



Borough of Douglas

Town Hall,

Douglas,

13th March, 2019

At a MEETING of the COUNCIL of the BOROUGH OF DOUGLAS, duly convened and holden at 2.30 p.m. on WEDNESDAY, the 13th day of MARCH, 2019, in the COUNCIL CHAMBER, within the TOWN HALL, at which Meeting the following Members were present, that is to say: -

The Mayor

MR COUNCILLOR JONATHAN JOUGHIN, JP

Councillors

Miss N.A. Byron

Mrs H. Callow

Mr S.R. Pitts

Mrs R. Chatel

Mr I.J.G. Clague, MBE

Mr D.W. Christian, MBE, JP

Mrs C.E. Malarkey

Mrs C.L. Wells

Mr A.J. Bentley

Mr C.L.H. Cain

Miss D.A.M. Pitts, JP

Mr F. Horning

Mr R.H. McNicholl

Mr J.E. Skinner

Ms K. Angela

Mrs E.C. Quirk

Apologies for absence were submitted by Councillor Ms J. Thommeny.

The Town Clerk and Chief Executive, Director of Environment and Regeneration, Director of Finance and the Director of Housing and Property were in attendance.

1. **Point of Order - Standing Order 44**

Councillor Miss N.A Byron rose to a point of order in relation to Standing Order 44, rules of debate, to request clarification about whether Members speaking in debate are required to ask a question of the mover. The Chief Executive responded in the affirmative.

2. **Minutes – 13th February, 2019**

The minutes of the monthly Council meeting held on Wednesday, 13th February, 2019, were approved and signed.

3. **Standing Order 39 – Question – Mr Councillor A.J. Bentley**

Mr Councillor A.J. Bentley asked the Leader of the Council:

“In recent months Mr Bill Henderson MLC, Mr Ralph Peake MHK and Mr Bill Shimmins MHK have paid for and carried out their own testing for Nitrogen Dioxide in conjunction with Friends of the Earth at locations in Lord St and Quarterbridge. The results at Quarterbridge showed, that in the two months tested, December’s results of 42.51 micrograms/m³ and January’s 39.93 micrograms/m³ if continued over the course of a year would create an annual mean in excess of 40 micrograms/m³ which exceeds the legal limit set by the European Union for Nitrogen Dioxide.

In the light of these findings should we, as a Council, request that the Department of the Environment, Food and Agriculture reconsider their decision not to re-establish regular air testing in our town centre and at Quarterbridge?”

Reply by the Leader of the Council:

“The Council, as a responsible local authority and one that takes the health of its residents and visitors very seriously, is concerned about air quality. However air quality is never purely a local issue, though there can be local areas affected for better or worse. It is a matter for monitoring on a wider, national basis and as such any decision on the frequency and level of monitoring – as well as action in the case of poor results – rests with the Department of Environment, Food and Agriculture. I am content to accept the suggestion that the Department should be invited to review its decision not to monitor on a more regular basis but conscious that the Department, in common with other Departments and local authorities, has to be wary of unnecessary expense.”

4. **Standing Order 39 – Question – Mr Councillor D.W. Christian**

Mr Councillor D.W. Christian asked the Chair of the Housing Committee:

- a) *“What action has been taken to each individual property identified with issues following the Damp Survey Report?”*
- b) *What issues were identified as being widespread throughout the housing stock?*
- c) *Has a Capital Programme been drawn up to resolve issues such issues as, badly fitting Loft Insulation?*
- d) *As badly fitting Loft Insulation is a major problem will a scheme be put in place to resolve before winter 2019?”*

Reply by the Chair of the Housing Committee:

“22 of the properties surveyed have been inspected by housing maintenance and the identified defects prioritised for remedial work. Minor maintenance related defect works to 10 of the properties have been fully completed to date with the remaining defects scheduled to be completed by June 2019. Capital schemes have also been programmed to address the major defects where identified.

The 24 properties surveyed were selected to represent a spread of the Council’s housing stock and particularly including where it was considered problems already existed. It is not possible to say if any of the defects reported in the surveys are “widespread” as the sample surveyed equates to 1% of the total stock. However common defects from the completed surveys were reported as below;

- (1) *Roof insulation defects.*
- (2) *Lack of mechanical ventilation.*
- (3) *General age of buildings and corresponding inherent construction related defects such as solid uninsulated walls and redundant chimney stacks etc., which are the main sources of cold bridging, condensation and damp.*
- (4) *Tenant education, particularly in respect of management of condensation.*

Other common defects noted in the reports not necessarily related to damp problems are:-

Consideration of a ceiling replacement programme within the older stock properties due to excessive cracking.

