



ONCHAN DISTRICT COMMISSIONERS

Aim: To give guidance on the process and principles when the Authority is looking to purchase, sell, lease land or property

PETITION PROCEDURES

Policy Date: March 2021
Review Date: March 2023

Petition Procedures Policy



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These guidance notes are designed to assist Local Authorities in the preparation of a request to Central Government for authority to perform their functions where statute demands such prior approval. The intention is to provide useful advice on the preparation of documents and to assist Authorities to anticipate the requirements of Central Government in order to secure efficiency and economy of operation for all concerned.

These notes are for guidance only and do not override any statutory obligations.

Policy Review - History:

Please be aware that a hard copy of this document may not be the latest available version, which is available in the Authority's document management system, and which supersedes all previous versions.

Those to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with policy requirements at all times.

Acknowledgement to IOM Government in sharing their draft policy.

Effective from:	Replaces:	Originator:	Page X of Y
January 2020	New	Chief Executive and /District Surveyor	1 of 28
Board Ratification:			

History or Most Recent Policy Changes – MUST BE COMPLETED		
Version:	Date:	Change:
1	09/03/2021	New Document

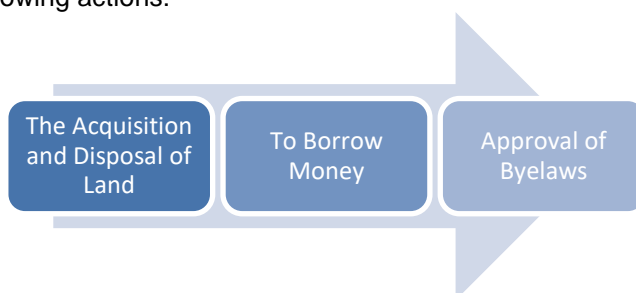


ONCHAN DISTRICT COMMISSIONERS

PETITION PROCEDURES POLICY

SCOPE

The Petition Procedures Policy sets out the process through which Onchan District Commissioners to undertake the following actions:



The purpose of the Framework is to inform officers, Members and other interested parties of the process and principles by which Onchan District Commissioners will transact their business to meet its strategic objectives.

PURPOSE

The Local Government Act 1985 provides that a local authority may, subject to the provisions of Section 25, purchase, sell, exchange, take on lease or let any land, within or outside its district for the purpose of its functions under any enactment.

Asset Base

In general terms Onchan District Commissioners may hold land and property to meet the following objectives:

1.	Operational:	To service our office accommodation needs for our staff
2.	Financial	To generate revenue income and/or for capital investment.
3.	Regeneration/Development	To regenerate/develop an area of the District.
4.	Heritage	To promote the heritage for the local area.

An asset will be identified as suitable for disposal and surplus to requirements if it cannot evidence how it meets at least one of the objectives on its current condition and use.

Interpretation

The term "the Department" and "relevant Department" means the Department of infrastructure



ONCHAN DISTRICT COMMISSIONERS

Petition Procedures Policy

1 PETITION REQUIREMENTS

1.1 Introduction

The Local Government Act 1985 requires Local Authorities to obtain the approval of the relevant Department or, in some cases, of Tynwald, before undertaking certain actions.

Where Tynwald approval is required, rather than that of the relevant Department, Standing Orders of Tynwald state that the matter be referred to the relevant Department for report.

Such a requirement therefore means that in practice it is the relevant Department that will examine all these matters on behalf of Government.

Copies of the current statute relating to subsections 1.2 to 1.4 are appended at **Appendix A.**

1.2 The Acquisition and Disposal of Land

The Interpretation Act 1973 defines land as:-

'land' includes messuages, tenements and hereditaments, houses and buildings of any tenure, and any interest in land, and any easement or right in, to or over land.

A Local Authority requires the approval of the relevant Department to purchase, sell, exchange or take on lease, any land or to let any land for a term exceeding 7 years for the purpose of its functions.

The relevant Department may refer any matter it might ordinarily consider to Tynwald if, for any reason, it considers that it would be proper for Tynwald to deal with that application.

Any application for the acquisition or disposal of land must be advertised (in the manner prescribed by section 32 of the 1985 Act) by way of a notice containing particulars of the proposed transaction and stating a place in the district of the Authority where a plan of the land concerned may be inspected at all reasonable hours, for a period of not less than 14 days before the application is considered. The relevant Department may require a similar notice to be printed in a newspaper published and circulating in the Island.

1.3 To Borrow Money

A Local Authority requires the approval of the relevant Department to borrow money for any purpose. This does not apply to temporary borrowing:-

- a) for the purpose of defraying expenses (including the payment of sums due by it to meet the expenses of other bodies) pending the receipt of revenues receivable by it in respect of the financial year in which those expenses are chargeable;
- b) for the purpose of defraying, pending the raising of a loan which the authority has been authorised to raise, expenses intended to be defrayed by means of a loan.

Any application to borrow money must be advertised by public notice (in a manner prescribed by section 32 of the 1985 Act) for a period of not less than 14 days before the application is considered and if so required by the relevant Department, by notice printed in a newspaper published and circulating in the Island.

The relevant Department will normally agree to dispense with the requirement for the Local Authority to advertise in cases where the costs do not fall on the ratepayer. In such cases, requests from Local Authorities will be considered by the Chief Executive or the Head of Corporate Services who have delegated powers to waive the need to advertise, where deemed appropriate.

1.4 Approval of Byelaws

A Local Authority requires the approval of Tynwald to any Byelaw made under any enactment, unless provision is made to the contrary in the enactment in question (see Local Government Act 1985 section 30(1) and (4)).

Any application for approval of Byelaws must be advertised by public notice for a period of not less than 14 days before the application is made and, if so required by the relevant Department, by notice printed in a newspaper published and circulating in the Island.

2 PETITION PROCEDURES

2.1 Procedures

The following procedures should always be adopted when Central Government approval is required by statute. The process flow chart is attached at Appendix B.

2.2 Pre-Petition Procedures

2.2.1 Preliminary Discussion – Technical Advice

- a) Following inception of a scheme by a Local Authority, preliminary discussions should be initiated with the relevant Department's Technical Officer or in any matter relating to foul drainage, the Civil Engineer (Sewerage) of the Water and Sewerage Authority (future reference to Department officers within this document should be taken to include the Civil Engineer (Sewerage) where appropriate).

The Authority should also include the scheme in its capital programme and where appropriate, in its estimates submission to the relevant Department. Schemes should not proceed unless budgetary provision exists.

