

In Tynwald

5<sup>th</sup> July 2019

To the Honourable Members of Tynwald Court

**THE HUMBLE PETITION OF:-**

Mr Leonard Trevor Cowin of [REDACTED]

**SHEWETH THAT:-**

Your Petitioner is aggrieved that the Department of the Environment, Food and Agriculture's ("DEFA") "Operational Policy on Interested Person Status" dated July 2018, which is, as it states, a "Policy", but which is not the law, provides (inter alia) that persons will not be granted interested person status in relation to a planning application unless they live within 20 metres of a development site, is denying legitimate objectors to planning applications whose peaceful enjoyment of their home may be adversely affected by a development and who satisfy the conditions for interested person status *in the law* in paragraph 2(1) of Government Circular No 0046/13, of the right to be "granted" interested person status and subsequent appeal rights against a formal decision made by DEFA on a planning application under the provisions of article 6(1) of the Town & Country Planning (Development Procedure) (No 2) Order 2013.

Neither the High Court, nor any tribunal, or arbitration, has any jurisdiction in this matter, and the only course of action left open to your Petitioner is to seek redress by presenting this Petition to Tynwald.

Your Petitioner avers that there is a clear public interest in this matter being investigated and reported upon as my concerns have been expressed in my letters to local newspapers and there have been many adverse comments about this policy in local media by persons affected by it directly.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on the application by DEFA of its "Policy", which isn't the law, to the detriment of legitimate objectors, on any remedies which it considers appropriate and on connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)

# **In Tynwald**

**5<sup>th</sup> July 2019**

**To the Honourable Members of Tynwald Court**

## **THE HUMBLE PETITION OF :-**

**Leonard Trevor Cowin of [REDACTED]**

## **SHEWETH THAT**

Your Petitioner has a grievance against the decision of the former Tynwald Commissioner for Administration, Mr Malachy Cornwell-Kelly, for refusing to investigate complaints which he made to him of maladministration by the Department of the Environment, Food and Agriculture under section 10 of the Tynwald Commissioner for Administration Act 2011 ("TCfAA"), which the Commissioner set out in a "Section 14 Statement" which he presented to Tynwald as follows –

- (i) The Planning Committee is not lawfully constituted and there is no legal basis for the committee.
- (ii) The Planning Committee does not have any power under articles 6 or 7 of the Order to make a "minded to approve" decision in relation to an application for planning approval;
- (iii) The interface between the Standing Orders of the Planning Committee (which are necessarily of no effect if the committee are not lawfully constituted) and the exercise by officials of the Minister's delegated powers results in illegality;
- (iv) The Planning Committee is illegal as there is no provision in the Town & Country Planning Act 1999 for the formation and appointment of a Planning Committee;
- (v) The formation of the Planning Committee, the appointment of their Chairman, and the appointment of its Members under the provisions of the Government Departments Act 1987, were each invalid and unlawful as the only power available to the Minister for the Department of the Environment, Food & Agriculture under that Act is to authorise persons to exercise his Department's functions;
- (vi) The Town & Country Planning (Development Procedure) (No 2) Order 2013, which is the backbone of the planning application system and the determination of planning applications, is unlawful as it was made three years before statutory provision was made for "development procedure orders";
- (vii) There is no basis in law for the Planning Committee to make a decision which is expressed to be effective only after an associated agreement with the applicant has been concluded;
- (viii) The procedure of the Department with regard to the Planning Committee is inconsistent with the decision of the House of Lords in *Anisminic v Foreign Compensation Commission* [1969] 2 AC 147;
- (ix) The constitution and appointment of the Planning Committee is not authorised by section 3 of the Government Departments Act 1987.

In correspondence with your Petitioner the Commissioner stated that my complaints raised issues of "pure law" which he said were not within his remit for investigation.

However, in his "Section 14" Statement the Commissioner stated that his reason for not investigating your Petitioner's complaints was that "there is no prima facie case of maladministration or service failure where the action complained of has been taken in accordance with official legal advice, which those concerned with administration are bound to follow".

Your Petitioner avers, however, that in carrying out his functions under the TCfAA the Commissioner is concerned with maladministration however it occurs whether by way of a matter of law, fact and law or fact alone, that “maladministration” is defined as a failure to follow procedures or the law and that the Act does not state that maladministration by way of an error of law deliberate or not is not within the Commissioners jurisdiction, hence in making his decision the Commissioner corrupted the purpose of the Act and in doing so that is itself maladministration.

