

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

1892

The Local Government Bill 1892 proposed that every sheading should be a local government district, with *ex officio* commissioners comprising the members of the House of Keys for the time

¹ Douglas Municipal Corporation Act 1895

² Douglas Corporation Act 1988

³ Onchan District Act 1986

⁴ Michael District Act 1989

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

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

1894 to 1987

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

1987 to date

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

After the 1996 election the issue of reform of local government was re-activated by the Department. In 1997 it issued a further report *Securing a Future for Local Government*, also proposing 13 local authorities. Opposition from the existing authorities led to a "Further Alternative Approach" in September 1999, proposing a two-tier structure outside Douglas, retaining the existing 24 town,

village and parish authorities, with a second tier of 4 "area authorities" which would exercise most local authority functions (including those of existing joint boards).

In October 1999 the Council of Ministers determined not to take the issue of Local Government Reform any further for the time being, although subsequently Tynwald set up a Working Party to look into the matter and in October 2001 the Report of the Working Party was received by Tynwald.

This has possibly left the question open.

B. STATUS AND FUNCTIONS OF LOCAL AUTHORITIES

1. Nature and status of local authorities

1.1 *Districts*

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

The town districts are —

Douglas

Castletown

Ramsey

Peel

The village districts are —

Onchan

Laxey

Michael

Port Erin

Port St Mary

1.2 *Nature of local authorities*

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

Commissioners The local authority for each town district (except Douglas), village district and parish district is the body of commissioners elected by the local government electors of the district. The Commissioners are a "body corporate", ie. a legal person separate from the individual commissioners⁵.

Douglas Corporation The local authority for the town district of Douglas is the municipal corporation⁶, ie. the body corporate whose formal title is "The Mayor, Aldermen and Burgesses of the Borough of Douglas" but is commonly known as Douglas Corporation. The Corporation acts through the Borough Council, which consists of the mayor and the elected councillors (and is not itself a body corporate)⁷.

⁵ Local Government Consolidation Act 1916 s.7

⁶ Douglas Municipal Corporation Act 1895 s.9

⁷ Ibid. s.12

Joint boards A number of joint boards have been established, by orders made by the Department, for areas comprising the districts of 2 or more local authorities⁸. They are bodies corporate, consisting of members appointed by the constituent authorities (and by the Department in some cases), and are responsible for specific functions, mainly refuse collection, housing for old people or the provision of swimming pools.

⁸ Local Government Act 1985 ss.7 & 68, Sch.3; note also Recreation and Leisure Act 1998 s.7.

2. Functions of local authorities

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

2.1 Powers and duties

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

- (a) it is specifically empowered by statute to do, or
- (b) are reasonably incidental to doing those things (eg providing buildings, employing staff or engaging professional assistance).

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

Any other acts of a local authority are unlawful as being *ultra vires* (beyond its powers) and any expenses incurred in their performance may be the subject of action under the Audit Act 1983.

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

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

2.2 Scope of local authority functions

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

- Public information and advice
- Tourism
- Refuse collection
- Street-lighting
- Environmental health
- Public conveniences
- Parks, playgrounds and other leisure facilities
- Control of dogs
- Housing
- Car-parking
- Street-cleaning

- Building control
- Planning
- Sewerage
- Libraries and museums
- Abandoned vehicles

2.3 *Public information and advice*

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

In addition, a number of local authority offices are still used for some judicial services, and some clerks to local authorities act as commissioners for oaths or as registrar for births, deaths and marriages and issue car, dog and fishing licences and school bus tickets or contracts. This form of activity is likely to increase in future with the establishment of e-technology.

2.4 *Tourism*

Local authorities have power to spend up to a specified limit on "*improving or prolonging the visiting season in their district and increasing its advantages as a pleasure and health resort*".⁹ The limit is currently the product of a rate of 4p in the £, but may be varied by order of the Department.

Local authorities may also, with the consent of the Department, provide hotels, hostels, camp sites, shops and other premises "*for improving the amenities of their district*"¹⁰.

2.5 *Refuse collection*

The Isle of Man must deal with most of its own wastes, and Tynwald has approved a Waste Management Strategy which includes minimisation, reuse and recycling initiatives and an energy-from-waste facility.

All local authorities are responsible for the collection of household waste and commercial waste within their district; they must make a charge for the collection of commercial waste¹¹. The refuse collection functions of certain authorities in the North are exercised by a joint board. Other authorities employ contractors to provide the service or their own staff, or both.

The Department's Energy from Waste Facility is due to come on stream in mid 2004 and this facility will see a major change in the way waste is handled throughout the island.

Local authorities have power to provide places for the deposit of waste¹², usually called "civic amenity sites". Three sites exist at present, one at Snugborough (to be relocated at the

⁹ Local Government (Entertainments) Act 1950 s.3

¹⁰ Local Government Act 1963 s.26

¹¹ Public Health Act 1990 s.65

¹² Ibid. s.69

Middle River estate) serving Douglas, Onchan and Braddan, one near Port St Mary serving the south of the Island and one at St Johns serving the west. A further site is planned for the north (near Ramsey), once the temporary site at Ballacallow, Bride closes in 2003. The eastern site is operated by a joint committee consisting of representatives of the eastern local authorities with Braddan Commissioners administering the site. The southern site is controlled by a joint board and the western site by a joint committee.

Some local authorities provide bins where items such as glass, paper and aluminium cans be taken for reuse or recycling. Other commodities such as scrap metal, car and dry-cell batteries and used motor oil are also currently being recycled. Composting of green waste now takes place at the southern civic amenity site and the Department is proposing to trial kerbside collection of plastic bottles in the near future.

Waste collected by or delivered to a local authority must be delivered to the Department's landfill site or such other point as the Department may specify¹³. The Department's energy-from-waste facility (incinerator) is due to come on stream mid 2004. In April 2003 the disposal of waste will be transferred from the Department to a new Waste Management Board¹⁴.

2.6 *Street-lighting*

Local authorities have power to provide street-lighting within their district¹⁵. Street-lighting for new developments will normally be provided by the developer and adopted by the local authority for future maintenance. Some authorities have contracts with the MEA or a private contractor for the maintenance of street-lighting.

