

GD 2021/0053



**Isle of Man**  
**Government**

*Reiltys Ellan Vannin*

**Council of Ministers' Response to the**  
**Tynwald Constitutional and Legal Affairs and Justice Committee –**  
**Third Report for the Session 2020-21 on the role of the Attorney General**  
**July 2021**

**To the Hon S C Rodan MLC, President of Tynwald, and the Hon Council and Keys  
in Tynwald assembled**

**Foreword by the Minister for Justice and Home Affairs**



The Council of Ministers welcomes this comprehensive and timely report from the CLAJ. The role of the Attorney General is a fundamental part of the Island's constitution and has been in existence for over 250 years. The scope and breadth of the functions undertaken today by Her Majesty's Attorney General are significant and reflect the fundamental changes to the Island's constitution, particularly in the last fifty years. As our Island has taken control of more of its own affairs, so the role of the Attorney General has evolved and grown.

It is, therefore, an appropriate time for the Constitutional and Legal Affairs and Justice Committee to reflect on the role of Her Majesty's Attorney General and consider the functions undertaken by that role. The Council of Ministers believes that the Committee's conclusions are significant and have far reaching constitutional implications. The Council of Ministers could not hope to provide a considered and informed response within the usual two month timeframe. It is the view of Ministers that detailed consideration of the Committee's report be supported by consultation and engagement with a variety of interested or affected parties. The Council of Ministers is, however, able to confirm its support for the recommendation in relation to the establishment of a separate prosecution function.

In conclusion, the Council of Ministers agrees with the broad thrust of the report – that is, that the role of Her Majesty's Attorney General (HMAG) be reviewed – and the outcome of that review be brought to Tynwald for consideration. The Council of Ministers is mindful that the role of HMAG is a Crown function and so early engagement with Her Majesty, through the Ministry of Justice, is a priority.

Finally, I would like to thank members of the Council of Ministers' sub-committee for justice for their invaluable input and support:

- Hon Ray Harmer MHK, Minister for Policy and Reform,
- Mr Ralph Peake MHK, Member for Treasury,
- Mrs Kerry Sharpe, MLC, Member for Department of Health and Social Care and political lead for Children and Families Service

**Hon Graham Cregeen MHK**  
**Minister for Justice and Home Affairs**  
**Chair – Council of Ministers’ Sub-Committee for Justice**

## The report

### Responses to the Conclusions and Recommendations of the Tynwald Constitutional and Legal Affairs and Justice Committee

|            |   |
|------------|---|
| <b>1</b>   | <b>That the recommendation made by Stephen Wooler to redefine the relationship between the Attorney General and the Director of Prosecutions as one of superintendence, with prosecutions being brought in the name of latter, be formally implemented without further delay</b>  |
| Commentary | <p><b>Council of Ministers response</b></p> <p>The Council of Ministers agrees with this recommendation which is fully supported by the Attorney General, but notes that there will likely be a significant cost implication for the establishment of an entirely separate office without the current supporting infrastructure offered to prosecutions by the Attorney General's Chambers.</p> <p>The Council of Ministers will bring forward a detailed proposal setting out costs and timescales to Tynwald no later than December 2021.</p> |
| Response   | <b>Agree</b>  |

|                  |   |
|------------------|---|
| <b>2</b>         | <b>That the legal advisor to the executive be entirely separate from the legal advisor to Tynwald and its Branches;</b>   |
| Commentary       | <p><b>Council of Ministers response</b></p> <p>The Council of Ministers believes more clarity is needed on this point. the Attorney General and his law officers manage conflicts of interest daily, where one Departments engages in legal action against another, for example. In cases where a conflict cannot effectively be resolved, the Attorney General will engage separate counsel or legal services. This appears to be a matter worthy of further consideration by the review sought in recommendation 3.</p> |
| Response         | <b>Amend</b>  |
| Amended response | <b>That the independent review of the role of Her Majesty's Attorney General consider most appropriate means of the provision of legal advice to Tynwald and its Branches and the Executive</b>   |

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| <b>3</b>   | <b>That the Government conduct a review in order to identify effective solutions to address the issues raised in this report; and that it report back to Tynwald by December 2022.</b> |
| Commentary | <p><b>Council of Ministers response</b></p> <p>As described above, the Council of Ministers supports this approach.</p>  |
| Response   | <b>Agree</b>   |