Your Petitioner believes that he has suffered injustice, therefore, because of the Commissioner’s failure to apply the law correctly and investigate his complaints and avers that the Commissioner’s decision to refuse to investigate his complaints was ultra vires.

Neither the High Court, nor any tribunal, or arbitration, has any jurisdiction over your Petitioner’s grievance and the only course of action left open to your Petitioner is to seek redress for his grievance against the Commissioner’s decision by presenting this Petition to Tynwald.

Your Petitioner avers that there is a clear public interest in this matter being investigated and reported upon as his concerns have been published several times in local newspapers.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on the Commissioner’s refusal to investigate your Petitioner’s complaints and on connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)

**In Tynwald**

**5<sup>th</sup> July 2019**

**To the Honourable Members of Tynwald Court**

**THE HUMBLE PETITION OF:-**

**Mr Leonard Trevor Cowin of** [REDACTED]

**SHEWETH THAT:-**

The Motion moved by Mr Tim Crookall, MHK, at the Sitting of Tynwald on the 19<sup>th</sup> February 2019 in his capacity as a Member of the Tynwald Commissioner for Administration Selection Committee –

*That Tynwald approves the appointment of Ms Angela Main Thompson OBE as the Tynwald Commissioner for Administration for a period of three years, in accordance with the Tynwald Commissioner for Administration Act 2011.*

was ultra vires and unlawful as Mr Crookall wasn't and couldn't be a Member of the Selection Committee referred to, which is mandatory under paragraph 1(a) of Schedule 1 of the Act and consists of -

- (a) the Chair of the Tynwald Management Committee; currently Mr Juan Watterson, MHK
- (b) the Chair of the Tynwald Public Accounts Committee; currently Mr Juan Watterson, MHK and
- (c) the Chief Minister.

and in consequence Tynwald's approval of Mr Crookall's unlawful motion makes Tynwald's approval of the appointment of Ms Angela Main Thompson as Commissioner under the Tynwald Commissioner for Administration Act 2011 void and of no legal effect.

Your Petitioner is aggrieved that the Commissioner has been appointed by Tynwald unlawfully as he has a complaint outstanding which he made to the previous Commissioner which cannot be determined until a Commissioner has been appointed lawfully and any decision made by Ms Angela Main Thompson on his complaint in the meantime will equally be void and of no legal effect. Your Petitioner is aggrieved also because he has other complaints of maladministration waiting to be investigated but which can't be investigated until a Commissioner has been appointed lawfully.

**Copies of exchanges of e-mail correspondence with the Clerk of Tynwald are attached as an Appendix to this Petition which explain the legal position clearly.**

Although Standing Order 6.11 (d) of the Standing Orders of Tynwald Court provides that a Petition for Redress must contain no reference to any matter the substance of which has been determined by Tynwald in the current session, your Petitioner avers that "determined" means and can only mean, determined "lawfully" and that it would be perverse to interpret the word "determined" differently.

(Continued on next page)

Neither the High Court nor any tribunal or arbitration has any jurisdiction in this matter and the only course of action left open to your Petitioner is to seek redress by presenting this Petition to Tynwald. Your Petitioner is conscious that if his Prayer is met Tynwald would in effect be investigating itself but avers that as we have an open democratic society, Tynwald must when errors occur in its decision making, open itself to scrutiny and it must take action to correct unlawful decisions made by it, so that it can be seen to be complying with the laws which it makes.

Your Petitioner avers that there is a clear public interest in this matter being investigated and reported upon as my concerns have been expressed several times in my letters to local newspapers.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on Tynwald's unlawful decision to approve Mr Crookall's unlawful Motion, on Tynwald's unlawful appointment of Ms Angela Main Thompson as Commissioner, on any remedies which it considers appropriate to rectify Tynwald's unlawful appointment of the Commissioner and on any connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)

In Tynwald

5<sup>th</sup> July 2019

To the Honourable Members of Tynwald Court

**THE HUMBLE PETITION OF:-**

Mr Leonard Trevor Cowin of [REDACTED]