- b) Preliminary discussions must be carried out with the relevant Department's Technical Officer at the earliest possible stage prior to Business Case preparation, to agree:-

- the selection and appointment of consultants (in this instance, discussions need to be carried out with the Capital Projects Unit, Treasury (Government Offices, Bucks Road, Douglas, IM1 3PX, Tel: 685618), prior to the Local Authority engaging anyone.
- professional fees
- terms and conditions of appointment

- the project brief

It is vital that preliminary discussions are carried out with the relevant Department's Technical Officer (see contact details below), as failure to do so could potentially result in lengthy delays in a petition being progressed, or could even result in it being refused.

Rate Borne Schemes:-

Properties Division

Building Surveyor
Department of Infrastructure
Sea Terminal Building
Douglas, IM1 2RF
Tel: 687105

Housing Schemes:-

Housing Division

Building Surveyor / Quantity Surveyor
Department of Infrastructure
Sea Terminal Building
Douglas, IM1 2RZ
Tel: 685955

This procedure must be adopted whether the Scheme attracts Central Government funding or not. The Local Authority must ensure that consultants are aware of the Pre-Petition Procedure requirements. Consultants should also be informed that, unless there is a written agreement to pay fees, all work is "at risk".

Schemes should be undertaken in a manner which complies with Government's **Procedure Notes for Management of Construction Projects** (issued by Treasury in April 2012). These procedure notes can be accessed via the following web link:

<https://www.gov.im/about-the-government/departments/treasury/capital-project-unit/>

Local Authorities should also be aware of the conditions laid down under the Tynwald Resolution of October 1999 (**Appendix C**).

These Procedure Notes are applicable to **all** Capital Schemes including building, engineering and other projects, which are wholly or partially funded or underwritten by Government, including schemes undertaken by Government Departments, Statutory Boards, **Local Authorities**, and any body established by or under any enactment and consisting of or including persons appointed by Government Departments or Statutory Boards. **The Procedure Notes also apply to schemes of a capital nature which are funded from Revenue and which are estimated to exceed £250,000.**

The Procedure Notes for Management of Construction Projects form part of the Financial Regulations issued by the Treasury under Section 3 of the Treasury Act 1985.

Where any Government funds are involved or where a deficiency is to be met by Government, Capital Schemes undertaken by Local Authorities shall be dealt with by the appropriate Government Department as if the scheme was being undertaken directly by that Department, subject to the Department ensuring that the Procedure Notes are fully implemented at each stage of the project and that there is full consultation at all stages of the scheme between the Department and the Capital Projects Unit, Treasury.

Agreement of the Technical Aspects of a Scheme

- c) The Technical Adviser, who could be either a member of the Local Authority's staff or its appointed consultant, must, following the approval of a Scheme by an Authority, and following provisional approval by the relevant Department where Government financial assistance is involved, present the following to the relevant Department's Technical Officer:-

- Business Case incorporating Feasibility Study or Option Appraisal
- Outline Design Scheme proposals (including specifications)
- Estimated costs and programme

The relevant Department's Technical Officer will confer, as necessary, with the Authority's Technical Adviser (or appointed consultant), and confirm in writing his/her technical recommendations. The relevant Department's Technical Officer will deal with only the technical aspects of a scheme, including its costing and not the policy considerations.

- d) The Authority's Technical Adviser (or appointed consultant) should report back to the Authority for final instructions to progress the scheme, dealing with any amendments as required following section c) above.

The documentation for completing the process is attached at Appendix D.

Planning and Building Regulation Approvals

- e) The Local Authority must ensure that all necessary Planning and Building Regulation approvals are obtained.

Tender Process and Financial Appraisal

- e) The procurement process will be agreed with the relevant Department's Technical Officer as part of step c) above. Prior to obtaining tenders, the Authority should carry out a Pre-Tender Estimate to confirm that the scheme is still within budget. In conjunction with this, a Select Tender Report should be undertaken by the Local Authorities Technical Adviser recommending contractors to be included on a tender list.

This follows the advertising of tenders, the process for which is set out in Section 8.5.17 of the Government's Procedure Notes for Management of Construction Projects. See extract below:-

"Unless the Design Team is otherwise instructed by the Client Department, tenders shall be advertised by forwarding details of the tender to the Employers Federation (info@employersfederation.co.im) and the Procurement Unit of Treasury (procurement@gov.im).

If the nature of the project requires specialist skills not available locally, a public notice may be placed in the local press or, if approved by the Department, in addition, in alternative publications, inviting persons or firms to apply to the Lead Consultant for inclusion on the list of selected tenderers. All advertisements, whether via the Employers Federation, Procurement Unit of Treasury, or in the local press, shall be strictly in accordance with the specimen advertisement included in Appendix 20 of the

Procedure Notes for Management of Construction Projects. (See web path set out on page 5 of this document).

In order to co-ordinate tender submissions for Government funded projects, the date for the placing of the advertisement inviting tenders and the date for return of tenders shall be agreed, in advance, with the client Department and the Capital Projects Unit, Treasury”.

- g) The Authority should, assisted by its Technical Adviser, carry out a technical and financial appraisal of the proposed Contractors, and only invite tenders from those contractors that have demonstrated sufficient competence and resources including compliance with the relevant Health & Safety aspects of the CDM Regulations 2004. The financial appraisal should include Contractor status in respect of National Insurance Contributions, ITIP instalments, VAT and general indebtedness to Central Government (or the Employing Authority).
- h) The relevant Department’s Technical Officer should be invited to attend the tender opening. The Local Authority’s Technical Adviser must provide copies of all Tender Documents including, where appropriate, copies of:-
- Bills of Quantities
 - Specification
 - Drawings
 - Tender Report (giving a firm recommendation) and Form of Tender (**Sample of Tender Report compiled by the relevant Department’s Technical Officer – Appendix E**).
 - Any other documents required by the relevant Department’s Technical Officer.

It must be stressed that the acceptance of such tender is subject to Central Government approval and no work may commence without such approval.

- i) Provided a valid tender has been submitted, the lowest tender shall be accepted except upon a written report to the relevant Department by the Authority setting out the reasons for the Authority proposing not to accept the lowest tender.

Note: If at any time during the above procedures the Local Authority finds it necessary to alter the programming, detailing, costing etc. of the Scheme, no action shall be undertaken without first consulting with and obtaining the approval of the relevant Department’s Technical Officer.