2.7 *Environmental Health*

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

- statutory nuisances (excluding noise)¹⁶
- verminous premises¹⁷
- food hygiene¹⁸
- closure, demolition and clearance of insanitary and unfit housing¹⁹
- regulation of flats²⁰
- prevention of overcrowding²¹
- dangerous and ruinous buildings and untidy land²²

¹³ Ibid. s.67

¹⁴ Waste Management Board Order 2002 (SD 38/02)

¹⁵ Local Government Consolidation Act 1916 s.254

¹⁶ Public Health Act 1990 ss.1-9

¹⁷ Ibid. s.81

¹⁸ Food Hygiene (General) Regulations 1978 (GC 188/78)

¹⁹ Housing Act 1955 Parts I and II

²⁰ Housing (Flats) Regulations 1982 (SD 293/82)

²¹ Housing Act 1955 Part III

²² Building Control Act 1991 ss.22-24, Local Government (Miscellaneous Provisions) Act 1984 s.14

- insanitary drainage etc.²³

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

2.8 Public conveniences

Local authorities may provide and maintain public toilets in their district²⁴.

Grant assistance is available for the provision of new public toilets for disabled persons.

2.9 Parks, playgrounds and other leisure facilities

Local authorities to whom the Recreation and Leisure Act 1998 has been applied²⁵ have wide powers to provide recreational and entertainment facilities in their district, including public parks, gardens, recreation grounds, sports facilities, swimming pools, theatres, concert halls, conference facilities and restaurants. Other local authorities have more restricted powers.

The powers to provide swimming pools are exercisable by joint boards in the north, south and west.

Grant assistance is available for new playground equipment to comply with health and safety guidelines.

2.10 Control of dogs

The Department may make byelaws for the control of dogs, as follows²⁶:

- banning dogs from certain areas;
- requiring dogs to be under effective control within other areas;
- "no fouling";
- "poop scoop".

Such byelaws are normally made at the request of a local authority, and are enforceable by the authority as well as the Department.

The Department is currently reviewing the legislation relating to dogs, in consultation with local authorities.

2.11 Housing

All local authorities have power to provide public-sector housing in their districts²⁷, but the powers are only exercised by town authorities, village authorities (except Laxey and Michael) and Braddan, Malew, Rushen and Arbory parish commissioners. The Department meets 100% of the deficiency on housing (ie. the loan charges, less the income from rents

²³ Sewerage Act 1999 ss.29-35

²⁴ Sewerage Act 1999 s.36

²⁵ Castletown, Ramsey, Port Erin, Port St Mary, Andreas, Ballaugh, Bride, Jurby, Lezayre, Maughold, Arbory, Malew, Rushen and Santon

²⁶ Dogs Act 1985 s.24

²⁷ Housing Act 1955 s.38

after deducting 5% for administration and 33% for maintenance). The Department provides public-sector housing in other districts, in consultation with the local authority.

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

2.12 Car-parking

Local authorities have power to provide off-street parking places within their districts²⁸, and may make charges for their use (e.g. "pay and display" or contract charges) or, by arrangement with the Department of Transport, provide short-stay disc parking. Assistance towards this provision may be available.

2.13 Street-cleaning

Street-cleaning is a function of the Department of Transport, but is undertaken by certain local authorities as agents for that Department. Authorities may make a contribution towards the provision of a higher level of service. Some authorities also provide litter bins which are emptied on a regular basis.

2.14 Building control

Building standards are laid down by building regulations, supported by detailed guidelines contained in "approved documents" and British Standards, and are enforced by the requirement that plans for all new buildings and new work be deposited with the "building authority"²⁹. The local authorities for Douglas, Peel and Onchan perform this function within their districts; elsewhere the Department is the building authority³⁰. The services of the Department's qualified building control officers are available to assist local authorities in this field (see page 17). In many cases Planning Permission will be required in addition to Building Regulations approval.

2.15 Planning

Although planning applications and applications for registered building consent are determined by the Planning Committee of the Department (or in some cases the Governor in Council), a local authority is consulted on all applications affecting land in its district, is entitled to request a review and to lodge an appeal against a decision, and is automatically a party to any other review or appeal.

Local authorities are also consulted on any amendment of the Development Plan, and any designation of a conservation area or registration of a building, affecting their district.

The Department is currently undertaking a review of the planning process and a draft document on 'Modernising the Planning System' is out for consultation with local authorities.

²⁸ Road Traffic Regulation Act 1985 ss.10-13

²⁹ Building Control Act 1991 s.11

³⁰ Ibid. s.34

2.16 Sewerage

The Department of Transport is now responsible for all sewerage and sewage disposal in the Island. That Department and a local authority may agree that the former's functions be delegated to the authority, on such terms as may be agreed³¹.

2.17 Libraries and museums

Local authorities have power to provide public libraries and museums within their district³². At present only the authorities for Douglas, Onchan, Peel, Castletown, Ramsey and Port Erin provide lending libraries, which may be used free of charge by residents of their district, and by non-residents at an annual subscription.

2.18 Abandoned vehicles

A local authority has power to remove a vehicle illegally parked, or causing an obstruction or danger, from a road in its district, and (subject to compliance with certain requirements) to remove from a road or any land in the open air in its district a vehicle which appears to be abandoned³³. It must deliver the vehicle to the Department for disposal³⁴, but may be able to claim the cost of removal. The Waste Management Unit of the Department is currently responsible for dealing with abandoned vehicles. As from 1 April 2003 it is proposed that the Waste Management Unit will be separate from the Department.

³¹ Sewerage Act 1999 s.2

³² Local Government Consolidation Act 1916 s.333-338

³³ Local Government (Miscellaneous Provisions) Act 1984 s.2

³⁴ *Ibid.* s.4

C. THE MAIN LOCAL GOVERNMENT LEGISLATION

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

1 LOCAL GOVERNMENT ACT 1985

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

Part I ¾ Central supervision of local authorities

1. General

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

2. Provision of assistance

The Department is required to make such arrangements as appear to it to be necessary for the provision of technical assistance to local authorities in the performance of their functions under any enactment³⁵. This responsibility is explained in more detail in the previous section.

3. Inquiries, reports and returns

The Department is empowered to conduct inquiries into the activities of local authorities and to require reports and returns from them with respect to the exercise of their functions; compliance can be enforced by an order of the High Court³⁶.

4. Default powers

In certain cases, where a local authority is under a duty to perform a function and fails to do so, the Department can make an order declaring the authority to be in default, and either apply to the High Court to enforce the order or transfer the functions to itself³⁷. Similar powers are available under other legislation, eg. in relation to housing³⁸.

Part II ¾ Alteration of areas, etc.

The Department has power to make orders relating to the areas and constitution of local authorities, subject to Tynwald approval³⁹ —

³⁵ Local Government Act 1984 s.2

³⁶ Ibid. s.3

³⁷ Ibid. s.4

³⁸ Housing Act 1955 s.83

³⁹ Local Government Act 1985 ss.6-9

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

Part III — Proceedings of local authorities

1. Meetings

Each authority must hold an annual meeting in May (at which the chairman or mayor is elected) and at least one meeting in each quarter other than that in which the annual meeting is held. Other ordinary meetings are at the discretion of the authority. The clerk or chairman may summon an extraordinary meeting, and the chairman must do so on a requisition of one-third of the members. At least 3 days' notice of a meeting, with the agenda, must be given to every member. Provision is also made for the quorum of meetings, majority voting and the keeping of minutes.

