

**FORMAL COMPLAINT  
INIQUITOUS LEGAL OPINION ISSUE  
TUESDAY 31ST JANUARY 2023**

**DFE MINISTER PROCEDURE ISSUES**

1.

I attach emails between Trevor Cowin [TC], the Cabinet Officer Minister Kate Lord-Brennan [KLB] and Sam Halliday [SH] and between myself Graeme Edward Jones [GEJ], Sam Halliday [SH] and Rob Callister [RC] as evidence:

A01: TC timed at 11:00 on 16th November 2022  
A02: TC timed at 14:16 on 16th November 2022  
A03: SH timed at 17:19 on 23rd November 2022  
A04: TC timed at 23:00 on 23rd November 2022  
A05: TC timed at 11:45 on 24th November 2022  
A06: SH timed at 13:25 on 25th November 2022  
A07: TC timed at 14:53 on 25th November 2022  
A08: SH timed at 14:38 on 1st December 2022  
A09: TC timed at 13:31 on 2nd December 2022  
A10: GEJ timed at 15:57 on 12th December 2022  
A11: SH timed at 16:11 on 12th December 2022  
A12: GEJ timed at 17:21 on 12th December 2022  
A13: RC timed at 19:51 on 12th December 2022  
A14: GEJ timed at 23:23 on 12th December 2022

2.

I note the significance of the timeline between A2 and A3 and in particular between attachment A7 and A8 compared to the timeline between A5 and A6.

3.

SH is not a qualified lawyer with relevant expertise.

4.

It would be entirely inappropriate to rely on an untrained employee without the right skillset and without access to the right skillset to handle public interest issues without context specific legal support.

5.

Prompted by the email received from TC on Friday 25th November 2022 it is obvious from the timeline and on the balance of probabilities (i.e. more likely than not) that SH requested legal opinion from HM AG Chambers between Friday 25th November 2022 and Monday 28th November 2022 and received **INIQUITOUS LEGAL OPINION** from HM AG Chambers between Tuesday 29th November 2022 and Wednesday 30th November 2022.

6.

It is reasonable to expect a legal opinion to the Chief Minister could and should and would have been prioritised in all the circumstances.

7.

The legal proceedings against Ranson and against Boot and Perkins would certainly have influenced or dictated a response from HM AG Chambers.

8.

SH clearly reviewed what amounted to an **INIQUITOUS LEGAL OPINION** and decided to copy paste a section to respond to TC either as per directions in the document to downplay and explain away **SERIOUS CONSTITUTIONAL ISSUES** as a non-issue or in a decision that had equivalent effect to downplay and explain away **SERIOUS CONSTITUTIONAL ISSUES** as a non-issue either unwittingly or wittingly.

9.

It is a requirement of the Cabinet Office Code of Conduct 2005, reinforced by the select committee investigation into the Neil Kinrade whistleblowing scandal, to properly document any communication with third parties with a risk of future costs incurred and to protect present and future officers. A contentious dispute and a third party such as the Lieutenant Governor meets the requirements. It didn't happen. It is a corporate governance systemic failure.

10.

It is unclear if what amounts to an **INIQUITOUS LEGAL OPINION** included directions to introduce a future legal defence of a "typographical error" despite the timing of the belated claim clearly bringing the Isle of Man public sector into disrepute given the code of conduct expectations and requirements:

<https://mirs.org.im/articles-and-news/news-articles/2018/sep/protecting-an-employers-reputation/>

## **SERIOUS CONSTITUTIONAL ISSUES**

11.

In attachment A10, I could not have been any clearer in my email on 12th December 2022 about **SERIOUS CONSTITUTIONAL ISSUES**:

*It is clearly iniquitous legal opinion to help the Cabinet Office "get away it" with unlawful deductions of wages in December onwards re Rob Callister MHK:*

*Interpretation Act 2015*

*79 Power of appointment includes certain incidental powers*

**(1) A power (the "appointment power") to appoint a public officer**, other than a judicial officer, under Manx legislation includes the power to —