- j) For petitions requiring Department of Infrastructure approval, written confirmation must be obtained from the Department’s Technical Officer (in the form of a memo or e-mail) advising he/she is satisfied the Authority can proceed to submit a formal petition application to the Department.

2.2.2 Petition Preparation – Procedural

When the Authority has completed its pre-petition procedures and wishes to seek formal approval, such should be sought in the following manner:-

- a) The Clerk to the Authority should seek verbal guidance from the relevant Petitions Officer as to the Department’s requirements in relation to the advertising of the Petition. If the relevant Petitions Officer is not available then a member of the Local Government Unit at the Department of Infrastructure will be able to assist. The relevant Department, where the application is made under sections 25 or 51 of the Local Government Act 1985 may dispense with compliance with the advertising

requirements. The relevant Departments have also agreed that the advertising requirements could be waived in cases where the costs do not fall on the ratepayer.

- b) Application should be made to the Petitions Officer of the relevant Department by letter, by the Clerk to the Authority, giving full details of the proposal, and where appropriate, all costs involved and confirming that all pre-petition procedures have been complied with (**Specimen letter Appendix F**). Any matter not covered by such procedures should be detailed at this stage.

The application **should** include the following information:-

- (i) reference to the statutory power for such application;
- (ii) brief details of the effects of the application;
- (iii) where appropriate, details of tenders, tender evaluation report, agreements, contracts to be entered into etc;
- (iv) where appropriate, a copy of plans showing the purpose for borrowings;
- (v) where appropriate, an analysis of the application sum;
- (vi) where appropriate, details of the sum to be borrowed, to include the repayment period and an estimate of the loan charges to be incurred (an analysis of standard loan periods is shown in **Appendix G**);
- (vii) where appropriate, the revenues either available or to be imposed for meeting loan charges;
- (viii) where appropriate, a request for such annual loan charges to be included within the appropriate deficiency of the Authority to be met by the Department of Health and Social Care.
- (ix) an indication of the source of funding of the scheme, i.e. capital, planned maintenance or rate funded.
- (x) where appropriate, a financial statement of the Authority;
- (xi) where appropriate confirmation that Planning and Building Byelaw approvals have been obtained;
- (xii) any further information pertinent to the application.

The presentation of a formal petition document is no longer required, a submission under the Clerk's hand being sufficient.

- (c) On receipt of the application, the relevant Department will decide whether
- the application will be dealt with on written evidence
 - public appearances before the relevant Department will be required, or
 - the relevant Department wishes to refer the Petition to Tynwald in the case of acquisition or disposal of land only.
- (d) The Clerk to the Authority will be advised by letter of the procedures to be adopted.

- (e) In preparing the form of advertisement for the Petition hearing, whether it be notice outside the Authority's offices or notice in the local newspapers, regard should be had to the purpose of the notice, that is, to draw the attention of ratepayers to the intentions of the Authority and to this end the use of formal and legal terms should be avoided and Authorities may wish to use a form similar to the example shown in **Appendix H.**

2.3 The Hearing

- a) Where appearances are required, the Authority may send the appropriate representatives to present the Petition and to give evidence in support of the Petition. The choice of representatives rests with the Authority and may include their Advocate, Technical Advisers, Members of the Authority staff and a member of the Authority. (The Departments have expressed a wish that where issues of policy are likely to be raised, the representatives from the Local Authority should include one or more Members).
- b) No representative may give evidence without first taking (or affirming) the oath. The hearing is usually held in public and members of the public may give evidence either in support or more usually in opposition. Members of the Press are often in attendance and any evidence submitted is not subject to privilege.
- c) The person nominated to present the Authority's case, normally the Clerk to the Authority, should initially state for whom he is appearing. He should then present a certificate signed by the Clerk stating that the advertising requirements have been met and should go on to detail the content of the Petition application. Any of the representatives may be called upon to present evidence in support appropriate to their particular knowledge of the subject and evidence will be taken from those in opposition.

At any time during the submission of evidence questions may be posed by the relevant Department on matters of information, clarification, detail etc.. Questions may be posed by any other interested party only upon completion of evidence by each individual.

If the views of any of the relevant Department's officers are required they would normally be requested during this stage of the hearing, in any event the relevant Department will call upon reports from its officers, either verbal or written, in considering any application.

- d) Following the submission of all evidence the hearing will be concluded and those present will be requested to withdraw. The relevant Department will determine the matter private.
- e) In the determination of the application, the relevant Department takes account of the interests of the rate payers of the district and generally the interests of the Island to ensure that such interests are being satisfactorily safeguarded. It is for the Authority to make its case and to call all necessary evidence to satisfy the relevant Department that the application should be granted.

If there are no objections received, the relevant Department may consider the application on written evidence only, without requiring appearances on behalf of the Authority. Where this is the case, the Clerk to the Authority will be notified to this effect by the relevant Department's Officers.

2.4 Post Hearing

- a) Where the scheme is to be funded by Central Government, the relevant Department will present details and a report to Treasury in order to obtain concurrence to its approval. At this stage, the undertakings in relation to statutory returns and indebtedness to Government will be checked, an adverse report on any aspect of such checks will delay the granting of approval.
- b) Following determination of the application, the relevant Department will notify the Authority and where necessary, any person objecting to the application, of the relevant Department's decisions.
- c) Once the relevant Department's decision has been communicated to the Authority, the action appropriate to that decision may be implemented.
- d) During the progress of the works, the following should be provided to the relevant Department's Quantity Surveyor by the Technical Adviser:-
 1. all interim certificates including any financial statements;
 2. details of any significant additions or variations to the scheme;
 3. notification of any instances where it is envisaged that overspending may occur;
 4. Monthly Contract Report in the Department's standard format.
- e) Any additions or variations to the scheme, above the total value of £1,000, may only be made with the written approval of the relevant Department's Quantity Surveyor. Additions or variations which will result in the approved budget being exceeded require the prior written approval of the relevant Department.
- f) On completion of the scheme the final account is to be submitted to the relevant Department's Quantity Surveyor for approval prior to the final payment being made.