Replacement of failed double glazing units, mastic seals and repairs to the mechanical fittings in windows.

Fascia, soffit, gutter and rain water goods cleaning and repairs.

The approved Housing Development Strategy document highlights and prioritises those major capital projects identified in the Damp Survey reports which have now been included in the 2019/2020 capital programme.

It is not possible to say for certain that the roof insulation defects are a “major problem” across the stock without further survey data. Roof insulation checks and repairs were previously going to be addressed by the in house housing maintenance team however, following recent issues in Willaston, where asbestos material was found within roof spaces, asbestos surveys will now be required prior to undertaking repairs in roof spaces. The bathroom refurbishment framework is currently being developed and will include loft insulation and ventilation units and is included in the Council’s capital programme for 2019/20 (subject to approvals). In addition where resources allow and where urgent works are required, loft insulation works will be addressed via reactive maintenance. Roof insulation checks have also been included in the void standard.”

5. Standing Order 39 – Question – Mr Councillor A.J. Bentley

Mr Councillor A.J. Bentley asked the Chair of the Environmental Services Committee:

“Within the context of the EFW plant now charging approximately £90 per ton to dispose of waste and the Council’s Waste Management Services Plan aiming to increase the household recycling participation level by 3% p.a. and total recycling rate by 1%p.a., there are both financial and moral reasons to advance recycling uptake within the Borough.

Could the Council be better using its role in the three statutory permissions (Planning, Building Regulations and Flat Registration) to ensure that the design process allows for full recycling facilities to be available in all new flat developments?”

Reply by the Chair of the Environmental Services Committee:

“The Council can use its role in relation to Planning, Building Regulations and Flat Registration as a means of encouraging higher levels of recycling. Very early work has commenced on a set of waste management guidelines for architects and property developers to explain how the Council expects refuse to be stored in bin stores and made available for collection. Part of this work is to establish what the Council can mandate to be done as opposed to simply expecting or requesting to be done.

In relation to Planning, the Council is a statutory consultee on planning applications made in the Borough and may therefore provide comments, including support or objections, to applications as part of that role. The Isle of Man Strategic Plan does not require domestic properties to be provided with recycling facilities so, although the Council may submit whatever comments it wishes in relation to planning applications, it would be unreasonable and ineffective to object to an application purely on the grounds that it does not include facilities for recycling. However, the Building Control Manager reviews applications and will alert the planning authority to any applications where the external refuse provisions will definitely not meet the requirements of the Building Regulations. This will assist the applicant by giving early feedback prior to the Building Regulations application having been submitted and could lead to a planning application being withdrawn or amended in some cases.

As a Building Control Authority the Council is empowered to require developments to comply with the Building Regulations. Part H6 of the Building Regulations requires that adequate provision is made for the external storage of solid waste and that adequate means of access is provided for people within the building and from the place of storage to the collection point. Guidance on the interpretation of Part H6 does make specific reference to the provision of receptacles for recycling but this is underpinned by Sections 46 and 47 of the Environmental Protection Act 1990 in the UK; legislation not in force in the Isle of Man and which goes much further than the current legislation on the Isle of Man. However, Section 65(4) of the Public Health Act 1990 provides that a local authority may make it a condition of collecting domestic waste that recyclable materials are stored for collection in a particular way. Although not explicit, the general interpretation is that this section is referring to how waste is stored externally and presented for collection.

There is nothing within existing legislation or regulations that make mandatory how waste is stored internally although guidance can always be offered. Guidance, however, would not be enforceable.

Officers’ interpretation of the Housing Standards Regulations 2017 is that only adequate and reasonably suitable refuse storage is required and specific facilities or space for recycling is not required. Advice received from the Department of Environment, Food and Agriculture (DEFA) supports this view.”

6. Standing Order 39 – Question – Mr A.J. Bentley

Mr Councillor A.J. Bentley asked the Chair of the Environmental Services Committee:

“Item 8 of Schedule 2 of the Isle of Man Housing (Standards) Regulations 2017 requires that with regard to the storage of waste in flats and houses of multiple occupation;

- 1) Premises must be provided with readily available and reasonably suitable receptacles for the storage of refuse.*
- 2) Adequate provision must be made for the storage of such receptacles and for the disposal of refuse to the satisfaction of the local authority.*

12.24. of the IOM Affordable Housing Standards Design Guide (2016) requires that flats have external communal bin areas to "allow for the separation of waste" and that kitchens in new build dwellings and property refurbishments are "supplied and fitted with a 3-compartment waste bin suitable for segregating the key wastes for Recycling."

