

GUIDANCE FOR POTENTIAL PETITIONERS AT TYNWALD HILL

REVISED EDITION 2012

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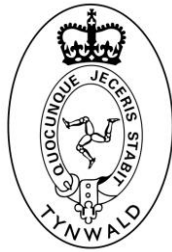
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ISBN 978-1-904869-35-1

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Office of the Clerk of Tynwald

Guidance for Potential Petitioners at Tynwald Hill

I. INTRODUCTION

1. The right of an individual to petition Tynwald is said to have existed from the earliest times. A petition procedure is described in an account of Tynwald Day in 1691. By 1900 any petitions had ceased to be considered by Tynwald itself. In 1957 written rules were introduced and the right has been exercised regularly in recent years.
2. Historically the High Court of Tynwald performed what would today be recognised as a judicial as well as a legislative function. Today there is a separation of those powers. Specific disputes between individuals, or between individuals and public authorities, are dealt with by the courts. Tynwald meanwhile is concerned with policy and (through its Branches) legislation. Thus the modern Petition for Redress procedure cannot generally be used in relation to any specific case which could be adjudicated on by a court. What it can do is draw Tynwald's attention to a matter of public interest, by which a petitioner has been affected, and about which the petitioner thinks Tynwald should do something.
3. This Guidance, which replaces the "Notes on the Presentation of Petitions for Redress" previously issued on an annual basis, has been produced by the Office of the Clerk of Tynwald and is intended to assist anyone considering presenting a Petition for Redress on Tynwald Hill. If you have any questions

about the procedure, or the Guidance, please contact the Office of the Clerk of Tynwald using the contact information included at the beginning of this Guidance.

II. OUTLINE OF THE PROCEDURE

4. The procedure for Petitions for Redress is governed by the Standing Orders of Tynwald Court. Relevant extracts from the Standing Orders are reproduced at Annex 1.
5. In outline, the stages are as follows:
 - Before Tynwald Day, you prepare your Petition for Redress. The Clerk of Tynwald is available to assist with this. Further detail on preparing your Petition for Redress is at Section III below.
 - On Tynwald Day itself (that is, on 5th July, or, if 5th July falls at a weekend, on the following Monday) you come to Tynwald Hill at St John's and present your Petition for Redress. If you cannot attend, you can ask a Member of Tynwald to present your Petition for Redress for you and this should be stated within the Petition for Redress. Further detail on presenting your Petition for Redress is at Section IV below.
 - Shortly after Tynwald Day the Standing Orders Committee of Tynwald considers your Petition for Redress and determines whether or not it is in order. It publishes its determination in a Report which is laid before Tynwald but not debated.
 - Assuming your Petition for Redress is in order, then any Member of Tynwald can pick up your Petition for Redress and table it for debate in Tynwald Court. This can be done at any time in the five years following the Tynwald Day at which you have presented your Petition for Redress. If your Petition for Redress is picked up and debated you can attend the debate but you cannot participate.
 - Depending on what happens in the debate, your Petition for Redress may be referred to a Select Committee of Tynwald.

- If Tynwald does decide to refer your Petition for Redress to a Select Committee, the Committee will normally invite you to send in a written submission and to give oral evidence in public.
 - When the Committee has considered your written and oral evidence, together with any other written and oral evidence it decides to accept, it will produce a Report to Tynwald which will normally be debated. You will receive a copy of the Report and you can attend the debate, although you cannot participate.
 - The Committee's Report may contain recommendations. If it does, these recommendations may be accepted, rejected or amended by Tynwald during the debate.
 - If Tynwald accepts any recommendations arising from the Report, these become Tynwald policy. They will often fall to be implemented by one or more Government Departments.
 - If the recommendations accepted by Tynwald include the introduction of new primary legislation, this will need to be drafted by the Attorney General's Chambers and considered by the House of Keys and Legislative Council.
6. The Petition for Redress procedure is available to everyone living in the Isle of Man and is free of charge. It can raise the profile of an issue and can deliver changes in Tynwald policy, which can in turn result in changes to the political priorities of Government Departments and to the administrative procedures for which they are responsible. It can even ultimately result in a change being made to the law.
7. However, you need to be aware that the procedure:
- is not quick;
 - is largely out of your hands;
 - cannot deliver any direct benefit to you in the form of damages or compensation;
 - cannot result in any other person being fined or punished in any way.

III. PREPARING YOUR PETITION FOR REDRESS

8. In preparing your Petition for Redress your starting point should be the relevant Standing Orders of Tynwald Court as reproduced at Annex 1. You may also find it helpful to refer to successful Petitions from previous years. These are reproduced in full in the Petitions Reports published by the Standing Orders Committee each year which you can find via the Tynwald website or from the Tynwald Library.