APPENDICES

APPENDIX A – Section 25 – Acquisition and Disposal of Land

25 Acquisition and disposal of land

[1976/4/29; 1984/5/10]

- (1) A Local Authority may, subject to the following provisions of this section, purchase, sell, exchange, take on lease or let any land, within or outside its district, for the purpose of its functions under any enactment.
- (2) No transaction within subsection (1), other than the letting of any land for a term not exceeding 7 years, shall have effect without the consent of the relevant Department.
- (2A) A consent of the relevant Department under subsection (2) may be either –
 - (a) a general consent, relating to any class or description of transactions within subsection (1), or
 - (b) a specific consent, relating to a particular transaction within that subsection,and in either case may be given subject to compliance with such conditions as may be specified in the consent.
- (2B) The relevant Department shall lay before Tynwald any general consent under subsection (2).
- (3) Subject to subsection (4), a Local Authority shall-
 - (a) give public notice of any application for consent under subsection (2), stating particulars of the intended transactions and naming a place in its district where a plan of the land may be inspected at all reasonable hours, for a period of not less than 14 days before the application is made; and
 - (b) if so required by the relevant Department, cause a like notice to be published in a newspaper published and circulating in the Island.⁶³
- (4) Where in any case it appears to the relevant Department appropriate to do so, it may dispense with compliance with the requirements of subsection (3).⁶⁴
- (5) Where in any case it appears to the relevant Department appropriate to do so, it may direct that an application for consent under subsection (2) shall be referred to Tynwald, and where such a direction is given, that subsection shall have effect with the substitution, for the reference to the consent of the relevant Department, of a reference to the approval of Tynwald.⁶⁵
- (6) Where a local authority purports to dispose of land-
 - (a) in favour of any person claiming under the authority, the disposal shall not be void by reason that any consent of the relevant Department or approval of Tynwald required by this section has not been given;
 - (b) a person dealing with the authority, or with a person claiming under the authority, shall not be concerned to see or inquire whether any such consent or approval has been given.⁶⁶

- (7) Subsection (6) applies to any disposal or purported disposal of land, whenever effected, and any reference in that subsection to the consent of the relevant Department or approval of Tynwald includes a reference to the approval of Tynwald or of the relevant Department or a predecessor of the relevant Department required by this section as originally enacted or by any enactment repealed by this Act.⁶⁷
- (8) [Repealed]⁶⁸
- (9) In relation to land held by a local authority for the purposes of Part IV of the *Housing Act 1955*, this section has effect subject to the provisions of that Part.
- (10) A local authority may acquire land under this section for the purpose of any of its functions, notwithstanding that the land is not immediately required for that purpose, and such land may, until it is so required, be held and used for the purpose of any other function of the authority.

51 Borrowing powers

[1984/10/10]

- (1) A local authority may, subject to the following provisions of this section, borrow any sum of money necessary for defraying expenses incurred for-
 - (a) the purchase of any land for the purpose of any of its functions;
 - (b) the carrying out of any works of a permanent character in the execution of any of its functions;
 - (c) the repayment of any money previously borrowed; or
 - (d) with the consent of the relevant Department, any other purpose;⁹⁹

and may charge the repayment of such sum on the district fund or on any property or revenues of the authority.
- (2) No money may be borrowed under this section, or charged on any fund, property or revenues of a local authority, without the approval of the relevant Department.¹⁰⁰
- (2A) A consent of the relevant Department under subsection (2) may be either –
 - (a) a general consent , relating to any class or description of transaction within subsection (1), or
 - (b) a specific consent, relating to a particular transaction within that subsection, and in either case may be given subject to compliance with such conditions as may be specified in the consent.¹⁰¹
- (2B) A general consent under subsection (2A) shall not have effect unless it is approved by Tynwald.¹⁰²
- (2C) If a local authority fails to comply with any condition imposed under subsection (2A), the relevant Department may apply to the High Court for an order enforcing compliance with it.¹⁰³

- (3) Subject to subsection (4), a local authority shall-
 - (a) give public notice of any application for consent under subsection (2) for a period of not less than 14 days before the application is made; and
 - (b) if so required by the relevant Department, cause a like notice to be published in a newspaper published and circulating in the Island.^{104 105}
 - (4) Where in any case it appears to the relevant Department appropriate to do so, it may dispense with compliance with the requirements of subsection (3).¹⁰⁶
 - (4A) The relevant Department may by regulations provide that the foregoing provisions of this section shall apply, subject to such modifications as may be specified in the regulations, to any class or description of transactions so specified, being transactions (other than borrowing of money or a transaction within section 25(1)) which are entered into by a local authority and by virtue of which the authority is, or will be or may become, liable to pay money to any person.¹⁰⁷
- (5) to (8) inclusive [Repealed]¹⁰⁸

32 Public Notices

[P1972/70/232]

Save as otherwise expressly provided, a public notice required to be given by a local authority under any enactment shall be given-

- (a) by posting notice in a conspicuous place at the principal office of the authority or, in the case of the local authority for a parish district, at a place in the parish where public notices are normally exhibited; and
- (b) in such other places, if any, as appear to the authority to be desirable for giving publicity to the notice.