*(a) decide the terms and conditions of the appointment;*

*(b) suspend the appointee, and to end the suspension;*

**(c) end the appointment, and appoint someone else;** and

*(d) if the appointee is still eligible, reappoint the appointee.*

**(2) The powers under subsection (1)(b) to (d) are exercisable in the same way, and subject to the same conditions, as the appointment power.**

#####

Equality Act 2017

Schedule 6

2 Political offices

**(1) An office or post is not a personal or a public office if it is a political office.**

(2) **A political office** is an office or post described in column 2 of the following Table —

Political context Office or post

Tynwald The office of President of Tynwald

An office of Tynwald held by a  
member of either Branch

An office of the House of Keys held by  
a member of the House

An office of the Legislative Council  
held by a member of the Council

The office of Chief Minister

**Office as a Minister or a member of  
Department**

Office as a member of a Statutory  
Board (whether or not by virtue of  
being a member of Tynwald).

#####

### DIVISION 3 — APPOINTMENT POWERS

76 Appointments may be made by name or office

(1) This section applies if the Governor or another officer or body (the “appointor”) is authorised or required under Manx legislation to appoint —

(a) a person to an office; or

(b) a person or body to exercise a power or to do another thing.

(2) The appointor may make the appointment by appointing —

(a) a person or body by name; or

(b) a stated officer, or the holder of a stated office, by reference to the title of the office concerned (the "titled appointee").

(3) The titled appointee is taken to be the person for the time being occupying or acting in the office concerned.

#####

73 Making and signing by or on behalf of Governor

(1) An authority, direction or order is taken to have been made by the Governor if it purports to have been so made and is signed by the Chief Secretary.

**(2) However, a proclamation or warrant must be signed by the Governor personally.**

12.

I note contemporaneous media coverage on 12th December 2022:

<https://www.manxradio.com/news/isle-of-man-news/callister-sacking-seriously-affected-my-mental-health/>

....

Sacking 'seriously affected' my mental health

....

Rob Callister says he was asked to sign a 'scripted resignation letter' but after conferring with friends and family, he decided to force the chief minister to remove him from the Council of Ministers.

13.

A department Minister is the department in Isle of Man law.

14.

It would be impossible to believe that the nature and the scale of **SERIOUS CONSTITUTIONAL ISSUES** would not have been absolutely clear to SH on 12th December 2022 from media coverage and social media and comments from the Chief Minister, other Members of Tynwald and colleagues.

15.

In attachment A10, I note my request in my email on 12th December 2022:

**Please confirm** as per my similar fact evidence recently submitted to legal proceedings **that you are not qualified to legally explain away an error in law and that you innocently relied on iniquitous legal opinion requested from HM AG chambers by someone else or supplied by HM AG chambers** as normalised corruption to help the present administration "get away" with unconstitutionally sacking one of my constituent MHKs.

16.

In attachment A11, I note that my request was noted but that I did not receive a substantive response:

Thank you for your email, **the content of which is noted.**

17.

In attachment A12, I note that I requested clarification but that I did not receive any clarification:

*I acknowledge correspondence "noted".*

**Please clarify if I should expect a substantive response.**

18.

The lack of a response to A11 and A12 raises a **CORRESPONDENCE POLICY ISSUE.**

19.

The lack of response from SH is only explained by either (a) a disrespectful disengagement policy that has no place in the Cabinet Office or (b) by SH realisation that the legal opinion directions equated to **INIQUITOUS LEGAL OPINION** or (c) that SH had specifically requested and received **INIQUITOUS LEGAL OPINION** on either his own initiative or at the direction of line management.

20.

Each of the explanations adequately justifies an adverse inference that **INIQUITOUS LEGAL OPINION** improperly influenced correspondence that misled a Member of Tynwald and misled members of the public that had properly reported concerns in the public interest.

21.

I am still very concerned that the Chief Minister and the Cabinet Office could inadvertently assert to international bodies that corporate governance feedback and public sector whistleblowing is proactively encouraged not reactively discouraged and yet any such assertions are directly contradicted by repeated and consistent evidence of a cover up culture and systemic failures in corporate governance in multiple parts of the Isle of Man public sector.

## **LAW**

22.

