

Institution: Oxford Brookes University		
Unit of Assessment: 19, Politics and International Studies		
Title of case study: Shaping Democratic Debate in the Manx Legislature		
Period when the underpinning research was undertaken: 2001–2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Peter Edge	Professor of Law	[text removed for publication]
Period when the claimed impact occurred: 2016–2020		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact		
<p>Professor Peter Edge's research into the functioning of Tynwald has shaped recent debate about Manx parliamentary reform, and directly informed and improved Emergency legislation for the people of the Isle of Man at a time of unprecedented crisis during the 2020 pandemic.</p> <p>The Isle of Man is a largely autonomous Crown Dependency with its own legal system, dominated by the Manx parliament, Tynwald. Professor Edge has a unique knowledge of this system, and his research has influenced Manx parliamentary debate in two fundamental ways:</p> <ul style="list-style-type: none"> • It engaged with and analysed the findings of the 2016 Lisvane Review of the functioning of Tynwald. The current legislative and public debate over the future of the Legislative Council of Tynwald, and in particular the role of the Lord Bishop of Sodor and Man in that Council, has been fundamentally structured by Edge's work. • The Isle of Man was governed under a state of Emergency between March and June 2020. Professor Edge's real-time critique of the Emergency Powers Regulations (EPRs) led to identifiable changes in primary and secondary legislation. During the Emergency, his expertise was an asset to members of Tynwald and the Council of Ministers, as well as the Manx community as it responded to the global crisis. It helped to improve legislation that governed every facet of the day-to-day lives of Manx residents during the 2020 pandemic. 		
2. Underpinning research		
<p>Tynwald is the focus of Manx political power, so it is central to the interests of the people of the Isle of Man. Since 2016, there has been prolonged debate about the legitimacy, composition and functioning of Tynwald. Professor Peter Edge's research has been pivotal in showing that Tynwald faces particular challenges as the centre of governance for a small jurisdiction, and has highlighted the tension between democratic accountability and concentration of power.</p> <p>As a result of the pandemic, the Isle of Man was governed under a state of Emergency between March and June 2020. The challenges Tynwald faces became especially apparent during this time. During the Emergency, the Council of Ministers (roughly equivalent to the UK Cabinet) was able to legislate by Emergency Powers Regulations (EPRs). These EPRs effected massive changes in everyday life on the Isle of Man. However, this unprecedented rebalancing of power in favour of the executive was subject to democratic oversight: each EPR required approval by Tynwald within seven days.</p> <p>Edge's pre-2016 research, funded by the Economic and Social Research Council (ESRC), was a historical, comparative and theoretical analysis of the work of the Lord Bishop of Sodor and Man in the Legislative Council, the second chamber of the Manx Tynwald (R1–2). It highlighted issues of concern to Manx parliamentarians, and these were debated. Key findings included:</p>		

- Edge's study and classification of religious representation in the democratic legislature, and in particular the understanding of the influence of a minority Church, as a result of ex officio (unelected) appointments
- the special role of Lord Bishops from the mid-twentieth century in acting as technical experts on ecclesiastical matters, and as a voice on moral issues, and how different holders of this office discharged this role (referred to by Edge as 'the voice')
- the voting record of Lord Bishops, in particular identifying votes where the Lord Bishop was involved in causing a measure passed by the democratically elected House of Keys to fail (referred to as 'the vote')
- the comparatively greater importance of the voice over the vote
- the advantages and disadvantages of this form of religious representation, making global comparisons to frame the Manx experience.

Edge's 2016–2020 research actively engaged with the 2016 Lisvane Review of the functioning of Tynwald, and the debates where Tynwald considered the Review's proposals. **(R3)** focused on the debates over the role of the Lord Bishop of Sodor and Man in Tynwald. It emphasised:

- the particular role of the Lord Bishop in the Manx context
- the distinction between voice and vote
- the implications for the survival of the Diocese.