30 Procedure, etc. for byelaws

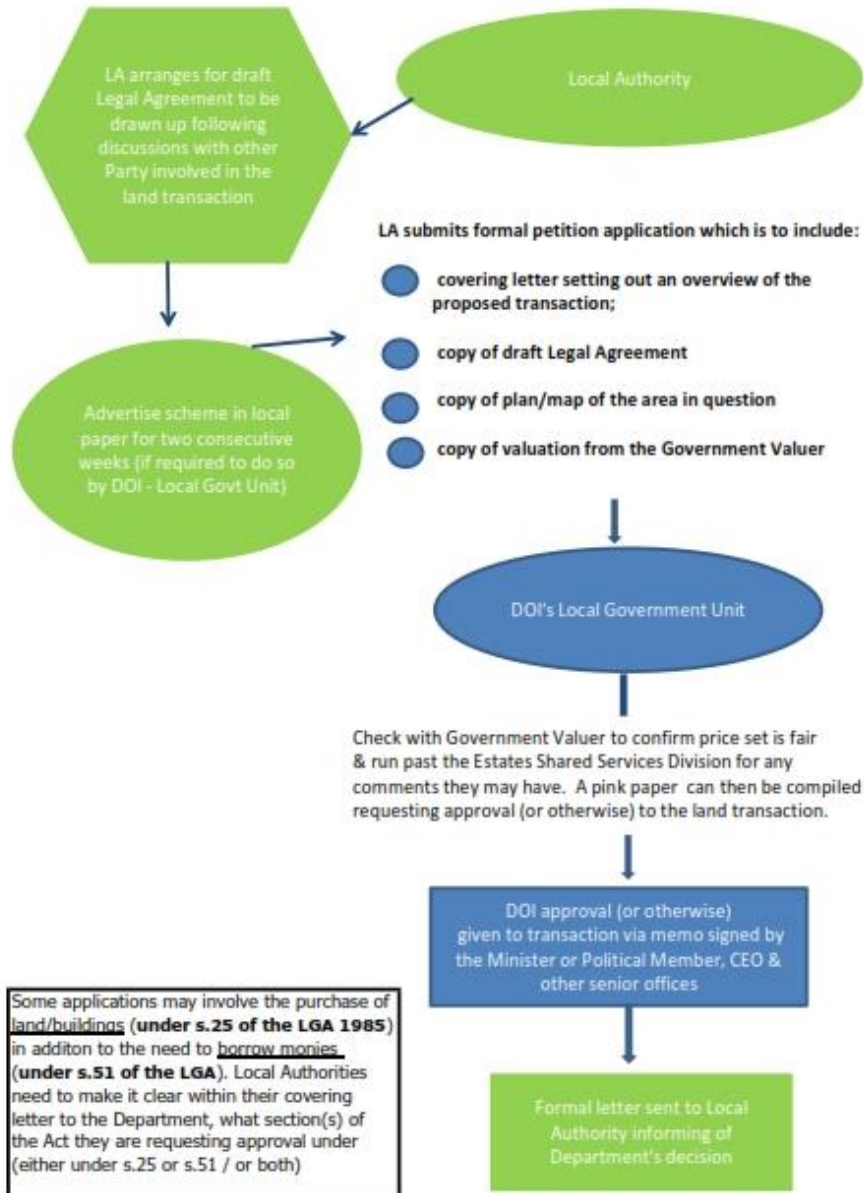
[P1972/70/326 and 237]

- (1) This section applies to byelaws to be made by a local authority under this or any other enactment, whenever passed, conferring on a local authority power to make byelaws, and for which specific provision is not otherwise made.
- (2) The byelaws shall be made under the common seal of the local authority.
- (3) The local authority shall, on application, furnish to any person a copy of the byelaws so made, or any part thereof, on payment of such reasonable sum as the authority may determine.
- (4) No byelaw shall have effect unless it is approved by Tynwald.

- (5) Tynwald may, when approving any byelaw under this section, fix the date on which the byelaw is to come into operation, and if no date is so fixed, the byelaw shall come into operation at the expiration of one month from the date of its approval.
- (6) Every byelaw shall, when approved, be printed, and a copy shall be deposited at the principal office of the local authority and be open to public inspection at all reasonable hours without payment. A copy thereof shall, on application, be furnished to any person, on payment of such reasonable sum as the authority may determine.
- (7) Byelaws may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding such sum as may be fixed by the enactment conferring power to make the byelaws or, if no sum is so fixed, the sum of £2,500.
- (8) Byelaws regulating the use of any premises may provide-
 - (a) for the charges to be paid for the use thereof;
 - (b) for empowering any constable and any officer of the local authority to exclude or remove from the premises any person contravening the byelaws.
- (9) A printed copy or abstract or any byelaws regulating the use of any premises or conveyance shall be exhibited in a conspicuous place in such premises or conveyance.

APPENDIX B – Process Flow Chart

Process for Land Transaction Petitions under s.25 of the Local Government Act 1985 (e.g. to purchase, sell, exchange, or lease /let any land, etc.)



APPENDIX C – TYNWALD RESOLUTION (October 1999)

Local Authorities should be aware of the conditions laid down under the Tynwald Resolution of October 1999.

WHEREAS section 52 of the Housing Act 1955 provides that the Treasury shall, out of moneys provided by Tynwald make, or undertake to make, such contributions to local authorities for the purposes of that Act as the Department of Health and Social Care shall, subject to the approval of Tynwald, determine, to be either by way of a grant in aid or by annual contributions of such amounts for such periods and subject to such conditions as may be determined by the Department and approved by Tynwald:

THAT Tynwald approves for the financial year 2000/01 and subsequent years contributions to expenditure for the provision of housing by local authorities under Part IV of the Housing Act 1955 by way of grants in aid or annual contributions amounting to the whole of the deficiency incurred and to be incurred by those authorities.

AND THAT Tynwald approves the following conditions for payment of such contributions for the financial year 2000/01 and subsequent years, to be complied with by each local authority –

- (a) the authority shall participate in membership of the Department of Health and Social Care Housing Advisory Committee;
- (b) the authority shall implement such all-Island policy for the provision of housing as is determined by the Department of Health and Social Care after consultation with all local authorities concerned;
- (c) the authority shall operate such uniform basis for acceptance on to its housing list for allocation of its housing as is determined by the Department of Health and Social Care after consultation with all local authorities concerned;
- (d) the authority shall not operate any rent structure unless it has been approved by the Department of Health and Social care;
- (e) the authority shall operate a standard form of housing revenue account determined by the Department of Health and Social Care;
- (f) the authority shall not charge to the housing revenue account any item of expenditure of a description which has not been approved by the Department of Health and Social Care for the purpose;
- (g) the authority shall not borrow any money for the purpose of carrying out any capital scheme except on terms approved by Treasury;
- (h) in carrying out any capital scheme the authority shall comply with all procedural requirements from time to time required by Treasury;
- (i) the authority shall have its annual revenue and capital estimates for expenditure under Part IV of the Housing Act 1955 approved by the Department of Health and Social Care;
- (j) the authority shall not commit itself to any expenditure for or in relation to any such capital scheme without the prior approval of the Department of Health and Social Care to the content and cost of the scheme;

- (k) the Department of Health and Social Care may disallow, for the purposes of contributions, -
 - (i) any expenditure on revenue account of a description which is not approved under paragraph (f):
 - (ii) any expenditure on a capital scheme which appears to the Department to result from unreasonable delay by the authority, or which is not included in the content of the scheme as approved by the relevant Department under paragraph (j).

Date: 28th September 1999

APPENDIX D - FORM OF TENDER

To: Relevant Department

Dear Sirs

Tender for

Contract No.:

I/We, having visited the site and having fully acquainted myself/ourselves with the Drawings, Specification and Bills of Quantities delivered to me/us and the Conditions of Contract referred to therein, do hereby offer to enter into contract with the DEPARTMENT OF _____ and execute and complete the whole of the works described in accordance with the Conditions of Contract for the firm price of:-

(£ _____)

I/We agree to complete the whole of the works within [number] calendar weeks from the Date of Possession.