Schedule 1 to the Act, setting out the statutory requirements as to meetings, is annexed at Appendix 1; the authority's standing orders will make further provision as to the conduct of meetings (see IV – 6).

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

2. Attendance of the public

Members of the public are not entitled as of right to attend meetings of a local authority, but authorities are encouraged to allow them to do so unless the nature of the items to be discussed (i.e. housing allocation) requires the proceedings to be in private.

3. Minutes

Minutes of meetings are a record of what was *done*, not of what was *said*: accordingly they should be confined to the decisions taken, and not be a verbatim record of how the decision was arrived at. Members and officers must bear in mind that minutes —

- can be used in legal proceedings, and
- may be inspected and copied by any local government elector⁴⁰,

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

4. Allowances

A local authority may decide, by a resolution passed during, or in the 3 months before, any financial year, to pay its members attendance allowances or travelling allowances or both. Allowances are payable at a rate prescribed by order of the Department. The authority must in each year publish, and send to the Department, a report of the number of meetings of the authority, its committees and sub-committees, the number of each member's attendances and the total amount of allowances paid to each member.⁴¹

⁴⁰ Ibid s.34

⁴¹ Ibid. Sch.2

5. *Pecuniary interests*

Members of local authorities are obliged to disclose any "pecuniary interest" in any contract or other matter discussed at any meeting of the authority or its committees at which he is present, and forbidden to take part in the discussion or to vote on it⁴². This subject is dealt with further below. Members should be mindful that they represent the whole community and not just those who voted for them or an outside organisation they may be a member of.

Part IV — Discharge of Functions

1. *Delegation of functions*

A local authority may arrange for the exercise of any of its functions⁴³ —

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

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

2. *Committees*

With the Department's consent, 2 or more authorities may act jointly in the exercise of their functions, and for this purpose may set up a joint committee⁴⁴. Committees (including joint committees) may appoint sub-committees; committees and sub-committees (except a committee for controlling the finance of an authority) may include persons, up to one-third of the membership, who are not members of the appointing authority or authorities⁴⁵.

3. *Officers*

Every local authority must appoint a clerk, and local authorities for town districts and village districts may appoint other officers (eg. treasurer, surveyor etc).⁴⁶ Appointments by local authorities for parish districts require the approval of the Department.⁴⁷ Officers are also required to disclose any pecuniary interest in a contract or other matter⁴⁸.

4. *Premises*

Local authorities have power to provide offices and other premises for transacting their business and exercising their functions.⁴⁹ The Local Government Miscellaneous Provisions Act 2000 extended these powers to enable local authorities, with the consent of the Department, to provide premises for other bodies, eg. Departments of Government, charities and health practices⁵⁰.

5. *Land transactions*

⁴² Ibid. ss.11-15 & 20(2)

⁴³ Ibid. ss.17(1) & 18

⁴⁴ Ibid. s.17(4) & 18; note that, unlike a joint board established under s.7, a joint committee is not a legal entity distinct from the constituent authorities.

⁴⁵ Ibid. s.18

⁴⁶ Ibid. s.21(1) & (2)

⁴⁷ Ibid. s.21(3)

⁴⁸ Ibid. s.23

⁴⁹ Ibid. s.24

⁵⁰ Local Government Act 1963 s.26(1)(c)

Any transaction involving the acquisition or disposal of an interest in land by a local authority (except a letting for up to 7 years) is subject to the consent of the Department or, if the Department decides to refer it to Tynwald, the approval of Tynwald⁵¹. The procedure for consent is set out in the Department's Petition Procedures handbook which has been issued to all local authorities. A local authority has power to acquire land compulsorily for the purpose of any of its functions; this power can only be exercised with the authority of a resolution of Tynwald, and the compensation is determined by arbitration⁵².

6. *Standing orders*

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

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

Part V — General provisions relating to local authorities

1. *Byelaws*

A local authority has power to make byelaws "*for the good rule and government of the whole or any part of its district, and for the prevention and suppression of nuisances therein*". Such byelaws must not cover matters the subject of other legislation, and expire 20 years after they come into force.⁵⁴ All byelaws made by local authorities (including those made under other Acts) are subject to the approval of Tynwald; they must be printed and made available to the public and, in the case of byelaws for premises or conveyances, displayed on the premises or in the conveyance⁵⁵ in question.

2. *Personal liability*

Generally speaking, a member or officer of a local authority is not personally liable for acts undertaken or carried out in good faith as part of his duties, except so far as he/she may be made personally liable, in the course of the audit of the authority's accounts, for expenditure incurred unlawfully or losses caused by his/her wilful misconduct⁵⁶.

3. *Other matters*

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

⁵¹ Local Government Act 1985 s.25

⁵² Ibid. s.26; Acquisition of Land Act 1984

⁵³ Ibid s.27

⁵⁴ Ibid s.28; note that byelaws made under the Local Government Consolidation Act 1916 before 1st April 1981 expired on 1st April 1991; such byelaws made on or after that date will expire on 1st April 2006 (1985 Act Sch.4 para.3).

⁵⁵ Ibid s.30

⁵⁶ Ibid s.41, and see Audit Act 1983 s.7.

Part VI — Financial Provisions

1. Finance

This Part deals with the finances of local authorities, with the exception of rating. Members and officers must bear in mind the powers of the High Court, in the course of the audit of the authority's accounts, to make them personally liable for expenditure incurred unlawfully or losses caused by his/her wilful misconduct (see above).

2. Funds

Every local authority is required to set up a district fund⁵⁷ into which all receipts and out of which all expenses are to be paid, except where otherwise allowed. It may also, with the Department's consent, establish other funds⁵⁸. Expenses of a local authority must be charged on the whole district, unless a "special district" has been established, on which particular expenses can be exclusively charged⁵⁹.

3. Borrowing

Local authorities are given power to borrow money for specified purposes, subject to the consent of the Department⁶⁰. The procedure for applications for consent is set out in the Department's Petitions Procedure handbook which has been issued to all local authorities. Unless the Department dispenses with the requirement, an application for consent must be advertised. Temporary borrowing by way of overdraft does not require consent.

4. Other matters

Part VI also deals with the recovery of expenses (including establishment charges) and local authority securities (eg. stocks and bonds — see note on the Anti-Money Laundering Code).

