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Open Correspondence

26th July 2023

The Honourable Dr A. Allinson MHK
Minister for Treasury
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Government Offices
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By Post & Email: Alex.Allinson2@gov.im

Dear Dr Allinson

RE: Resignations of Information Commissioner and Deputy Information Commissioner

We have been contacted by a number of individuals concerned at the recent resignations of the Isle of Man Information Commissioner and the Deputy Information Commissioner.

On 28th June 2023 it was announced that the Isle of Man Information Commissioner, Mr Iain McDonald, would be leaving his position on 21st July 2023.

In addition, last week it was revealed that the Deputy Information Commissioner Ms Nicola Whiting had also resigned and would be leaving her post later this year.

As you are aware, the Isle of Man Information Commissioner is an independent supervisory body which adjudicates on matters under the Freedom of Information Act 2015 and also under Data Protection legislation.

For example, if a member of the public has a Freedom of Information request refused by a Government Department, the individual can appeal to the Information Commissioner to review that refusal decision.

In essence, the Commissioner's role is to uphold citizens' rights to information and promote openness in government whilst also protecting data privacy for individuals.



Mr McDonald held the position of Information Commissioner since 2011 and it was only as recently as December 2022 that Tynwald, the Isle of Man's Parliament, approved his reappointment for a further 5 year term.

And so what has gone wrong?

Why have Mr McDonald and Ms Whiting both resigned so suddenly and should taxpayers be concerned?

In his resignation statement Mr McDonald said, *"Whilst the office has taken on considerably greater responsibility since 2015, including arbitrator under the Freedom of Information Act and numerous additional tasks and functions under Applied CDPR, resourcing, both financial and staffing, has not been sufficient to manage the ever increasing workload, nor to enable tasks to be fulfilled. Despite actively seeking additional funding for an extra member of staff, the existing budget was reduced in the last budget round".* Mr McDonald pointedly concluded by stating, *"This has had a devastating effect on the office staff and was the direct cause of the Commissioner stepping down".*

Here are just a few of the Information Commissioner's significant judgments in respect of Freedom of Information requests:-

- i) 2018 – Department of Infrastructure ordered to disclose information on the purchase price of Mercedes buses.
- ii) 2019 – Department of Education ordered to disclose Educational Improvement Service reports.
- iii) 2022 – Department of Enterprise ordered to disclose information on the Covid financial support given to the then Chief Minister Howard Quayle regarding his holiday home businesses (which amounted to £57,000).
- iv) 2023 – The publicly funded Manx Radio station ordered to disclose information on staff numbers and remuneration.
- v) 2023 – Marown Commissioners ordered to disclose emails and letters in relation to the teaching of relationships and sex education in schools.

In addition, in June 2023 the Information Commissioner confirmed that there had been a serious data protection breach by a senior officer in the IOM Cabinet Office. In total, personal data had been inappropriately accessed on more than 1,200 occasions, resulting in the name, address and contact details of persons making Freedom of Information requests being unlawfully viewed.

A formal investigation into this data breach is presently underway.

There is no doubt that over the last decade the Information Commissioner has played a valuable role in promoting transparency across public authorities. It is the duty of any democratic government to be as clear, open and honest as possible. Conversely, less clarity, openness and candour reduces public confidence.



The office of the Information Commissioner plainly carries out essential functions in relation to the acceptance of responsibility, good governance and participative democracy.

In this vein, we note that the turnout at the last Isle of Man General Election in September 2021 was a mere 50.6%. In other words, only half of the electorate voted.

This apparent widespread disaffection was perhaps also reflected in the empty seats in the grandstand at St. Johns on Tynwald Day this year and the extremely low attendance at the recent Electoral Commission roadshows around the Island.

One glaring incidence of political manoeuvring which has led to some local disillusionment is the recent appointment of Mr Tim Johnston MHK as Minister at the Department of Enterprise.

In his pre-2021 election public announcements and written manifesto he expressly stated, *"I repeat my clear commitment that if I am elected on September 23rd, I will not take on a Ministerial position in the new administration"*. And yet on 14th February 2023, Mr Johnston accepted the role of Minister at the Department of Enterprise. On appointment as a Minister, an MHK takes the title of The Honourable. However, some of those who have contacted us regard Mr Johnston's *volte-face*, if not dishonourable, certainly disappointing. Most regrettably, such unreliable conduct leads to a significant loss of confidence in politicians and political discourse in general.

The values of trust and confidence in public administration are vital and a properly funded Information Commissioner's office plays a necessary part in the checks and balances within our working democracy. Its role in calling political bodies and politicians to account, scrutinising decision making processes and shining a light on maladministration, abuse of process and vested interests is crucial. This robust work, in effect revealing the truth, ought to be treated as a priority and of constitutional significance.

Conclusion

Those who have contacted us regard Mr McDonald's resignation as troubling and his reasons for doing so (an insufficient budget being the direct cause of the Commissioner's resignation) as particularly concerning. This has been compounded by the resignation last week of the Deputy Information Commissioner Ms Whiting.

We also note that the recent recruitment advertisement for a new Information Commissioner included within the job description reference to the position being only for an initial 6 month period. The appointment last week of Mr Stewart Haynes as interim Information Commissioner was for such limited six month period. We wonder if such short tenure is deliberately calculated so that the Council of Ministers can assess whether he will toe the line or be a thorn in the flesh.



Political talk about transparency, openness and accountability is cheap but actions speak louder than words.

The surprise joint resignations of both Mr McDonald and Ms Whiting speak volumes about a supervisory body in crisis with conscientious senior professionals patently upset and dispirited by a shameful lack of appropriate financial support.

What is the true price of transparency?

We look forward to hearing from you by Friday 4th August 2023 in respect of the above matters which self-evidently contain important public interest considerations.

Thank you for your assistance.

Yours sincerely

A handwritten signature in blue ink that reads "I. Kermode".

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