(R4) went further in critically analysing constitutional change in the Isle of Man since the Lisvane Review. It highlighted:

- the need to consider the special challenges, in a small democracy, of managing the inevitable intimacy between constitutional actors, and between constitutional actors and the polity
- the tension between direct democratic accountability and the concentration of power in a small state with a small number of elected officials
- the capacity, and resources available, for constitutional reform in a small democracy.

Research carried out during the 2020 Emergency and documented in Professor Edge's academic blog **(R5)**, applied these insights to the particular challenges of the 2020 pandemic. This research:

- placed the Emergency of 2020 in historical context, showing how it differed from earlier emergencies, and drawing on twentieth-century political debates to show alternative Manx solutions to problems encountered in 2020
- critically analysed every EPR created during the Emergency to identify the Manx response across the Emergency and find ways to improve it
- demonstrated how the response to the pandemic was formed by the challenges of scale, intimacy, geography and history, which needed to be considered in future reforms and strategies.

The research identified flaws in individual EPRs in real time, which meant they could be considered by Tynwald before approval. The research also led to concrete proposals for improving the Emergency Powers regime of Manx law. **(R6)** is Edge's response to the public consultation on the successor to the Emergency Powers Act.

3. References to the research

1. Edge, P. W., Woodhouse, D. and Stott, R. Religious representation in the legislature: The Lord Bishop in the Manx Tynwald, ESRC funded project (GBP42,376, 2001-2003, R000223633).
2. Edge, P. W. and Pearce, A. (2004). Official religious representation in a democratic legislature: Lessons from the Manx Tynwald. *Journal of Church and State*, 46(3), 575-616. DOI:10.1093/jcs/46.3.575 (Co-authored with Augur Pearce, a full-time research assistant employed on the ESRC project)
3. Edge, P. W. (2019). The constitutional implications of the survival of the Diocese of Sodor and Man. *Ecclesiastical Law Journal* 21(2), 179-195. DOI:10.1017/s0956618x1900005x
4. Edge, P. W. (2020). Lisvane's Legacy? Constitutional reform in the Isle of Man. *Legal Studies* 40(1), 22-41. DOI:10.1017/lst.2019.23

5. 41 Posts on Professor Edge's academic blog <https://edgelawblog.wordpress.com/> between 18 March and 9 October 2020; output aimed at legal academics appearing in Edge PW, 'The Manx Emergency of 2020: Dealing with a global pandemic as a small island democracy' [2021] Public Law 232-241.

6. Edge, P. W. (August 30, 2020), 'The Civil Contingencies Bill: A response', edgelawblog <https://edgelawblog.wordpress.com/2020/08/30/the-civil-contingencies-bill-2020-a-response/>

4. Details of the impact

2016–2019

The main impact of Professor Peter Edge's research before 2020 was the **shaping of parliamentary debate over reform of Tynwald**. This was most relevant during the process of constitutional reform, dating from Lord Lisvane being commissioned to review the functioning of Tynwald in 2016. The research provided parliamentarians with a theoretical, comparative and historical foundation for understanding reform of the Legislative Council, especially the religious representation provided by the unelected Lord Bishop of Sodor and Man. Edge's analysis of the nature of the voice of the Lord Bishop, as opposed to the vote, was key to proposals for reform. The discussion of the vote which followed was also informed by Edge's understanding of the relationship between state reform and the survival of the Diocese of Sodor and Man.

Edge's pre-2016 research was **used extensively by Lord Lisvane in his Review, underpinning his consideration of the role of the Lord Bishop in the Legislative Council**, and acknowledged in the Review itself **(A)**. As Lord Lisvane explained: 'I drew on [Edge's] research in questioning my witnesses (especially the present Lord Bishop) and in my final report. In grappling with an historically complex but currently live issue I found Professor Edge's authoritative and exacting work extremely useful, and I made use of it in my final Report (published as GD 2016/0047 on 27 June 2016), also citing the research (Review Report, Chapter 5, paragraphs 34 to 46 and especially 37).' **(B)**