How does the Council (or rather DEFA on behalf of the Council) currently interpret "satisfaction of the local authority" for flat registration?

With a view to increasing recycling in accordance with the aforementioned aims of the Waste Management Service Plan is there any reason why 2.4.12 of the Government's housing standard would not suffice as a minimum standard required for all new flat registrations and that planning applicants and/or their agents are made aware of those requirements as part of the planning process?"

Reply by the Chair of the Environmental Services Committee:

“The advice from DEFA is that the “satisfaction of the local authority” could not currently be used to insist on recycling facilities without changes to legislation.

The reference is to the IoM Affordable Housing Standards Design Guide (2016), which states:

2.4.12 Refuse Disposal

2.4.12a Waste/wheelie bins should be located within the curtilage of every house in a position that is designed to screen the bins but accessible from kitchen areas and for refuse collectors.

2.4.12b Sheltered schemes or blocks of apartments should have communal bin areas located externally in positions that will not unreasonably disturb residents but are close to building entrances and accessible for refuse collection vehicles. The bin area should be large enough to accommodate larger bins and allow for separation of waste.

2.4.12c Bin areas should be well screened by a timber fence or similar and there should be a lockable water point and drain close by to facilitate cleaning.

2.4.12d Provision of waste bins should be in accordance with the recommendations of the Waste Operations Management Unit, Local Authority and client.

2.4.12e Kitchens should be supplied and fitted with a 3 compartment waste bin suitable for segregating the key wastes for recycling.

This will be considered as part of the current work mentioned above. The Design Guide is not enforceable but where appropriate it could be cited when considering planning applications. The flat registration process takes place once any new building is near practical completion.”

7. Point of Order – Supplementary Question

Mr Councillor D.W. Christian asked the Chair of the Housing Committee:

“Other than the 24 properties surveyed;

- a) How many other properties have had loft insulation inspected?*
- b) How many have had asbestos surveys?"*

Reply by the Chair of the Housing Committee:

“I am unable to give an exact number, the properties are being inspected as part of the void property scheme. If officers are able to provide the information they will do so. The figures are not being withheld intentionally, and there has been extensive works to each individual property, but we didn't feel it appropriate to publish individual property details in a public document, the Leader is welcome to see the detailed list. In response to the actual question, I am unable to give an exact number.”

8. **Executive Committee – 1st March, 2019 – Clauses A1 to A13**

Motion moved by Mr Councillor D.W. Christian, seconded by Mr Councillor R.H. McNicholl, “That the minutes of proceedings of the Executive Committee, as contained in Clauses A1 to A13 inclusive of report of meeting held on Friday, 1st March, 2019, be received by the Council.”

During discussion Mr Councillor D.W. Christian agreed, subject to the consent of the Council, to refer Clause A8 to the Environmental Services Committee for comment before further consideration by the Executive Committee.

A vote to withdraw Clause A8 was taken electronically, and the Motion was carried unanimously.

Question put on amended Motion; a vote was taken electronically, and the Motion was carried unanimously.

9. **Executive Committee – 1st March, 2019 – Clause C14**

Motion moved by Mr Councillor D.W. Christian, seconded by Mr Councillor R.H. McNicholl, “That the minutes of proceedings of the Executive Committee, as contained in Clause C14 of report of meeting held on Friday, 1st March, 2019, be received, approved and adopted by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

*As a consequence of the Motion being carried, the **Constitution: Part 4 – Rules of Procedure – Section 1 – Council Procedure Rules (Standing Orders) – Part II – Electronic Equipment – Standing Order 56A** was amended to read:*

“Except for the official recording system or in case the Mayor has given specific permission, no Member of the Council, officer or the public attending a meeting shall, during the meeting make any audio or video recording of the proceedings.

During any meeting of the Council or a Committee, all mobile communications devices shall be switched to silent operation. Except as below, no mobile telephone or computer shall be used for any form of communication during the meeting except in case of potential emergency where the Mayor has given consent and in such case when a communication is received the individual concerned shall leave the Chamber to deal with the matter.