Form

9. The rules on the form of Petitions are at Standing Order 6.1, most of which is self-explanatory.
10. Standing Order 6.1(8) requires that every Petition for Redress must contain a prayer. A “prayer” in this context is a statement of what you would like Tynwald to do. It should be something Tynwald is capable of doing but apart from that there are few restrictions. Note, though, that you cannot ask for public money (Standing Order 6.1(6)). Many successful Petitions simply ask Tynwald to establish a Committee to investigate the matter of concern and to report with recommendations as to how such-and-such an outcome might be achieved.
11. The format at Annex 2 has been adopted by many successful petitioners in recent years.
12. There is no restriction in Standing Orders on the length of a Petition for Redress. Petitions for Redress in recent years have generally tended to be one or two pages in length.
13. The signature(s) must appear on the same page as the prayer (Standing Order 6.1(9)). A Petition for Redress can be from an individual or a body corporate, and can be from one person or more than one. If it is from more than one person, the names of all the petitioners should be stated within the body of the Petition for Redress and all the petitioners should sign. There is no point in appending multiple signatures of people not named within the Petition for Redress.

Content

14. The rules on the content of Petitions for Redress are at Standing Order 6.11.
15. A Petition for Redress must relate to a matter of public interest (Standing Order 6.11(a)). This means that you cannot use a Petition for Redress to resolve a grievance against another private individual. It may also exclude a grievance between you and a public authority in some circumstances, if what the public authority has done affects only you and has no wider implications for the public at large.
16. A Petition for Redress must relate to a matter falling within the province of Tynwald (Standing Order 6.11(b)). This means you cannot use a Petition for Redress to resolve a grievance about , for example, international affairs.
17. A Petition for Redress must not relate to any specific case which could be or has been adjudicated upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the Petition for Redress shows that in the particular circumstances it is not reasonable to expect the petitioner to resort, or to have resorted, to such remedy (Standing Order 6.11(c)). This rule is designed to uphold the separation of powers and to ensure that Tynwald, the legislature of the Isle of Man, does not interfere with matters which should properly fall to the judiciary.
18. A Petition for Redress must contain no reference to any matter the substance of which has been determined by Tynwald in the current Session. The word “Session” in this context refers to the parliamentary year from October to July. This rule means you cannot use a Petition for Redress to re-open a policy issue on which Tynwald has recently reached a settled view.

Procedural advice

19. The Clerk of Tynwald and his colleagues are available to advise on both the form and content of Petitions for Redress. All potential petitioners are encouraged to avail themselves of this opportunity and to get in touch with the Clerk at an early stage. Contact information can be found at the front of this Guidance. If you following the Clerk’s advice, this will maximise the chance of your Petition for Redress being found to be in order.

Political advice

20. You may wish to consider approaching your MHK or another Member of Tynwald at an early stage in the preparation of your Petition for Redress. A Member may be able to advise on the way in which your Petition for Redress is expressed. For example, a Member may have views on which facts or arguments are likely to assist in persuading Tynwald Court to pursue the Petition for Redress. You are, however, under no obligation to prepare your Petition for Redress in collaboration with a Member of Tynwald.

IV. PRESENTING YOUR PETITION FOR REDRESS

21. You do not have to give notice in advance of your intention to present a Petition for Redress. However, you are encouraged to do so by contacting the Clerk of Tynwald before Tynwald Day so that he can brief the ushers and security guards, and make any special arrangements which may be necessary, for example if you are suffering from impaired mobility.
22. Shortly before the ceremony the Clerk normally meets petitioners by the Lych Gate outside the Royal Chapel of St John and briefs them on the procedure to be followed when they are called upon to come forward. Again, attendance is not compulsory but you are strongly encouraged to participate and to find out the precise timing of this meeting from the Tynwald website or by telephoning the Clerk of Tynwald's Office.
23. The ceremony starts at 11am with an act of worship; then there are the processions to the Hill; then the swearing of the coroners; then the promulgation of the Acts; and only then the presentation of Petitions for Redress. It is difficult to give exact timings so you should follow the ceremony closely and come to the allotted position in good time as there is no provision for "late entries".
24. At the appropriate point in the ceremony, you have to approach the Hill by the processional path. However many petitioners are named in your Petition for Redress, the maximum number who may present the Petition for Redress at Tynwald Hill is three. After you have handed the Petition for Redress to the Clerk of Tynwald you return along the processional path. (Standing Order 6.6)

25. If you are unable to come to the foot of Tynwald Hill during the ceremony yourself you can authorise a Member of Tynwald or anyone else to present the Petition for Redress on your behalf. If you choose to authorise someone who is not a Member of Tynwald to do this, this needs to be stated within the body of the Petition for Redress (Standing Order 6.6(1)).