Part VII — Legal Proceedings

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

Part VIII — Miscellaneous and supplemental

This Part includes provisions enabling a local authority to act as trustee of a charity and to accept gifts of property on charitable trusts, enabling Douglas Borough Council to confer the honorary freedom of the borough on persons of distinction, and enabling local authorities to provide chains and other insignia of office⁶¹.

⁵⁷ Ibid. s.42; the fund is called the "borough fund" in the case of Douglas and the "town fund" in the case of other town districts.

⁵⁸ Ibid. s.43; special provision is made for the superannuation fund managed by Douglas Corporation for all local authorities in the Island; see the Local Government Superannuation Scheme 1988 (GC 262/88).

⁵⁹ Ibid. s.44, and see also ss.7(4) & 8.

⁶⁰ Ibid. s.51

⁶¹ Ibid. ss.64, 66 & 67

2 LOCAL ELECTIONS ACT 1986

This is the main Act governing elections of members of local authorities. It contains provisions relating to—

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

The Act is supplemented by the Local Elections Rules 1996 (SD 35/96) and the Local Elections (Absent Voters) Regulations 1996 (SD 36/96), which include prescribed forms for use in elections. Every local authority should have an up-to-date copy of the Act, Rules and Regulations for reference.

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

The role of the returning officer in a local election is fundamental. The returning officer is the chairman of the authority or, if there is no chairman or the chairman is a candidate or absent or unable to act, a person appointed by the authority to act as returning officer.⁶² The Returning Officer should be aware of the qualification/disqualification criteria of persons putting themselves forward for election in order that legislation is adhered to.

The Department recently agreed to accept some of the recommendations from a recent Local Election Focus Group, which was set up to look at the mechanisms currently used in local elections. Some of the proposals would require a change in legislation and local authorities are currently being consulted on the issue.

⁶² Local Elections Act 1986 s.2. In the case of Douglas, the mayor or a councillor appointed by the mayor to act in his place is the returning officer; if the councillor appointed is absent or unable to act, the council is to appoint a returning officer in his place.

3 THE HUMAN RIGHTS ACT 2001

This Act gives direct effect in Manx law to the European Convention on Human Rights (ECHR). It is intended that the Act will come into force in 2003. Before then there will be a period of preparation, during which there will be a programme of education, staff training and review of legislation and practices.

The effect of the Act is as follows —

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

The Department has issued information leaflets to local authorities and arranged training for members and officers. Areas concentrated on included —

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

D. DECLARATIONS OF INTEREST

1. Principles

Local authority members must comply with the following ethical principles:

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

2. Pecuniary interests

Members of local authorities are required to declare any "pecuniary" (financial) interest they may have in any contract, proposed contract or other matter before the authority. Also, a member with an interest in a matter for discussion by the authority must not take part in the discussion or vote on it. (This also applies to matters before a committee or sub-committee of the authority and a joint committee on which the authority is represented.) The presence of the member nevertheless counts towards a quorum of the body in question; however, the standing orders of the authority may require a member to leave a meeting during the discussion of a matter in which he has an interest.⁶³

The financial interests to which the above applies include —

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

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

- the fact that the member or officer is a ratepayer;
- the fact that the member receives allowances or the officer receives remuneration from the authority;

⁶³ Local Government Act 1985 ss.11 & 12

- the fact that the member or officer is the tenant of one of the authority's houses, so long as the matter being discussed involves those houses generally rather than his or her house or the houses in the same area;
- a connection with the matter which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member or officer.

A shareholding in a company which is worth less than £1,000 or less than 1% of the issued share capital, whichever is the less, does not prevent a member taking part in or voting on a matter, **but must still be disclosed**.

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

3. *General disclosure*

A member of a local authority, if he or she so wishes, may make a general disclosure of a pecuniary interest by notifying the clerk, who is to enter it in a book which is open to inspection by any member of the authority. The entry of the interest in the book means that the member does not have to declare his interest on every occasion (but this does not affect the member's obligation not to take part in a discussion or vote on the matter in question).⁶⁴

4. *Penalty*

Failure to declare a pecuniary interest, or taking part in a discussion or vote on a matter in which the member has an interest, is an offence carrying a fine of up to £2,500 unless the member can prove that he or she was unaware of the interest⁶⁵.

5. *Officers*

An officer of a local authority must also declare in writing to the authority any pecuniary interest in a contract which it has entered into or proposes to enter into⁶⁶. But this does not preclude him from dealing with that matter on behalf of the authority.

⁶⁴ Ibid. s.13

⁶⁵ Ibid. s.11(2)

⁶⁶ Ibid. s.23

E. CONFIDENTIALITY AND DATA PROTECTION

1. *Confidentiality*

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

In particular, if a member or former member of a local authority, without the consent of the authority, divulges any information communicated to him in confidence as a member, he is guilty of an offence carrying a fine of up to £1,000⁶⁷. The reference to ‘former’ member should be borne in mind, even if a person is no longer a member of an authority, it is still an offence to disclose any confidential information without prior permission.

2. *Data protection*

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

A member or officer of a local authority who allows personal data held by the authority to fall into the hands of a third party contrary to the Data Protection Act may be liable to pay compensation to the data subject for any loss or distress caused⁶⁸.

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

⁶⁷ Ibid. s.65

⁶⁸ This applies at present only to data held on computers. However, if the Data Protection Bill 2002 becomes law, it will also apply to data held on manual records.

F. LOCAL GOVERNMENT FINANCE

1. *Introduction*

Local authorities' income comes presently from three main sources —

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

2. *Rates*

When an authority fixes its rate and budget for the forthcoming year, it first estimates how much it will spend in that year from its rate fund. It then deducts the amount of grant it expects to receive from Government, its estimated income from other sources and any change in balances. The remaining sum is raised from local ratepayers through rates.

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

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

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

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

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

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

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

The main concern about the present system of rates is that it can place an undue financial burden on low income householders living in high rated property. The householder can avoid this situation, of course, by moving to a smaller property. However, this may not always be a practical or acceptable alternative. Rate bills on the Island are considerably less than

equivalent council tax bills in the UK, and arrangements for instalment payments can help to reduce their impact. However, there will still be cases where rates can add further to financial hardship.

3. *Government grants*

Central Government presently meets 100% of the net cost of local authority housing. (It also pays the cost of services provided by local authorities under delegated powers from Departments, eg. highways and sewerage.) Government may also provide grant assistance towards the cost of items such as disabled toilets and public car-parks.