The anticipated Date for Possession of the Works is [.....].

This tender remains open for consideration for 18 calendar weeks from the latest date fixed for the submission of tenders.

I/We understand that this tender is invited and submitted in accordance with the provisions of the 'Code of Procedure for Single Stage Selective Tendering (June 1994), Alternative 1'.

I/We agree that should any errors in pricing or errors in arithmetic be discovered in the priced Bills of Quantities submitted by me/us before acceptance of this Tender, such errors will be dealt with in accordance with Alternative 1 contained in Section 6 of the 'Code of Procedure for Single Stage Selective Tendering (June 1994)'.

I/We undertake, if so directed, to furnish all information requested to enable the insurers appointed by the Isle of Man Treasury to provide a Contract Guarantee Bond in an approved form for the fulfilment of the contract, all as set out in detail in the Bill of Quantities.

In the event that the insurers appointed by the Isle of Man Treasury decline to provide the required Contract Guarantee Bond, I/We nominate.....
.....

as an alternative surety who have undertaken to provide a Contract Guarantee Bond issued by the insurers appointed by Isle of Man Treasury and in a sum equivalent to 10% of the contract sum. The amount required for the provision of this alternative Contract Guarantee Bond is £..... and I/We confirm that this amount has not been included in the above tender sum.

I/We undertake to provide the required Contract Guarantee Bond within 21 days of being requested to do so.

Value Added Tax chargeable against materials, goods and services on any part of these works in connection with this contract has not been included in our Tender and we acknowledge that we are

able to recover any Value Added Tax in accordance with the procedure laid down in the Act and regulations made thereunder. We have included for all administration costs of payment and recovery of such tax within our Tender Sum.

I/We confirm that all appropriate returns have been made to Treasury by the due date, that there are no outstanding statutory payments, such as I.T.I.P., Company Tax, National Insurance Contributions or V.A.T., currently due to the Isle of Man Government and that I/We are in no way indebted to the Isle of Man Government.

I/We fully understand that it is my/our responsibility to ensure that my/our obligations in respect of the submission of returns and/or payments are in order.

I/We hereby authorise Treasury to seek and obtain any necessary information required to verify that there are no statutory payments or other debts currently due to the Isle of Man Government.

I/We fully understand and hereby agree that if there are any outstanding returns or debts due to the Isle of Man Government, my/our tender will not be considered further and that I/We may prejudice my/our inclusion on the List of Selected Tenderers on future schemes wholly or partially funded or underwritten by Government. I/We understand that no explanation will be given and I/We agree that no claim or action will be taken by m/us as a result of any decision taken in respect of this matter.

I/We agree that, if awarded this contract, I/Will establish and maintain a permanent establishment on the Isle of Man for tax purposes for the duration of this contract.

I/We undertake not to allow onto the site nor to employ any person on this contract, directly or indirectly, as an employee or as a sub-contractor to us, an employee of a sub-contractor unless they have produced to me/us, prior to being allowed onto site to start work on the contract, the appropriate certificate under the Scheme for the Certification of Craftsmen 1990 and a valid Work Permit unless the person is an "Isle of Man Worker" as defined in the Control of Employment legislation.

I/We are fully aware of and undertake to comply fully with the recommendations of the Report of the Council of Ministers on the Review of the Administration of Government's Construction Contracts (January 1993) and any revisions, amendments or modifications issued from time to time.

In particular, I/We undertake to obtain quotations from local suppliers and/or producers for all goods and materials specified in the works and to give preference, wherever reasonable, to local Isle of Man labour, tradesmen and services and to use materials from Isle of Man based producers and/or suppliers provided that they comply with the specification and are readily available at competitive prices.

I/We confirm that I/We are included on the current List of Approved Contractors (details of which may be obtained from the Secretary, Isle of Man Employers Federation, Conrhenny House, Begoade Road, Onchan, Isle of Man – telephone (01624) 863194 or that I/We have applied for inclusion thereon. I/We understand and accept that the successful tenderer must be included on or be formally accepted for inclusion on the current List of Approved Contractors prior to being awarded the contract and that such inclusion will be maintained for the duration of the contract up to issue of the Final Certificate of the works.

I/We confirm that I/We have consulted with all the specialist sub-contractors selected by the employer to carry out specific works as domestic sub-contractors all as set out in the Bill of Quantities. I/We confirm that I/We have ascertained the proposed programmes and requirements for executing these specialist works and I/We hereby agree to appoint these specialist sub-contractors as domestic sub-contractors under the provisions of the Conditions of Contract.

I/We understand and accept that the relevant Department will not be responsible for any expenses incurred by the competing contractors in the preparation of their tenders and are not bound to accept the lowest or any tender.

I/We confirm that I/We nor any of my/our staff is related in any way to a Member of an officer of the relevant Department to whom this tender is submitted. (if it is not possible to make this declaration, please delete this clause and provide full details of the relationship on a separate piece of paper).

This tender is to be delivered or sent by post (in the envelope provided) to reach [specify exact person and precise address and location]

.....
.....

not later than 12.00 Noon on.....

Tenders submitted by facsimile will not be accepted. Any tender received after the official time and date for receipt of tenders will not be considered and will be returned unopened.

Dated this.....day of.....20xx

Signature.....

Name of Tenderer.....

Address.....

.....

Telephone No.:.....

Isle of Man Company Registration No.:.....

Isle of Man Employer's Registration No.:.....

(Not Employers' Federation No.)

V.A.T Registration No.:.....

Tender for_____

Contract No._____

Dated this_____ day of_____

Signature_____

Name_____

Address_____

IMPORTANT: THIS FORM OF TENDER MUST BE RETURNED, IN THE ENVELOPE PROVIDED, TO THE ABOVE ADDRESS NOT LATER THAN

{.....}

To be completed by Client

<p>This tender was opened by.....</p> <p>In the presence of.....</p> <p>at.....a.m./p.m. on theday of</p> <p>.....20.....</p>

APPENDIX 1 to FORM OF TENDER: BONA FIDE TENDER CERTIFICATE

To: Relevant Department

Tender for _____

Contract No. _____

We certify that this is bona fide tender intended to be competitive, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person.

In this certificate, the word "person" includes any persons and any body or association, corporate or incorporate and any "any agreement or arrangements" includes any such transaction, formal or informal and whether legally binding or not.

