

STATES OF JERSEY
Public Accounts Committee
Public Hearing
Jersey Innovation Fund

TUESDAY, 16th MAY 2017

Public Accounts Committee:

Deputy A.D. Lewis of St. Helier (Chairman)

Deputy J.A. Martin of St. Helier

Connétable C.H. Taylor of St. John

Mr. G. Drinkwater

Mr. R.J. Parker

Mr. M. Robinson

In attendance:

Karen McConnell, Comptroller and Auditor General

Stephen Warren, Deputy Comptroller and Auditor General

Stephen Taylor, Affiliate, Comptroller and Auditor General

Caro Tomlinson, PAC Officer

Witnesses:

Mr Tim Herbert, former Chair, Jersey Innovation Fund Advisory Board

Mr Aaron Chatterley, former Member, Jersey Innovation Fund Advisory Board

Mr. Carl Corbel, former Member, Jersey Innovation Fund Advisory Board

[11:41]

Deputy A.D. Lewis of St. Helier (Chairman):

Welcome to the Public Accounts hearing. You are probably aware that our remit differs slightly to other Scrutiny Panels in that we hold accounting officers to account and not Ministers. It is retrospective, so we look back on the implementation of policy rather than the policy itself. Membership is made up of independent members as well as States Members, so you see 3 independent members here, who will introduce themselves shortly. The P.A.C. (Public Accounts Committee) launched its own review into the Jersey Innovation Fund following the C. and A.G.'s (Comptroller and Auditor General) report in January 2017. The Chief Minister's Department is, as

you are probably aware, undertaking 3 reviews into political involvement, officer involvement and lastly administrative arrangements for loans paid out to third parties. However the P.A.C. considers it necessary to hold public hearings with those persons who have responsibilities in the establishment, funding and operation of the Innovation Fund of which you formed part of. We will also have the opportunity to have follow-up written questions and written answers, which you may wish to give us later, in other words conditional responses to this gathering exercise would be welcome. So you can provide those later. But today is about finding out as much as we can from you guys, so I am just going to outline briefly 5 points, 5 areas, that we are going to try and cover. So we are looking about, for example, how the full potential costs of the fund, as agreed by the States, in proposition P.124 was assessed and agreed by whom, and whatever input you may have had to that. Who was responsible for developing the changes to the Public Finance Law to enable making decisions such as securing upside gains from successful loans as envisaged by that proportion that I just cited. Why the necessary changes to the Public Finances Law were not pursued and the intended equity model was not established, in particular why changes were not presented to the States Assembly 6 months after it was agreed to present them after 124, about the idea of taking equity investments. When and how quantification of the risk appetite changed from 10 per cent, we say to the ministerial response to Economic Affairs Scrutiny Panel report in 2013, it increased to 50 per cent and that was outlined in Financial Direction 1.2 of 2014 and why the States Assembly perhaps was not formally informed of that change. Also want to know whether the board and others were satisfied with the governance procedures that were in place and whether the operational terms of reference that were contained in P.124 were workable and if not, why they were not changed as well. It is very much about governance procedures, things which you would have been very mindful of as notable directors and lawyers in your various fields; you have familiarity with governance so we want to know what your views are in how this was governed. The terms of reference for our review have been provided to each of the witnesses, private/public hearings, so that is no different in your case. You were given a bundle of documents including the C. and A.G.'s report and the financial direction that I referred to earlier, and a copy of the Economic Scrutiny Panel report, which I am sure you would have read before and hopefully found useful. That was done before the setup of J.I.F. (Jersey Innovation Fund). We also noted the recent report R.45, which was the ministerial review of ministerial responsibilities, which you probably also had a chance to read. That was commissioned by the Council of Ministers and it references officer responsibility; in particular it was about Ministers.

[11:45]

Just for the purpose of the record, I would like to go round the table and everybody introduce themselves so that is then recorded, we are aware as to who you are for the record. Certainly

everything is recorded and then transmitted into a transcript which you will have the ability to see before it is published. So if we start with you, Sir.

Mr. C. Corbel, Former Member, Jersey Innovation Fund Advisory Panel

My name is Carl Corbel. I work for a family office locally and I handle the investments. Before that I have spent most of my career in investments.