4. *Money-laundering*

The Anti-Money Laundering Code 1998⁶⁹ imposes requirements on certain institutions, including local authorities in respect of any activities involving raising money, to establish anti-money laundering procedures, training and record keeping etc. Failure to comply with the Code is an offence, carrying a maximum penalty of 6 months' custody or a fine of £5,000, or both. The code affects the raising of money by the issue of stocks and bonds to the public, and places responsibilities on members and officers to maintain a robust system of internal controls designed to prevent involvement in money laundering. Copies of the Code have been issued to all local authorities and briefing sessions have been held. Also annual updates are given. Each local authority should have in place registers, procedures and controls for the administration of stocks and bonds, and ensure that members and staff concerned are aware of them.

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

G. EMPLOYMENT OF STAFF

1. Job descriptions

The Department recommends that that all persons employed by local authorities have current job descriptions, agreed between both parties and reviewed on a regular basis. A model job description is annexed at Appendix 3.

2. Statement of particulars

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

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

A model statement of Terms and Conditions is annexed at Appendix 3.

The conditions of service of local authority officers are normally based on the National Joint Council for local authorities' administrative etc. staff in England and Wales ("the purple book"). Those of manual workers are laid down by the Isle of Man Whitley Council for the Public Service.

3. Remuneration

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

- hours worked
- tasks to be performed
- whether employment is temporary or permanent
- training required
- experience (eg. finance, local authority background/special knowledge necessary)
- whether accommodation or equipment is provided

- whether employment is pensionable
- whether pension scheme is contributory
- any supervisory skills required

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

4. *Approval*

It should be noted that appointments of officers by local authorities for *parish* districts are subject to the approval of the Department.

5. *Sex discrimination*

Local authorities should also be aware that discrimination in employment on the grounds of sex or marital status is prohibited⁷⁰. Members or officers of a local authority who discriminate against a person on any of those grounds in relation to employment by the authority may be personally liable for compensation.

6. *Rehabilitation of Offenders Act 2001*

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

7. *General*

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

8. *Health and safety at work*

Local authorities must be aware of their responsibilities to their employees and the public under the legislation relating to health and safety at work⁷¹. Guidance on all matters relating to health and safety can be obtained from the Department's Health and Safety at Work Inspectorate. Training is also available on risk assessment in the workplace.

9. *Staff Reporting and Appraisals*

It is good practice for local authorities to hold regular staff appraisals and have a annual reporting procedure for employed staff. This affords the opportunity to appraise job performance and forward plan.

⁷⁰ Employment (Sex Discrimination) Act 2000

⁷¹ ie. the Health and Safety at Work etc. Act 1974 (of Parliament), applied to the Isle of Man by the Health and Safety at Work Order 1998 (SD 155/98)

H. COMPLAINTS

Local authorities should themselves investigate and settle any complaints received, if possible. Therefore they should maintain systems for dealing with complaints. The principal test of the effectiveness of a complaints system is whether it helps to resolve dissatisfaction of ratepayers or customers about the service they have received or believe they should have received. An efficient system will also highlight any processes which need reviewing or updating thereby improving services.

Complaints received should be entered in Register of Complaints.

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

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

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

The Department has power to make inquiries into the manner in which any functions of a local authority are carried out by the authority⁷², thereby providing a further mechanism for the investigation and resolution of complaints.

⁷² Local Government Act 1985 s.4(1)(d)

I. PUBLIC RECORDS ACT 1999

The administrative records of local authorities are "public records" for the purposes of the Public Records Act 1999. "Records" includes not only written documents but also records conveying information by any other means whatsoever⁷³.

Under the Act local authorities are responsible for making arrangements with the Chief Registrar for the selection from their records, those which ought to be permanently preserved, and for the safekeeping of their records pending selection. The Chief Registrar is responsible for guiding, co-ordinating and supervising the safekeeping and selection and for deciding where the selected records are to be deposited. Guidance should be obtained from the Isle of Man Public Records Office on the procedures for selection and deposit; notes on the Act and on electronic records have been issued by the Office.

Deposit is to take place not later than 25 years after the records were created (in the case of a file or volume, 25 years after the last entry). Although older records may be retained with the permission of the Council of Ministers. Transferred records may be returned temporarily on request.

Records which have been selected and transferred are normally available for public inspection 30 years after creation. However, certain records are closed for longer periods⁷⁴. As an interim measure public access can be deferred until March 2007 where records are in the Isle of Man Public Record Office but have yet to be organised for access.

⁷³ Public Records Act 1999 s.8(1)

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

J. ASSISTANCE TO MEMBERS

1. *The Clerk*

Members seeking advice on matters relating to their or the local authority's functions should approach the clerk to the authority in the first instance, in particular with regard to —

- minutes
- accounts
- standing orders
- agenda items
- correspondence
- items considered previously
- byelaws
- finance
- applications for the consent of the Department to land transactions, borrowing etc.

2. *The Department of Local Government and the Environment*

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

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

The Department provides two Induction Courses annually (usually) in July and November for members of local authorities. The courses are aimed at new members and staff, but are also useful as a refresher to update those with longer service. The course content covers a wide range of subject areas, and introduces members to the relationship between the Department and local authorities in such areas as planning, housing, waste management and environmental health. Delegates have the opportunity to tour the Tynwald Chambers, and visit off-site divisions of the Department such as the Government Laboratory.

3. *Central Reference Library*

The Central Reference Library is on the third floor of Government Office and is open from 9.30 am to 5.00 pm. It is open to members of the public as well as Government staff and Members of Tynwald.

The Library holds copies of all Island newspapers for the past 2 years, the *Guardian*, *Times*, *Observer* and *Sunday Times* for the past 12 months, and various general, political and legal periodicals. Copies of local newspapers going back many years are available from other sources. Copies of all Acts of Tynwald and official and parliamentary publications are held, for many of which the Library acts as a sales point. It also holds copies of Acts of Parliament, Hansard (House of Commons), current parliamentary Bills and UK reports and pamphlets.

Material regarding the Commonwealth Parliamentary Association and Commonwealth countries is also held. A special collection of documents relating to Manx history is a particular feature. Spare copies of original documents, or photocopies from them, are usually available for borrowing (subject to copyright).

Due to its size, the Library works in close co-operation with the Manx Museum library and other local libraries, as well as organisations in the United Kingdom and elsewhere, to supplement its resources.

Librarian: Geoff Haywood (tel: 685520) (current 2002)

4. *Personnel Office*

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

Contact: (tel: 685762) (current 2002)

5. *Local government legislation*

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

- Local Government Act 1985
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1984
- Local Elections Act 1986
- Local Election Rules 1996
- Local Elections (Absent Voters) Regulations 1996
- Local Authority Members (Attendance Allowances) Order currently in force
- Public Health Act 1990

The up-to-date text of all Acts of Tynwald is published as *Juta's Statutes of the Isle of Man*. Printed copies are available from the Attorney General's Chambers (tel. 685455). A CD-ROM edition is available from Jutastat (e-mail sales@jutastat.com).