Dated this _____ day of _____ 20__

Signature _____ Name _____

Address _____

APPENDIX 2 TO FORM OF TENDER: - DETAILS OF LABOUR AND PROPOSED SUB-CONTRACTORS

To: Relevant Department

Tender for _____

Contract No. _____

The total labour force employed by our company is.....and consists of:

-no. bricklayers
-no. carpenters/joiners
-no. plasterers
-no. glaziers
-no. painters
-no. plumbers
-no. electricians
-no. heating engineers
-no. labourers
-no.
-no.
-no.

It is proposed to employ approved sub-contractors for the following works:

Work/Trade	Name of Sub-contractor
.....
.....
.....

Dated this _____ day of _____ 20__

Signature _____ Name _____

Address _____

APPENDIX 3 TO FORM OF TENDER: SCHEDULE OF LABOUR RATES

To: Relevant Department

Tender for _____

Contract No. _____

The following rates of labour and materials will be charged by the Contractor if additional work is required to be undertaken on a 'time and material' basis.

Labour:	£/hr
Tradesmen
Labourers

Materials:
Material +% overheads and profit

Dated this _____ day of _____ 20__

Signature _____ Name _____

Address _____

APPENDIX 4 TO FORM OF TENDER: SUMMARY OF TENDER

To: Relevant Department

Tender for _____

Contract No. _____

Section	Works	Amount
	Preliminaries	£.....
	Demolition and Alterations	£.....
	Excavations	£.....
	Concrete Works	£.....
	Bricklaying/Masonry	£.....
	Carpentry	£.....
	Joinery	£.....
	Ironmongery	£.....
	Steelwork/Metalwork	£.....
	Gas Installation	£.....
	Plumbing	£.....
	Drainage (above ground)	£.....
	Drainage (below ground)	£.....
	Plastering	£.....
	Painting	£.....
	Electrical Work	£.....

Include the following sums:-

P.C Sum for	£.....
as detailed in.....	
add.....% for incidental costs,	
overheads, and profit	£.....

P.C Sum for	£.....
as detailed in.....	
add.....% for incidental costs,	
overheads, and profit	£.....

Provisional Sum for	£.....
as detailed in.....	£.....

Contingencies as detailed in.....	£.....
-----------------------------------	--------

Total carried to Form of Tender	£.....
---------------------------------	--------

Note: All Sums exclude V.A.T

APPENDIX 5 TO FORM OF TENDER: SUMMARY OF TENDER

Tender for _____

Contract No. _____

Dated this _____ day of _____ 20____

Signature _____ Name _____

Address _____

APPENDIX E – Memorandum

MEMORANDUM

TO: Petitions Officer, Relevant Department
FROM: IoM Government Capital Projects Co-ordinator
SUBJECT: Petition of
YOUR REF:
MY REF:
DATE:

1.0 Introduction

1.1 The Department of _____ has received a petition from _____ to spend a sum not exceeding £.....repayable within.....years to defray the cost of _____

1.2 Approval is also sought from Treasury to borrow from the Consolidated Loans Fund, should the Authority so wish.

2.0 Description of Scheme

2.1 The works comprise:

3.0 Design Team

3.1 The Design Team appointed for the scheme is:-

Architect	_____
Quantity Surveyor	_____
Structural Engineer	_____
M & Engineer	_____
Landscape Architect	_____
Planning Supervisor	_____
Clerk of Works	_____

4.0 Financial Provision

4.1 The scheme is budgeted for under the general heading "Local Authorities Planned Maintenance Programme" in the Department of Infrastructure's Capital Estimates, on page _____ of the Isle of Man Budget _____, for which the Department has made specific provision of £_____.

5.0 Tenders Received

5.1 Following advertisements in the local press, _____ contractors were included on the select list of tenderers. The fixed price tenders received, in ascending order, are as follows:-

Number	Contractor	Tender £	Index %	Cost/Unit
1.				
2.				
3.				
4.				
5.				
6.				

5.2 Tenders remain valid until_____

6.0 Lowest Tender

6.1 The lowest tender received was submitted by_____

7.0 Tender Analysis

7.1 The Re-Tender Estimate for the scheme was £.....

7.2 The lowest tender has been examined and checked and was found to be both technically and arithmetically correct, with no qualifications of any kind.

8.0 Value for Money

8.1 It is essential that consideration is given to procurement strategies and contract types (Forms of Contract) at an early stage in the project’s lifecycle. In the Definition phase of the project this must be addressed under stage D1 Design Brief, with clear recommendations given by the Project Team with supporting reasoning. The appraisal of procurement options must take account of whole life value for money (including costs for operation and maintenance) and must not be based solely on capital cost. Procurement strategies that support collaborative relationships, Early Contractor Involvement (ECI) and integrated supply chains are encouraged.

Comparison with similar projects both on-island and off-island is required to demonstrate that the scheme represents value for money.

9.0 Cost Comparison with Financial Provision

9.1 The petition is made up as follows:-

- 1. Lowest Tender submitted by
- 2. Professional Fees
- 3. Supervision
- 4. Bond/Insurances
- 5. Furniture and Equipment
- 6. Client Contingency
- 7. Other Costs

£

=====

10.0 Contract Period

10.1 The works are expected to be completed within_____weeks from the date of possession.

11.0 Statutory Approvals

11.1 Planning and Building Regulations Approvals are not (have been) required (obtained) for the scheme.

12.0 Pre-Petition Procedures

12.1 All Pre-Petition Procedures have been complied with.

13.0 Performance Bond

13.1 Application has been made for a Contract Guarantee Bond to (currently) Euler Hermes Guarantee plc. The award of the contract will be subject to the provision of an acceptable Contract Guarantee Bond.

OR

13.1 As the contract sum is below £150,000, a Performance Bond is not required from the Contractor.

14.0 Revenue Implications

14.1 Annual Charges are estimated not to exceed £.....being the annual interest and Sinking Fund charges over.....years.

15.0 Certificate of Undertaking

15.1 A completed Certificate has been forwarded by the Design Team.

16.0 Employers Federation List of Approved Contractors

16.1 This appointment is subject to _____ being included on the List of Approved Contractors published by the Employers' Federation.

17.0 Wayleaves

17.1 There is no requirement for any Wayleaves on this scheme.

18.0 Conclusion

18.1 The Authority and its Consultants have previously confirmed that suitable financial references have been obtained for the Contractor.

