

**WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT  
BY DEPUTY M. TADIER OF ST. BRELADE  
ANSWER TO BE TABLED ON TUESDAY 26th JUNE 2012**

**Question**

Will the Minister advise members of the following information about the Jersey Financial Services Commission (JFSC) –

- (a) the number of enforcement actions and their outcomes for each year since the inception of the JFSC, broken down into the different types of activities regulated by it ie. banking, trusts, companies etc?
- (b) the number of court actions commenced by the JFSC for each year since its inception, identifying the institutions concerned, broken down into the different types of activity it regulates showing which were abandoned or completed and in the case of the latter their outcomes?
- (c) the amount of money held by the Commission to fund court and/or enforcement actions each year since the JFSC's inception and how much was expended in those years on court cases and other enforcement actions?

**Answer**

- (a) The Commission has undertaken just under 900 enforcement investigations since its inception in 1998.

Enforcement investigations are not classified according to 'types of activities'. To do so would make little sense given that one investigation may cover a number of different areas of industry.

Neither are enforcement investigations classified by their 'outcomes'. The investigations themselves comprise a wide range of activities: the formal use of regulatory powers; the service of notices requiring production of information; formally requiring persons to attend at the Commission to answer questions; the service of directions requiring the business to do something; the release of public statements to censure a business (to name but a few). The outcomes are equally wide ranging and to classify in this way would be problematic and, again, serve little purpose.

The numbers of enforcement investigations undertaken since 1999 are set out in the table below.

<i>Year</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
<i>No. of actions</i>	39	78	95	74	69	54	46	47	72	64	78	80	102	71

- (b) The regulatory laws restrict the Commission from providing any details surrounding court applications which are not in the public domain e.g. applications to secure a search warrant.

The Commission is also unable to provide details of cases where a court application was either anticipated or commenced and a confidential settlement was achieved prior to proceeding to full trial.

The cases listed below are derived from public records and are available through [www.jerseylaw.je](http://www.jerseylaw.je).

They do not include cases:

- where the Commission has supported an application by a third party e.g. an application for a winding up order by a regulated company facing insolvency;
- where the Commission is defending an appeal lodged under the provisions of the regulatory laws, objecting to the exercise of the Commission's regulatory power; or
- where the Commission has identified criminal conduct which is then pursued by the Police.

JFSC v AP Black (Jersey) Ltd, Cater Allen Trust Company (Jersey) Ltd, Langton and Black (2002 – JRC 443)

*Restitution proceedings against bank-owned trust company and recovery of costs. Application upheld by the Court.*

JFSC v Alternate Insurance Services Limited, Clark and Le Fustec (2007 JLR 95)

*Restitution proceedings against insurance service provider following reckless mis-selling of investments. Application upheld by the Court.*

JFSC v Equity Trust & Ors (2007 JRC 229)

*Proceedings against large independent trust company for removal of trustee and manager of three collective investment funds. Application partly successful.*

- (c) The Commission does not hold an amount of money specifically to fund court actions. Instead, the Commission has built and maintains an accumulated reserve fund in order to meet contingencies, which contingencies include provision of funds to pursue investigations and litigation. In this specific regard, the Commission's policy has been to build up the accumulated reserve to an amount equal to six months' operating expenditure plus the average of the last five years' cost of investigations and litigation.

The table below shows the annual balance of the accumulated reserve fund together with the costs incurred annually in investigation and litigation.

	<b>Commission reserves</b>	<b>Investigation and litigation costs</b>
	<b>at the start of the year (£000)</b>	<b>incurred during the year (£000)</b>
1998 (6 months)	603	206
1999	961	87
2000	1,521	331
2001	1,555	1,287
2002	2,502	340
2003	3,700	632
2004	4,168	900
2005	3,036	1,143
2006	3,793	519
2007	4,684	882
2008	4,987	462
2009	5,697	444
2010	5,886	522
2011	6,496	477
2012	7,133	<i>(forecast) 1,000</i>

Should any States member have a particular interest in learning more about the enforcement role of the Commission, the Commission have indicated their willingness to provide individual or collective briefings.