I highlight that an **INIQUITOUS LEGAL OPINION** is not subject to legal privilege and therefore there is no excuse at all to withhold the document from an internal investigation and no excuse at all to release a copy of the document to me as evidence of a proper investigation given I have a well founded loss of trust and confidence in corporate governance. For example, yesterday, after weeks of distressing legal battle as a litigant in person cheated out of legal support via contractual employee indemnification by Cabinet Office OHR, I received a begrudged written admission from the employment tribunal of misdirection, disregarded requests and unconsidered claims in what amounts to a mistrial and proof of a miscarriage of justice that shocks everyone except me after my unforgivable ordeal.

23.

<https://www.burges-salmon.com/news-and-insight/legal-updates/high-court-reminder-that-privilege-can-be-lost-due-to-iniquity>

....

*Communications which would otherwise be privileged are not confidential and therefore not privileged, if they are created with iniquitous intentions (criminal, fraudulent or dishonest). Hence, as in this case, communications with 'unwitting' lawyers which are intended to further an iniquitous purpose are not privileged and public policy requires that such relevant documents are disclosable in proceedings.*

....

*Defences such as human rights arguments or privilege against self-incrimination did not apply. For example, the right to privacy under art.8 only attaches where the communications are confidential, which is negated by iniquity as an abuse of the solicitor and client relationship. The right to a fair trial under article 6 cannot be invoked as the concealment of such iniquitous material would in itself not allow a fair trial.*

xx.

<https://www.charlesrussellspeechlys.com/en/news-and-insights/insights/litigation--dispute-resolution/2020/privilege-and-fraud--when-can-the-iniquity-exception-override-legal-professional-privilege/>

....

*The threshold for the application of the iniquity exception is considered to be lower than that of actually proving the existence of an actual fraud.*

....

*The Judgment also confirmed that the iniquity exception would apply whether or not the solicitors were aware of the wrongful purpose for which their advice was being utilised.*

24.

<https://hsfnotes.com/litigation/2020/12/03/iniquity-exception-to-privilege-applied-where-documents-were-created-by-solicitor-in-connection-with-breach-of-directors-duties/>

....

*The iniquity exception (also known as the "fraud exception") operates to prevent LPP being asserted in relation to documents which were brought into existence for the purpose of furthering a criminal or fraudulent purpose. It is well-established that the exception applies whether or not the solicitor is aware of the wrongful purpose or is unwittingly used as an instrument of fraud.*

....

*The decision suggests that such breaches will fall within the scope of the iniquity exception to the extent that they involve fraud, dishonesty, bad faith or sharp practice, or where the director consciously or deliberately prefers his or her own interests over the interests of the company and does so "under a cloak of secrecy".*

## **CORPORATE GOVERNANCE OUTCOME**

25.

I am entitled to some overdue closure on the unimaginable ordeal, the sense of injustice, the consequential financial losses for bravely but stupidly reporting public sector whistleblowing issues in good faith in the public interest.

26.

I expect the Cabinet Office to confirm that **INIQUITOUS LEGAL OPINION** was either (a) unexpectedly received from HM AG Chambers or (b) specifically requested by a Cabinet Office employee and received from HM AG Chambers.

27.

Any outcome that attempts to downplay the seriousness of the issues will bring the Isle of Man public sector into disrepute:

<https://mirs.org.im/articles-and-news/news-articles/2018/sep/protecting-an-employers-reputation/>

28.

Any outcome that attempts to claim that the lawyer in HM AG Chambers was incompetent will bring the Isle of Man public sector into disrepute:

<https://mirs.org.im/articles-and-news/news-articles/2018/sep/protecting-an-employers-reputation/>

29.

The review must properly apportion improper conduct to one or more employees in HM AG Chambers and/or Cabinet Office and/or elsewhere.

30.

I believe that the efforts required to highlight, evidence and correct corporate governance issues should not be expected as free consultancy. I am not able to justify at all the scale of unpaid hours required to progress 1 formal complaint or the wider and deeper undocumented scale of my unique insights. I believe some nominal paid hours are undoubtedly warranted and thoroughly deserved in all the circumstances as not only a gesture of goodwill but to encourage rightdoing not wrongdoing by actions and by word of mouth.