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

K. USEFUL CONTACTS AND TELEPHONE NUMBERS

Department of Local Government and the Environment

Chief Executive	685868
Director of Corporate Services	685861
Director of Planning and Building Control	685913
Director of Estates and Housing	685917
Director of Environment, Safety and Health	685948
Chief Government Analyst	625590
Planning Enquiries	685950
Housing Enquiries	685865
Housing Grants	685865
Environmental Health Enquiries	685953
WOMU (Waste Operations)	686540
Building Control	685902
Planning Enforcement Officer	685909
Architects Office	685918
Local Government Unit Manager	685462
Conservation Officer	685904
Health & Safety Inspectorate	685881
Finance Division	685361
Legislation & Policy	686246
Maps	685924

Fax numbers:

Chief Executive	685873
Corporate Services	685945
Planning & Architects	686443
Environmental Health	685773
Estates & Housing	686250
WOMU	686566
Health & Safety	685952
Government Analyst	625429

It should be noted that these numbers could change from the date of publication of this handbook.

L. INTERNET AND E-MAIL FACILITIES

The Department of Local Government and the Environment is actively seeking ways to link local authorities to the Department via e-mail and internet, thus facilitating easier transfer of information. The opportunities within this area are vast and only just being explored but could lead to greater access of data and provide the prospect for local authorities to involve the ratepayers to a greater extent in the business of their district.

Some local authorities already have their own website and the Department is exploring the possibility of each Local Authority having at least a main webpage linked to the Department's site via the Government main webpage. This facility could be used for local authorities to provide local ratepayers with access to minutes (if so wished); public notices; planned schemes; etc.

APPENDIX 1

MEETINGS AND PROCEEDINGS OF LOCAL AUTHORITIES

(Local Government Act 1985 Schedule 1)

Annual meeting

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

Other ordinary meetings

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

Extraordinary meetings

3. (1) An extraordinary meeting of a local authority may be called at any time by the chairman⁷⁵ of the authority or by the clerk to the authority.
- (2) If the chairman refuses to call an extraordinary meeting of a local authority after a requisition for that purpose, signed by at least one-third of the members of the authority, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within 7 days after the requisition has been presented to him, then at least one-third of the members of the authority, on that refusal or on the expiration of those 7 days, as the case may be, may forthwith call an extraordinary meeting of the authority.

Time and place of meetings

4. (1) Meetings of a local authority shall be held at such place, either within or without its area, as it may direct.
- (2) Three clear days at least before a meeting of a local authority, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the clerk of the authority, shall, subject to sub-paragraph (3), be left at or sent by post to the usual place of residence of every member of the authority.
- (3) If a member of a local authority gives notice in writing to the clerk of the authority that he desires summonses to attend meetings of the authority to be sent to him at some address specified in the notice other than his place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.

⁷⁵ In the case of Douglas borough council references to the chairman are to be read as references to the mayor (see 1985 Act s.72).

(4) Want of service of a summons on any member of a local authority shall not affect the validity of a meeting of the authority.

(5) Except in the case of business required by or under this or any other enactment to be transacted at the annual meeting of a local authority and other business brought before that meeting as a matter of urgency in accordance with the authority's standing orders, no business shall be transacted at a meeting of the authority other than that specified in the summons relating thereto.

Chairing of meetings

5. (1) At a meeting of a local authority the chairman, if present, shall preside.

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

(3) If —

(a) in the case of the corporation, the mayor is absent from a meeting of the council;

(b) in any other case, both the chairman and vice-chairman are absent from a meeting of the authority;

another member of the authority chosen by the members of the authority present shall preside.

Quorum

6. (1) Subject to sub-paragraph (2) no business shall be transacted at a meeting of a local authority unless at least one-half of the whole number of members of the authority are present.

(2) Where more than one-third of the members of a local authority become disqualified at the same time, until the number of members in office is increased to not less than two-thirds of the whole number of members of the authority, the quorum of the authority shall be determined by reference to the number of members of the authority remaining qualified instead of by reference to the whole number of members of the authority.

Majority

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

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

Record of attendance

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

Minutes

9. (1) Minutes of the proceedings of a meeting of a local authority shall, subject to sub-paragraph (2), be drawn up and entered in a book kept for that purpose and shall be signed at the same or next following meeting of the authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) Notwithstanding anything in any enactment or rule or law to the contrary, the minutes of the proceedings of meetings of a local authority may be recorded on loose leaves

consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next following meeting of the authority, by the person presiding thereat, and any minutes purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a local authority a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified.

Validity

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

Application to committees

11. (1) Paragraphs 7 to 10 (except paragraph 9(3)) shall apply in relation to a committee of a local authority (including a joint committee) or a sub-committee of any such committee as they apply in relation to a local authority.

(2) Until the contrary is proved, where a minute of any meeting of any such committee or sub-committee has been made and signed in accordance with paragraph 9 as applied by this paragraph, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute, the meeting shall be deemed to have been duly convened and held and the members present at the meeting shall be deemed to have been duly qualified.

APPENDIX 2
MODEL STANDING ORDERS
PART 1
GENERAL

1 Meetings of the authority

(1) The annual meeting of the authority shall be held at *[place]* on the *[day]* in May.

(2) In addition to the annual meeting of the authority and any meetings convened by the [mayor][chairman], the clerk or members of the authority, ordinary meetings for the transaction of general business shall be held in each year as follows —

[set out days for ordinary meetings]

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

2 Chairman of the meeting

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

3 Quorum

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

4 Order of business

(1) Except as provided by paragraph (2), the order of business at every meeting of the authority shall be as follows —

- (a) to choose a person to preside should the [mayor][chairman] and the [deputy mayor][vice-chairman] be absent;
- (b) to deal with any business required by statute to be done before any other business;
- (c) to approve as a correct record and sign the minutes of the last meeting of the authority;
- (d) to deal with any business expressly required by statute to be done;
- (e) [mayor][chairman]'s announcements;
- (f) disposal of business (if any) remaining from the last meeting;
- (g) to receive and consider reports, minutes and recommendations of committees;
- (h) to answer questions asked under standing order 7;
- (i) to consider motions in the order in which notice has been received.

(j) other business, if any, specified in the summons.

(2) Business falling under item (a), (b) or (c) of paragraph (1) shall not be displaced, but subject thereto the foregoing order of business may be varied —

(a) by the [mayor][chairman] at his discretion; or

(b) by a resolution duly moved and seconded and passed on a motion which shall be moved and put without discussion.