During the Lisvane Review period, Edge also wrote blog posts aimed primarily at policymakers. **These informed parliamentary scrutiny**. A Member of the House of Keys (MHK) directly quoted Edge's conclusion that 'We do not need to look very far afield to find a Crown Dependency with a Church of England officer who sits in the legislature as of right but does not vote; the Dean of Jersey sits in the States of Jersey ex officio and contributes to debates, but does not vote'. As a result, she concluded, 'the argument here, that to lose the vote would lose the role [as leader of the Manx Church], I find quite weak' **(C, at line 7361)**. A Member of the Legislative Council (MLC) explicitly accepted Edge's finding that 'the Lord Bishop is, in the Manx context, more powerful than the Lords Spiritual in the UK' **(D at page 189)**, and that 'a change to the voting status would make much less difference to Tynwald than the removal of the Bishop from Tynwald' **(D at page 190)**.

The impact of the research was most evident in the debate over the voting rights of the Lord Bishop in 2018 **(E)**. **Edge was cited by name by three different legislators, the only academic to be cited in the debates**. One MHK focused on the vote, referring to Edge's finding 'that on 53 occasions the Lord Bishop's vote was critical in a political decision, and so there is a risk involved in that' **(E, at line 825)**. Another MHK referred to the same finding as 'something that I found has caused me concern' **(E, at line 1745)**. One MLC focused on the voice, referring to 'issues on which a Lord Bishop may feel he or she should vote in line with a particular Christian perspective ... Prof Peter Edge highlights this in connection with the Sexual Offences Legislative Council debates in 1992' **(E, at line 971)**.

Building on this research, and a series of knowledge exchange events in the Isle of Man in January 2019 and April 2019, Edge ran workshops for Tynwald, government and senior civil servants dealing with broader issues of constitutional reform. **These gave parliamentarians and their staff new insights into their work**. They were described by the chair as providing 'a considered approach to selecting appropriate expert advice in different situations ... framing the debate ... highly relevant for issues that Tynwald Members are engaged in thinking about' **(F)**. This put Edge in a unique position to contribute during the 2020 crisis.

2020

The main impact during the 2020 emergency was **made possible by Edge's real-time critique and analysis throughout the Emergency**. Apart from correspondence with members of Tynwald, his publicly available academic blog (edgelawblog.wordpress.com) published 41 posts, totalling 44,000 words between March and October 2020. During the Emergency, Edge:

- analysed and critiqued every EPR made under the EPA, often identifying problems of drafting, and of interaction with other EPRs, but also problems in principle drawing on the analytical frameworks developed in his earlier work
- scrutinised proposals for amendments to the EPA during the Emergency, identifying an issue for clarification in the EPA early in the Emergency, as well as drafting difficulties in the amendment measure itself
- criticised the post-Emergency continuation of EPRs, and in particular the creation of EPRs after the end of the state of Emergency
- drew on the details of the Manx experience during the 2020 pandemic, but also the history of Manx emergency powers throughout the twentieth and early twenty-first century, to contribute to the future development of policy for replacement of the EPA with a Civil Contingencies Bill in 2021.

Edge's most important impact was in relation to the formation of public policy in the Manx Tynwald, and by the Council of Ministers. **His regular posts were seen as a crucial source of critique by members of Tynwald responsible for approving EPRs**. One MHK considered them 'required reading for me ... issues highlighted resulted in greater debate and clarity being sought from Ministers or directly with the legislative drafters' (G). Another MHK describes how their impact went beyond the three (of twenty-four) MHKs quoted in this paragraph, explaining that the blog 'became a much observed, talked about, weekly highlight' (H). A third MHK was also, for almost the entire Emergency, a member of the Council of Ministers. Noting the need to think more broadly and deeply about these issues, he stressed the uniqueness of Edge's contribution: 'it is wonderful that you have been able to apply your local, national and international expertise to enable better analysis and decision making here ... I have mentioned this work ... in Tynwald ... and also in other activity as a Minister and MHK' (I).