The use of laptop and tablet computers by Members of the Council during meetings of the Council or a Committee shall be permitted only for the purpose of viewing files relevant to the business of the meeting, and in the case of a Chair, Vice-Chair or Member who has moved the adoption of minutes of a Committee in a meeting of the Council, for receiving information from any Chief or Assistant Chief Officer that is relevant to questions asked in debate.”

10. **Pensions Committee – 27th February, 2019**

Motion moved by Councillor Ms K. Angela, seconded by Mr Councillor F. Horning, “That the minutes of proceedings of the Pensions Committee, as contained in report of meeting held on Wednesday, 27th February, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

11. **Eastern District Civic Amenity Site Joint Committee – 18th February, 2019**

Motion moved by Mr Councillor R.H. McNicholl, seconded by Mr Councillor F. Horning, “That the minutes of proceedings of the Eastern District Civic Amenity Site Joint Committee, as contained in report of meeting held on Monday, 18th February, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

12. **Housing Committee – 20th February, 2019 – Clauses A1 to A11**

Motion moved by Councillor Mrs C.L. Wells, seconded by Councillor Mrs C.E. Malarkey, “That the minutes of proceedings of the Housing Committee, as contained in Clauses A1 to A11 inclusive of report of meeting held on Wednesday, 20th February, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

13. **Housing Committee – 20th February, 2019 – Clause C12**

Motion moved by Councillor Mrs C.L. Wells, seconded by Councillor Mrs C.E. Malarkey, “That the minutes of proceedings of the Housing Committee, as contained in Clause C12 of report of meeting held on Wednesday, 20th February, 2019, be received, approved and adopted by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

14. Regeneration and Community Committee – 19th February, 2019

Motion moved by Mr Councillor S.R. Pitts, seconded by Councillor Miss D.A.M. Pitts, “That the minutes of proceedings of the Regeneration and Community Committee, as contained in report of meeting held on Tuesday, 19th February, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

Under the provisions of the Local Government Act 1985, Mr Councillor A.J. Bentley declared an interest in Clause A8 of the minutes and retired whilst it was considered.

15. Environmental Services Committee – 18th February, 2019

Motion moved by Mr Councillor R.H. McNicholl, seconded by Mr Councillor F. Horning, “That the minutes of proceedings of the Environmental Services Committee, as contained in report of meeting held on Monday, 18th February, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

16. Adjournment and Resumption

The meeting adjourned at 4.26pm and resumed at 4.42pm with the same Members and Officers in attendance.

IN PRIVATE

17. Pensions Committee – 27th February, 2019

Motion moved by Councillor Ms K. Angela, seconded by Mr Councillor F. Horning, “That the minutes of proceedings of the Pensions Committee, as contained in private report of meeting held on Wednesday, 27th February, 2019, be received by the Council.”

Question put on Motion, a vote was taken electronically, and the Motion was carried unanimously.

18. Housing Committee – 6th March, 2019 – Clauses A1 to A3

Motion moved by Councillor Mrs C.L. Wells, seconded by Councillor Mrs C.E. Malarkey, “That the minutes of proceedings of the Housing Committee, as contained in Clauses A1 to A3 of private report of meeting held on Wednesday, 6th March, 2019, be received by the Council.”

Question put on Motion; a vote was taken electronically, and the Motion was carried unanimously.

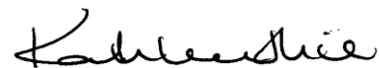
19. Housing Committee – 6th March, 2019 – Clause C4

Motion moved by Councillor Mrs C.L. Wells, seconded by Councillor Mrs C.E. Malarkey, “That the minutes of proceedings of the Housing Committee, as contained in Clause C4 of private report of meeting held on Wednesday, 6th March, 2019, be received, approved and adopted by the Council.”

Question put on Motion; a vote was taken electronically, and there voted **For** the Motion; Councillors: Mrs C.E. Malarkey, Mrs C.L. Wells, Mr A.J. Bentley, Mr J.E. Skinner, Mrs E.C. Quirk – **5**

Against; Councillors: Mr S.R. Pitts, Mrs H. Callow, Miss N.A. Byron, Mr I.J.G. Clague, Mrs R. Chatel, Mr D.W. Christian, Mr C.L.H. Cain, Miss D.A.M. Pitts, Mr F. Horning, Mr R.H. McNicholl, Ms K. Angela, the Mayor – **12**

The Council rose at 5.25pm.



Town Clerk & Chief Executive