Former Chair, Jersey Innovation Fund Advisory Panel:

My name is Tim Herbert. I am the former chair of the Jersey Innovation Fund Advisory Panel

Former Member, Jersey Innovation Fund Advisory Panel

Aaron Chatterley. I was a member of the Innovation Fund Advisory Panel.

Affiliate, Comptroller and Auditor General:

Stephen Taylor. I am an affiliate with the C. and A.G.'s office.

Comptroller and Auditor General:

Karen McConnell, Comptroller and Auditor General.

Deputy Comptroller and Auditor General:

Stephen Warren, Deputy Comptroller and Auditor General.

Connétable C.H. Taylor of St. John:

Constable Chris Taylor, member of the Public Accounts Committee.

Deputy J.A. Martin of St. Helier

Judy Martin, St. Helier No. 1 Deputy, P.A.C. panel member.

Deputy A.D. Lewis:

Deputy Andrew Lewis, Chairman of the Public Accounts Committee.

P.A.C. Officer:

Caro Tomlinson, P.A.C. officer.

Mr. G. Drinkwater:

Gary Drinkwater, independent member.

Mr. R.J. Parker:

Robert Parker, independent member.

Mr. M. Robinson:

Mike Robinson, independent member.

Deputy A.D. Lewis:

We will kick off with some questions from Gary Drinkwater just to sort of set the scene. However, I do understand that, Tim, you may want to make a statement?

Former Chair, Jersey Innovation Fund Advisory Panel:

If I may, Chairman, yes please. I think in terms of the documentation, the operational terms of reference as well, which are part of the pack that we were provided with, just to refer to those too.

Deputy A.D. Lewis:

You have the floor.

Former Chair, Jersey Innovation Fund Advisory Panel:

There are just 2 very brief introductory remarks I would like to make in order to contextualise, I am sure, the answers that we are going to be asked to give this morning. The first is that the Jersey Innovation Fund has no separate legal personality. In the document which describes the Jersey Innovation Fund phrases like “established” and “special fund” and so forth are used but I think it is important, as I am sure most if not all of you do, to recognise that it has no separate legal capacity or personality. That is very important when one comes to look at the way in which the board operated, the Advisory Panel operated and its powers or, indeed, lack of them. That extends to such matters as the ability to contract and the ability to control the assets that were part of the pot of funds which were allocated by the States to constitute the Jersey Innovation Fund. I made that remark, as the minutes will show, at the Advisory Panel meetings on a number of occasions and, indeed, locked horns from time to time to just reinforce the fact what the board was responsible for and what the States, through the Minister, were responsible for. I also made the point of specifically referring to that in the Annual Report Chairman’s Statement for the years 2014, 2015, which I was obliged to make in conjunction with Economic Development and Treasury and Resources. So my first point, which informs the way I will talk about things today is to underscore the fact that the Innovation Fund does not have separate legal personality, and that is not a semantic. It is an important point. The second, and much briefer point, is that irrespective of the concerns that are now expressed clearly through the Comptroller and Auditor General’s report and other things, nonetheless the principle behind this scheme, and it is a funding scheme, and, in particular, the inter-relationship between the private and the public sector bringing in by way of non-executive directors, such as ourselves, those from the private sector to assist ...

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

We were not directors, were we?

Former Chair, Jersey Innovation Fund Advisory Panel:

We were members of the advisory panel.

Deputy A.D. Lewis:

Yes, you had no legal accountability here, that lay with the accounting officer. You were not N.E.D.s (non-executive directors), you were not directors, you had no fiduciary responsible, correct?

Former Chair, Jersey Innovation Fund Advisory Panel:

That is correct although there are many parts of documentation which by slippage or whatever might suggest otherwise. But Aaron is right to correct me. As the Comptroller and Auditor General's report identifies, we were an advisory panel. But I come back to that main point of principle, the idea behind the innovation scheme was a good idea and, in particular, the interaction between those in the private sector and the public sector to assist as best we could the public sector in making better informed decisions was a good idea, and is a good idea. It is reflected by the fact that we received, in our 3 years' tenure, well over 50 applications to the scheme, albeit that only 6 borrowers in the end exist. So when we talk about things this morning it needs to be seen against that backdrop too. Chair, without further ado I am now happy to answer questions.