5 Notices of motion

(1) Notice of every motion, other than a motion which under standing order 6 may be moved without notice, shall be given in writing and signed by a member of the authority and delivered, at least [*number*] clear days before the next meeting of the authority, at the office of the clerk, by whom it shall be dated, numbered in the order in which it is received and entered in a book which shall be open to the inspection of every member of the authority.

(2) The clerk shall set out in the summons for every meeting of the authority all motions of which notice has been duly given in the order in which they have been received, unless the member giving such a notice intimated in writing, when giving it, that he proposes to move it at some later meeting or has since withdrawn it in writing.

(3) If a motion thus set out in the summons be not moved either by a member who gave notice of it or by some other member on his behalf it shall, unless postponed by consent of the authority, be treated as withdrawn and shall not be moved without fresh notice.

(4) If the subject matter of any motion of which notice has been duly given comes within the province of any committee or committees it shall, upon being moved and seconded, stand referred without discussion to such committee or committees as the authority may determine, for consideration and report.

(5) Every motion shall be relevant to some matter in relation to which the authority has powers or duties or which affects the district:

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

6 Motions and amendments which may be moved without notice

The following motions and amendments may be moved without notice —

(a) appointment of the chairman of the meeting at which the motion is made;

(b) motions relating to the accuracy of the minutes;

(c) that an item of business specified in the summons have precedence.

(d) remission to a committee;

(e) appointment of a committee or members thereof, occasioned by an item mentioned in the summons to the meeting;

(f) adoption of reports and recommendations of committee or officers and any consequent resolutions;

(g) that leave be given to withdraw a motion;

- (h) extending the time limit for speeches;
- (i) amendments to motions;
- (j) that the meeting proceed to the next business;
- (k) that the question be now put;
- (l) that the debate be now adjourned;
- (m) that the authority do now adjourn;
- (n) authorising the sealing of documents;
- (o) suspending standing orders in accordance with standing order 37;
- (p) that the authority sit in private;
- (q) that a member named under standing order 11 be not further heard or do leave the meeting;
- (r) inviting a member to remain under standing order 15 (pecuniary interest).
- (s) giving consent of the authority where such consent is required by these standing orders;

7 Questions

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

(2) A member of the authority may —

- (a) if *number*] clear days' notice in writing has been given to the clerk, ask the [mayor][chairman] or the chairman of any committee any question on any matter in relation to which the authority has powers or duties or which affects the district;
- (b) with the permission of the [mayor][chairman] put to him or the chairman of any committee any questions relating to urgent business, or which such notice has not been given; but a copy of any such question shall, if possible, be delivered to the clerk not later than [*time*] a.m. on the day of the meeting.

(3) Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.

(4) An answer may take the form of —

- (a) a direct oral answer; or
- (b) where the desired information is contained in a publication of the authority, a reference to that publication; or
- (c) where the reply to the question cannot conveniently be given orally, a written answer circulated to members of the authority.

8 Minutes

(1) The [mayor][chairman] shall put the question "*that the minutes of the meeting of the authority held on [date] be approved as a correct record*".

(2) No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is, then as soon as it has been disposed of, the [mayor][chairman] shall sign the minutes.

9 Rules of debate

(1) A motion or amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with standing order 5 it shall, if required by the [mayor][chairman], be put into writing and handed to the [mayor][chairman] before it is further discussed or put to the meeting.

(2) A member when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of the debate.

(3) A member when speaking shall stand and address the [mayor][chairman]. If two or more members rise, the [mayor][chairman] shall call on one to speak and the other or others shall then sit. Whilst a member is speaking the other members shall remain seated, unless rising to a point of order or in personal explanation.

(4) A member shall direct his speech to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed [*period*] except by consent of the authority.

(5) A member who has spoken on any motion shall not speak again whilst it is the subject of debate, except: —

- (a) to speak once on an amendment moved by another member;
 - (b) if the motion has been amended since he last spoke, to move a further amendment;
 - (c) if his first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried;
 - (d) in exercise of a right of reply given by paragraph (11) or (13) of this standing order;
 - (e) on a point of order;
 - (f) by way of personal explanation.
- (6) An amendment shall be relevant to the motion and shall be either —
- (a) to refer a subject of debate to a committee for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others;
 - (d) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the authority.

(7) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of:

Provided that the [mayor][chairman] may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the authority's business.

(8) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

(9) A member may with the consent of the authority signified without discussion —

(a) alter a motion of which he has given notice, or

(b) with the further consent of his seconder alter a motion which he has moved

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

(10) A motion or amendment may be withdrawn by the mover with the consent of his seconder and of the authority which shall be signified without discussion, and no member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

(11) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his amendment.

(12) When a motion is under debate no other motion shall be moved except the following

(a) to amend the motion;

(b) to adjourn the meeting;

(c) to adjourn the debate;

(d) to proceed to the next business;

(e) that the question be now put;

(f) that a member be not further heard;

(g) by the [mayor][chairman] under standing order 11(2) that a member do leave the meeting;

(h) a motion under standing order 6(p) or 12 to sit in private.

(13) A member may move without comment at the conclusion of a speech of another member, "*that the authority proceed to the next business*", "*that the question be now put*", "*that the debate be now adjourned*", or "*that the authority do now adjourn*", on the seconding of which the [mayor][chairman] shall proceed as follows:-

(a) on a motion to proceed to next business: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;

(b) on a motion that the question be now put: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion

his right of reply under paragraph (11) of this standing order before putting his motion to the vote;

- (c) on a motion to adjourn the debate or the meeting: if in his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he shall put the adjournment motion to the vote without giving the mover of the original motion his right of reply on that occasion.

(14) A member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a standing order or statutory provision and the member shall specify the standing order or statutory provision and the way in which he considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate.

(15) The ruling of the [mayor][chairman] on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

(16) Whenever the [mayor][chairman] rises during a debate a member then standing shall resume his seat and the authority shall be silent.

10 Motions affecting persons employed by the authority

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

11 Disorderly conduct

(1) If at a meeting any member of the authority, in the opinion of the [mayor][chairman] notified to the authority, misconducts himself by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the authority, the [mayor][chairman] or any other member may move "*that the member named be not further heard*", and the motion if seconded shall be put and determined without discussion.

(2) If the member named continues his misconduct after a motion under paragraph (1) has been carried the [mayor][chairman] shall either —

- (a) move "*that the member named do leave the meeting*", in which case the motion shall be put and determined without seconding or discussion; or
- (b) adjourn the meeting of the authority for such period as he in his discretion considers expedient.