Office of the Clerk of Tynwald
May 2012

STANDING ORDERS OF TYNWALD COURT
RELEVANT TO PETITIONS FOR REDRESS

V. COMMITTEES ETC

4. Select Committees

Evidence etc

- 5.10 (4) A Select Committee appointed to investigate a Petition for Redress of Grievance presented at St John's shall, unless satisfied that there are exceptional reasons for not doing so, hear evidence from the petitioner in public, and such evidence shall be recorded, transcribed and published.

VI: PETITIONS AND MEMORIALS

1. General

Petitions and memorials

- 6.1 Every petition or memorial shall be printed or typewritten and shall, save as otherwise provided -
- (1) be headed "In Tynwald" and addressed "To the Honourable Members of Tynwald Court".
 - (2) be in English or, if accompanied by an English translation certified by the petitioner, in Manx;
 - (3) set out the name and address of the petitioner or memorialist;
 - (4) be respectful, decorous and temperate;
 - (5) [*does not apply to Petitions for Redress*];

- (6) contain no application for any sum relating to public service, or for compounding any debts due to the Crown, or for the remission of duties payable by any person;
- (7) contain no erasure or alteration unless the same is specially referred to after the prayer and before any signatures;
- (8) contain a prayer;
- (9) be signed by the petitioner or memorialist or an advocate (or, in the case of a corporation aggregate, be executed in any manner authorised by the Companies Acts 1931 to 2004) on the page on which the prayer appears, the prayer being repeated on each page which bears signatures;
- (10) [*does not apply to Petitions for Redress*].

2. Public Petitions

Presentation of public petitions

6.2 [*does not apply to Petitions for Redress*]

Public petitions not to be debated

6.3 [*does not apply to Petitions for Redress*]

Printing public petitions

6.4 [*does not apply to Petitions for Redress*]

3. Petitions for Redress

Petition may be presented on Tynwald Day

6.5 A Petition for Redress may be presented at Tynwald only when assembled at St John's.

Mode of presentation

- 6.6 (1) A Petition for Redress may be presented at the foot of the Hill by the petitioner or a person authorised by the petitioner; such authorisation shall appear in the petition. A Petition for Redress may also be presented on behalf of a petitioner by a Member.
- (2) A petitioner presenting a petition shall approach the Hill by the processional path.
- (3) No Petition for Redress may be presented at the foot of the Hill by more than three persons.

Petition to be handed to Governor

- 6.7 (1) If presented by a petitioner a Petition for Redress shall be handed by the petitioner at the foot of the Hill to the Clerk of Tynwald who shall forthwith deliver the petition to the Governor.
- (2) On delivery of the petition to the Governor, the petitioner shall return along the processional path.
- (3) If presented by a Member, a Petition for Redress shall be handed forthwith by the Member to the Governor.

Reference to Standing Orders Committee

- 6.8 (1) The Governor shall, on receipt of a Petition for Redress refer the petition to the Standing Orders Committee.
- (2) It shall be the duty of the Standing Orders Committee to examine every Petition for Redress to ascertain whether it is in order, and report to Tynwald.

No reading of or address on petition on Hill

6.9 A Petition for Redress shall not be read, nor shall any Member speak to it in Tynwald, until the Petition for Redress has appeared on the Order Paper.

Requisites of Petitions

6.10 Standing Order 6.1, except paragraphs (5) and (10), shall apply to a Petition for Redress.

Contents of Petitions

6.11 Every Petition for Redress must -

- (a) relate to a matter of public interest;
- (b) relate to a matter falling within the province of Tynwald;
- (c) not relate to any specific case which could be or has been adjudicated upon by the High Court or any tribunal or arbitration, or any formal officially recognised complaints procedure, unless the petition shows that in the particular circumstances it is not reasonable to expect the petitioner to resort, or to have resorted, to such remedy;
- (d) contain no reference to any matter the substance of which has been determined by Tynwald in the current Session.

6.12 A Petition for Redress which is in order but which has not been the subject of a resolution for its investigation by a Select Committee of Tynwald within five years following the end of the month in which it has been presented on Tynwald Hill shall be deemed to have lapsed and shall cease to be before the Court (whether or not a general election to the House of Keys shall have taken place within that period).

Recommended format for Petitions for Redress

IN TYNWALD

5th July [insert year]

To the Honourable Members of Tynwald Court

[If needed –

I authorise [name] to present this Petition on my behalf

Signed:

Dated:

]

The humble petition of

[insert name(s) and address(es) of petitioners]

Sheweth that

[Explain what has happened and why you are bringing the petition.]

Wherefore your petitioner(s) seek(s) that

[Say what you would like Tynwald to do.]

Signed

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May 2012
ISBN 978-1-904869-35-1