Deputy A.D. Lewis:

Thank you for setting the scene there. I could not have done it better myself. That is quite clear, thank you for that. We will then go on to questions and Mr. Drinkwater.

Mr. G. Drinkwater:

Tim, this is really just straightforward. Could you confirm the dates you served as chairman of the Jersey Innovation Advisory Group? So what date was it?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes, there was an Appointments Commission process. I was appointed with effect from 1st October 2013. My formal letter of appointment I think was issued around December 2013, my term of office expired on 30th September 2016. I gave indication to the Minister on 1st April 2016 that it was not my intention to renew my service as chair of the Advisory Panel. Because no replacement for me had been found and clearly, as everybody here knows, things were going on in 2016, it might have been difficult to find a replacement, I was asked by the Minister to continue on a *pro tem* basis and so I did continue chairing Advisory Panel meetings up to, I think, Mr. Drinkwater, about 7th December

and ... on or around 7th December 2016. On or around that date I received the letter from the chief executive advising that as there were no extant applications and responsibility for monitoring the loans rested with the States there was, in effect, nothing further for the board to do. From my own perspective, that was 2 and a half months after I was supposed to have stood down.

Mr. G. Drinkwater:

I think this is covered, but I am just trying to ... so how much time were you told the role of the chairman would take?

Former Chair, Jersey Innovation Fund Advisory Panel:

The advertisement that appeared in the *Jersey Evening Post* suggested 10 to 15 days per annum. The letter of my appointment I think contained the phrase: "15 days but to devote such time as is appropriate." I cannot speak for other members of the panel but in my case I spent between 70 and 80 days in the first year and it continued with that pattern for the full 3 years of my term of office. So the answer to your question is: considerably more time than I had envisaged when I volunteered for the role.

Mr. G. Drinkwater:

I think that answers question 2. Were you asked for any input into the way the fund was set up before you took up your position as chairman?

Former Chair, Jersey Innovation Fund Advisory Panel:

No.

Deputy A.D. Lewis:

Are you aware of a previous applicant that had some input? Did he then speak to you about ...

Former Chair, Jersey Innovation Fund Advisory Panel:

No.

Deputy A.D. Lewis:

No?

Former Chair, Jersey Innovation Fund Advisory Panel:

I was not told who the previous applicant to the position of chair of the Advisory Panel.

Deputy A.D. Lewis:

Somebody that did not take the role up but had some views on it.

Former Chair, Jersey Innovation Fund Advisory Panel:

I was not told who that was. In the interview process I was aware that there was another candidate or at least one other candidate, and I am aware from Jessica Simor Q.C.'s (Queen's Counsel) report that she has redacted ...

Deputy A.D. Lewis:

That is why I mentioned it, because it is in that report.

Former Chair, Jersey Innovation Fund Advisory Panel:

Which is redacted but which identifies the fact that there was ...

Deputy A.D. Lewis:

So you had no dialogue with an individual?

Former Chair, Jersey Innovation Fund Advisory Panel:

None whatsoever.

The Connétable of St. John:

The Economic Affairs Scrutiny Panel scrutinised the proposition P.124, which set up the fund and in its report the Scrutiny Panel warned about potential pitfalls. Were you aware of that report when you took office?

Former Chair, Jersey Innovation Fund Advisory Panel:

I read the report after I had been interviewed in order to familiarise myself with the background to the establishment of the scheme. I did not read it again until I received the pack from P.A.C. just a week or so ago.

The Connétable of St. John:

The Economic Affairs Scrutiny Panel also highlighted concerns that the budget for administration and operation of the fund was inadequate. Did you feel the board was adequately resourced?

Former Chair, Jersey Innovation Fund Advisory Panel:

I cannot answer the question quite in the way that you intend. Did I think that the board that I was involved in appointing was a good strong board able to advise the States on the applications before it? Yes, I did. In terms of the funding of the governance and monitoring and all of that sort of thing that went on within Cyril Le Marquand House, that was outside my remit and I was not involved in assessing the adequacy or otherwise. I then ... sorry, because it is a composite answer. As time

moved on clearly one could see that there were shortcomings in the way in which things were monitored and administered.