19.0 Recommendation

19.1

IoM Government Capital Projects Co-ordinator

**APPENDIX F - Draft Petition Application Letter
(for applications under Section 51 of the Local Government Act 1985)**

Petitions Officer
Department of Social Care
Markwell House
DOUGLAS
Isle of Man
IM1 2RZ

OR

Petitions Officer
Department of Infrastructure
Sea Terminal Building
DOUGLAS
Isle of Man
IM1 2RF

Date

Re: Petition of [name of Authority] for [title of scheme]

Under section 51 (25) of the Local Government Act 1985, [name of Authority] wish to seek the Departments approval to borrow a sum of money not exceeding £.....repayable over a period of.....years for the purpose of [details of scheme].

Please find enclosed the following documentation:-

- Petition breakdown
- Financial statement of the Authority (i.e. extract where the scheme is referenced in accounts and/or estimates
- Copy of tender report
- Tender documentation sent to contractor
- Approved tender
- Value for Money statement
- Financial Declaration Certificate of preferred tenderer
- Statement advising on pre-petition discussions and compliance with Capital Procedures, where appropriate (inc. e-mail or memo from DoI Building Surveyor, concurring Authority has reached formal petition stage)
- Assessment of Reserves (setting out reasoning why the Authority is not using reserves to fund the proposed sheme)
- Copy of planning permission (if appropriate)

The annual repayments are expected to be £.....; with the total repayable being £....., including interest of £..... Annual charges will be calculated by the Isle of Man Bank at.....% rate of interest.

I would be grateful if you could advise me when the Petition application will be considered in order that the required advertisement can be placed in the local press and on a public notice board within the district.

Cc to relevant Department Technical Officer

APPENDIX G – LOAN PERIODS

Loan periods which are generally authorised by sanctioning authorities for various services
(These periods are not mandatory but represent the maximum period permissible)

Description	Details	Years
Accounting machines	Generally	5
Afforestation	Water Gathering Grounds	20-40
Agriculture:		
Buildings	According to type of construction	10-60
Electrical	Private or public supply	15-20
Installations:		
Fencing	Walling, post and rail or pale according to type	12-40
	Chain link	5-15
Fruit bushes		10
Fruit trees	Mixed plantations	30
Glass houses	Timber, aluminium or concrete	Up to 20
	Steel	5-12
Hedges and ditches	Cleaning dykes	10
	Hedging and ditching	5
Land	Allotment or smallholdings	60
Land drainage	Piped	25
	Mole draining	7
Pasture	Permanent	10
Roads	According to type	5-20
Water supply	Wells – dug and lined	50
	Bore holes	30
	Pipes – 1" diameter or less	20
	Pipes – over 1" diameter	30
	Pipes – asbestos cement	25
Allotments	Land	60
Bandstands	Substantial construction	20
Baths	Swimming	30
	Turkish and slipper	20
Boats	Steam launches, ferries, barges for removal of refuse etc.	10-15
Books	Library	7
Bowling Greens		20
Bridges	According to construction	20-50
	Footbridges – light	15
Buildings	Existing non-residential	20-30
	New – durable construction	30
	Factory	40
Car Parks		15
Clocks	Public	10

Description	Details	Years
Computers	See Electronic Computers	
Concrete mixers		6
Cookers	Gas or electric	10
Crematoria	Generally	30
	Furnace only	15
Deck chairs		5
Disinfecting apparatus		10
District heating	House installations	60
	Mains	30
	Plant – according to character	10-25
Electric installations	General	15
	Extension of service main	25
Electric cookers		10
Electronic computers		5
Esplanades		20-30
Fire alarms	Including telephone apparatus	10
Fire escapes		10
Furniture	Generally	15
Gas cookers		10
Greenhouses	Timber, aluminium or concrete	up to 20
Groynes	Generally	10
	Special construction	15-20
Highways	Construction and widening – generally	20-30
	Hedges	20
	Fencing	10-20
	Kerbing and channelling	10-20
	Surfacing – tarmacadam	7-10
	Surfacing – asphalt or concrete	6-10
	Surfacing – tarring	4
Housing	Equated period for land, houses, services and siteworks	60
	Land only	60
	Houses only	60
	Refurbish	30
	Services only	30
	Siteworks only	20
Kitchen equipment		5
Land	For allotment, smallholding or housing purposes	60
	General purposes – all types authority	60
Lawn mower	Motor	5
Machinery and plant	Generally	10
	Laundry	10
Markets		20-30
Motor rollers		7

Description	Details	Years
Motor vehicles	Generally	5
Parks and pleasure grounds	Layout	30
	Equipment	10
Pedestrian guard rails		5
Playgrounds	Layout – including levelling and planting	30
	Concrete flagging	15
	Tar spraying	10
Public Conveniences	Substantial	30
Public seats	Other than collapsible	10
Road sweepers	Mechanical	5
Roads	See Highways	
	Farm roads – see Agriculture	
Safes		10
Sea Defences	Walls	20
	Groynes – generally	10
	Groynes – special construction	15-20
	Jetties and piles	10-20
Sewers and Sewerage	Generally	30
Works	Plant	15
Shelters	Bus or in parks, etc.	10-20
Shops		30-50
Site layout	Including levelling and clearing	30
Steam Rollers		10
Street lighting		20
Subways		30
Swimming pools	Construction	30
	Heating plant	15
	Purification plant and equipment	10
Tar boilers		10
Telephones	Automatic	15
Tennis courts	Hard	10
	Grass	20
Town Halls and office buildings		15-30
Tractors		4
Traffic bollards		5
Traffic signals	Automatic	10
Trees	Roadside	20
Vehicles	According to type	5-10
Walls	Boundary or retaining	20-30
	Sea defence	20
Weighbridges		15
Wireless	Including mobile radio telephone equipment	5

APPENDIX H - DRAFT ADVERTISEMENT

LOCAL GOVERNMENT ACT 1985

(NAME OF AUTHORITY)

_____ (name of Authority) have made application to the Department of _____ for permission to borrow a sum not exceeding £_____ for the purpose of _____, such borrowing to be secured on the District Fund and repaid within a period of _____ years. The annual repayments are estimated not to exceed £_____ and will be equivalent to a 0.____p rate.

The application will be considered by the Department of _____ week beginning _____. Anyone wishing to submit views on this application should notify, in writing, the Petitions Officer of the relevant Department, not later than _____.

Dated this _____

Clerk
(Name of Authority)

This draft advertisement is for borrowing and would need to be suitably adapted for acquisition and sale of land.