**SHEWETH THAT:-**

Your Petitioner is aggrieved that the Department of the Environment, Food and Agriculture's ("DEFA") "Operational Policy on Interested Person Status" dated July 2018, which is, as it states, a "Policy", but which is not the law, provides (inter alia) that persons will not be granted interested person status in relation to a planning application unless they live within 20 metres of a development site, is denying legitimate objectors to planning applications whose peaceful enjoyment of their home may be adversely affected by a development and who satisfy the conditions for interested person status *in the law* in paragraph 2(1) of Government Circular No 0046/13, of the right to be "granted" interested person status and subsequent appeal rights against a formal decision made by DEFA on a planning application under the provisions of article 6(1) of the Town & Country Planning (Development Procedure) (No 2) Order 2013.

Neither the High Court, nor any tribunal, or arbitration, has any jurisdiction in this matter, and the only course of action left open to your Petitioner is to seek redress by presenting this Petition to Tynwald.

Your Petitioner avers that there is a clear public interest in this matter being investigated and reported upon as my concerns have been expressed in my letters to local newspapers and there have been many adverse comments about this policy in local media by persons affected by it directly.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on the application by DEFA of its "Policy", which isn't the law, to the detriment of legitimate objectors, on any remedies which it considers appropriate and on connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)

In Tynwald

5<sup>th</sup> July 2019

To the Honourable Members of Tynwald Court

**THE HUMBLE PETITION OF:-**

Mr Leonard Trevor Cowin of [REDACTED]

**SHEWETH THAT:-**

Your Petitioner is aggrieved that the lack of direct, formal, officially recognised, complaints procedures against Ministers and Members of Tynwald, is preventing persons with genuine grievances against such persons from having their complaints dealt with.

With regard to complaints against Ministers, the Chief Minister has confirmed to your Petitioner recently that no complaints procedures exist for making complaints against him or other Ministers. No complaints procedures exist either for making complaints against other Members of Tynwald or the Chief Secretary.

Neither the High Court, nor any tribunal, or arbitration, has any jurisdiction in this matter, and in the absence of any direct, formal, officially recognised, complaints procedures, for making complaints against the persons referred to, the only course of action left open to me is to seek redress for the lack of such procedures, by presenting this Petition to Tynwald.

Your Petitioner avers that there is a clear public interest in having this matter investigated as he has expressed his concerns about the lack of formally recognised complaints procedures several times in letters which have been published in local newspapers.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on the lack of direct, formal, officially recognised, complaints procedures and associated remedies against Ministers, Members of Tynwald and Members of Government bodies on appropriate remedies and connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)

In Tynwald

5<sup>th</sup> July 2019

To the Honourable Members of Tynwald Court

**THE HUMBLE PETITION OF:-**

Mr Leonard Trevor Cowin of [REDACTED]

**SHEWETH THAT:-**

Your Petitioner is aggrieved that the lack of a formal, statutory, appeals procedure against formal decisions of the *illegal* Planning Committee made in the name of and on behalf of the Department of the Environment, Food and Agriculture under article 6(3) of the Town & Country Planning (Development Procedure) (No 2 ) Order 2013 (the Order”), and/or made by persons with delegated authority to make such decisions, refusing to grant interested person status in relation to a planning application, is denying legitimate objectors to planning applications whose peaceful enjoyment of their home may be adversely affected by a development and who satisfy the conditions for interested person status in paragraph 2(1) of Government Circular No 0046/13, of the right to appeal against a formal decision made on a planning application under the provisions of article 6(1) of the Order.

Neither the High Court, nor any tribunal, or arbitration, has any jurisdiction in this matter, and in the absence of any direct, formal, statutory, appeals procedure, the only course of action left open to me is to seek redress by presenting this Petition to Tynwald.

Your Petitioner avers that there is a clear public interest in this matter, as his concerns have been raised several times by him in local newspapers.

**Whereof your Petitioner prays that:-**

A Committee of three Members be appointed with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to consider and report back to Tynwald on the lack of a formal, statutory, appeals procedure against decisions made under article 6(3) of the Order, on any remedies which it considers appropriate and on connected matters.

Signed

(Trevor Cowin)

In accordance with Standing Order 6.6(1) of the Standing Orders of Tynwald Court I hereby authorise [REDACTED]  
[REDACTED] to present this Petition to Tynwald on my behalf.

Signed

(Trevor Cowin)