As the evidence from members of Tynwald shows, the research had an impact throughout the entire crisis. **This impact can be traced into specific primary legislation**. The EPA was itself amended during the Emergency by a new Act of Tynwald, and Edge's work contributed to the final law in two clauses. First, Edge had raised concerns with the Chief Legislative Drafter over the assumed maximum fine allowed under the EPA early in the Emergency, pointing out a problem in relying on the Interpretation Act to raise the maximum from £5,000 to £10,000. The Chief Drafter notes that 'your observations about the maximum sentences available did influence my own thinking in relation to the drafting' of an amendment specifying that the higher figure was permitted (J). This amendment was described to Tynwald as necessary 'to restate the position with clarity' – **only Edge's arguments had demonstrated the lack of clarity**. This became law as the Emergency Powers (Amendment) Act 2020 s.4(4), amending the Emergency Powers Act 1936 s.4(3)(a). Second, the amendment as originally tabled by the Manx government would have removed the power to impose forfeiture of property under the EPA. Edge queried the rationale for this change, and the treatment of forfeiture powers in the original Bill was 'withdrawn when members' concerns were raised after reading edgelawblog and legislation was redrafted' (H).

The comments from members of the legislative body responsible for scrutinising and approving every EPR about the influence of Edge's work on individual EPRs are supported by the public record. A revision to the entry restrictions would have imposed an obligation to pay for travel, and for quarantine, on patients who had been sent by the Manx Health Service to the UK for specialist treatment. Edge identified the problem in the EPR, and recommended that it not be adopted in Tynwald. Supporting an amendment tabled to deal with this problem, the Minister responsible noted that **Edge had identified the problem, which allowed it to be corrected by amendment during the approval process** (K).

This unique scholarly contribution in real time 'made for improving legislation for the people of the Isle of Man' (H) during a period of national crisis.

5. Sources to corroborate the impact

- (A) Documented evidence of use in policy debate: The Lisvane Review, formally Review of the Functioning of Tynwald, (June 2016) GD No. 2006/0047
- (B) Testimonial from member, committee or official: Personal correspondence with Lord Lisvane, 26 July 2016.
- (C) Direct citation of research in parliamentary publication: Citation by Mr Lawrie Hooper MHK in Parliamentary Debate over the Report of the Select Committee on the Functioning of Tynwald, 18 July 2017. Tynwald Court Proceedings, 18 July 2017, at lines 7362-7368, direct quotes 7367-7371, 7375-7377.
- (D) Direct citation of research in parliamentary publication: Submission of Ms Jane Poole-Wilson, MLC, Chair of the Tynwald Select Committee on Legal Affairs 'Response to the Select Committee on the Functioning of Tynwald', 21 July 2017. [Second Report of the Select Committee on the Functioning of Tynwald \(2017-2018\)](#) PP 2017/0139. (See in particular Recommendation 3, pages 188 to 190)
- (E) Direct citation of research in parliamentary publication: Parliamentary Debate over the [Third Report of the Select Committee on the Functioning of Tynwald](#). Tynwald Court Proceedings, 21 February 2018.
- (F) Testimonial from member, committee or official: Personal correspondence with Ms Poole-Wilson MLC, 9 May 2019.
- (G) Testimonial from member, committee or official: Personal correspondence with Daphne Caine MHK, representing Garff, 14 July 2020.
- (H) Testimonial from member, committee or official: Personal correspondence with Julie Edge MHK, representing Onchan, 30 August 2020.
- (I) Testimonial from member, committee or official: Personal correspondence with Chris Thomas MHK, representing Douglas Central, 1 September 2020.
- (J) Testimonial from member, committee or official: Personal correspondence with Howard Connell, Chief Legislative Drafter, 14 July 2020.
- (K) Direct citation of research in parliamentary publication: Citation by Mr Thomas MHK, Minister for Policy and Reform. Tynwald Court, the [Official Report - Hansard](#) at lines 2018-2025, 12 May 2020.