(3) In the event of general disturbance which the opinion of the [mayor][chairman] renders the due and orderly dispatch of business impossible, the [mayor][chairman], in addition to any other power vested in him, may without question put adjourn the meeting of the authority for such period as he in his discretion considers expedient.

12 Disturbance by members of the public

If a member of the public interrupts the proceedings at any meeting the [mayor][chairman] shall warn him. If he continues the interruption the [mayor][chairman] shall order his removal from

the authority's chamber. In case of general disturbance in any part of the chamber open to the public the [mayor][chairman] shall order that part to be cleared.

13 Rescission of preceding resolution

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

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

14 Voting

(1) The mode of voting at meetings of the authority shall be by show of hands.

(2) On the requisition of a member of the authority made before the vote is taken the voting on any question shall be recorded so as to show whether each member present voted for or against that question or abstained from voting.

15 Voting on appointments

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

16 Record of attendance

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

17 Interest of members in contracts and other matters

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

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

18 Interest of officers in contracts

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

19 Canvassing of and recommendations by members

(1) Canvassing of members of the authority or any committee of the authority directly or indirectly for any appointment under the authority shall disqualify the candidate concerned for that appointment. The purport of this paragraph of this standing order shall be included [in every advertisement inviting applications for appointments and] in any form of application.

(2) A member of the authority shall not solicit for any person any appointment under the authority, but this shall not preclude a member from giving a written testimonial of a candidate's ability, experience, or character for submission to the authority with an application for appointment.

20 Relatives of members or officers

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

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

(3) For the purpose of this standing order —

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

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

21 Filling of new posts and vacancies

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

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

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

(b) in any case, what shall be the terms and conditions of the office,

and no steps shall be taken to fill the post until these decisions have been taken.

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

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

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

22 Custody of seal

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

23 Sealing of documents

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

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

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

24 Authentication of documents

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

25 Inspection of documents

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

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

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

26 Orders and inspections

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

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

27 Appointment of committees

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

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

28 Proceedings of committees to be confidential

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

29 Constitution of committees

(1) The following committees shall be the standing committees of the authority and shall consist of the number of members (exclusive of the [mayor][chairman]) specified opposite each committee:-

(2) Except where otherwise provided by statute or a scheme made under statutory authority, the [mayor][chairman] shall be ex-officio a member of every standing committee appointed by the authority.

30 Election of chairman of committee

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

31 Special meetings of committees

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

32 Sub-committees

(1) Every committee appointed by the authority may appoint sub-committees for purposes to be specified by the committee.

(2) The chairman and the vice-chairman, if any, of the committee shall be ex-officio members of every sub-committee appointed by that committee, unless he signifies to the committee that he does not wish to serve.

33 Quorum of committees and sub-committees

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

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

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

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

34 Voting in committees and sub-committees

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

35 Standing orders to apply to committees and sub-committees

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

36 Amendment and revocation of standing orders

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

37 Suspension of standing orders

(1) Subject to paragraph (2), any of the preceding standing orders may be suspended so far as regards any business at the meeting where its suspension is moved.

(2) A motion to suspend standing orders shall not be moved without notice (i.e. under standing order 6) unless there shall be present at least [one-half of the whole number of the] members of the authority.

38 Standing orders to be given to members

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

39 Interpretation of standing orders

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

PART 2
MAKING OF CONTRACTS

Part 1 — General

1 Application

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

2 Invitation of Tenders

(1) Subject to the provisions of paragraph (2) and (3) and standing order 3, before seeking to make any contract the authority shall cause appropriate public notice to be placed in a newspaper circulating in the Island and in an appropriate trade journal (if any) giving not less than [14] days notice of the intended contract and inviting tenders therefore by a fixed date and time.

(2) In the case of a contract for capital works (see standing order 10), the public notice given under paragraph (1) may invite any contractor interested in tendering for the work to submit his name to the authority and the authority may then proceed to request tenders from contractors selected from the list of those responding to the notice.

(3) The authority may, by resolution, exempt any contract from the provisions of paragraph (1) where the authority is satisfied that the exemption is justified by special circumstances.

3 Exceptions

Notwithstanding the provisions of standing order 2(1) —

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

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

4 Contents of contracts

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

5 Delivery of tenders

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

6 Opening of tenders

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

7 Acceptance of tender

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

8 Payments on account

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

9 Variations of contract

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

Part 2 — Capital schemes

10 Application

In addition to the foregoing provisions this Part shall have effect in regard to any contract for the execution of works which will form the subject of an application to the Department of Local Government and the Environment for consent to borrowing.

11 Pre-application procedures

The Department of Local Government and the Environment's recommended pre-application procedures must be observed.

12 Contracts

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

13. Price increases

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

14 Provisional sums

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

15 Additions and variations

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

Part 3 — Supplemental

16 Amendment and revocation of standing orders

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

17 Standing orders to be given to members

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

APPENDIX 3

MODEL STATEMENT OF PARTICULARS OF JOB DESCRIPTION

POST: (Job Title i.e. Clerk)

AUTHORITY: (Name of Local Authority)

REPORTS TO: (Person/Authority directly responsible to)

RESPONSIBLE FOR: (Any staff management responsibility)

PURPOSE

(Brief description of purpose of the job)

MAIN ACTIVITIES

(List of duties)

KNOWLEDGE AND SKILLS

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

QUALIFICATIONS

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

COMPETENCY REQUIREMENTS

(This could include a knowledge of local government structure and functions)

**MODEL STATEMENT OF PARTICULARS OF TERMS AND CONDITIONS FOR
STATEMENT OF EMPLOYMENT**

NAME

ADDRESS

POST

STARTING DATE OF EMPLOYMENT

DURATION OF EMPLOYMENT (If applicable)

REMUNERATION (If pro rata this needs to be stated also whether annual increments)

HOURS OF WORK (This will need to specify days (if part-time); overtime requirements (if applicable); possible out of hours duties)

ANNUAL LEAVE

PUBLIC HOLIDAYS

SICKNESS OF INJURY LEAVE (Any pay entitlement and if so to cover what period)

RETIREMENT AGE

PENSION RIGHTS

TERMINATION OF EMPLOYMENT

By the Authority

By the Employer

ALLOWANCES (If applicable)

ACTIONS WHICH CONSTITUTE GROSS MISCONDUCT

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

GRIEVANCE AND DISCIPLINARY PROCEDURES

(As above and depending on nature and term of contract i.e. applicable after a certain period)

.....

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

Signed

Name

Date

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

.....

The main legislation covering employment is the Employment Act 1991 and this should be referred to for guidance. Please note Part V of the Act covers unfair dismissal.