The Connétable of St. John:

So you were aware, as time progressed, there were shortfalls?

Former Chair, Jersey Innovation Fund Advisory Panel:

It is things like the relevant experience of the people required within the States to fulfil certain roles.

The Connétable of St. John:

Yes. Can you explain the roles of the board members?

Deputy A.D. Lewis:

And others that attend the board meetings as well.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes, I can. The original Scrutiny Report resulted in a change to the constitution of the Advisory Panel. I am not able to give full detail to you but the original proposition had a greater weighting of panel members towards the state rather than the private sector, although I think it was always intended that there would be an independent chairperson. One of the recommendations that was made by the Economic Affairs Scrutiny Panel was to increase the number of non-execs, those from the private sector, that had previously been the case. I think I am right in saying that under the revised terms of reference there was a minimum of 4 plus the chairman. So when I had been appointed in or around September 2013 one of my first and, frankly, many jobs in that first period of time was to recruit other members to the board, which was done through the Appointments Commission. We had, I think, 15 or so applicants for positions on the board and I appointed with, I say "I appointed", the Minister appointed, but with my input through the Appointments Commission, Mr. Chatterley, Mr. Ringsdore, Mr. Allen, Mr. Shirreffs; so we appointed 4. The role of those board members is not defined in the operating terms of reference. There were 3 other members of the Advisory Panel; that is the accounting officer, Mr. King; the economic adviser, Mr. Peedle; and finally a representative of the Treasury team, Mr. Shilliday. Under the operating terms of reference, one of those people did not have a vote, namely, the chief accounting officer, Mr. King. I accepted and respected that. It made sense because he had considerable input after the board's deliberations in relation to recommendations, and so that made sense. Somewhat to my surprise, the other representatives from the state side also did not exercise a vote and the Comptroller and Auditor General refers to that in her report. So in terms of the role, we met, coming back to Mr. Drinkwater's question, considerably more frequently than I think any of us intended at the start. Again to

contextualise this, there was a huge build-up of applications waiting for the Advisory Panel at its first 2 or 3 meetings.

[12:00]

That is largely, I believe, because over a long period of time there had been the promise of a scheme coming, the promise of the scheme coming, and so funding, for reasons that everybody here will be aware, had been advanced in different ways at different times and in an unstructured way and the intention, I think, was to create more structure. As a result, however, there was some 20 or so applications that were there waiting on day one. There was, and you will see it at the back of the operating terms of reference, a decision-making tree. I did not feel that that was adequate and it did not also draw on the experience of those of us from the private sector. So as you may have seen in some of the reports, I put in place a process whereby every single application was read by me. I made an assessment, a very rapid assessment, which I categorised rather crudely as A, B or C, with C, in effect, being this is not going to get anywhere so ... but give it consideration but it is not going to get anywhere. B was: "Well, this application has some interesting features to it but there are some weak links." A, based on my preliminary review was: "This particular application has a lot to commend it." The A applications were then allocated a non-executive member of the panel to be the champion of it but also to kick the tyres. So whether that was Aaron or Peter or David or Tim, or whoever it was on day one, they were then appointed to meet the applicant, test some of the things that are contained in the business plan, sometimes meet the team. It took all sorts of ...

Member, Jersey Innovation Fund Advisory Panel:

Always met the team.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes, always met the team. Yes. So that was the role of or one of the roles of the non-executive member to try to share out the significant workload that was there not only on day one but subsequently. Then to assess whether it deserved to go through what became quite a complex process and so typically ... although the operating terms of reference suggest 3 weeks for consideration and 3 weeks thereafter for loan documentation and draw down the reality was there was much, much more to be done and looked at. Not least the preparation (were category As to continue to get green lights), preparation of a full blown economic impact assessment by the economic adviser's office. That was an assessment based on the information provided by the applicant and so it always had to be tested with a few "what ifs" but that was again another part of the process that we were involved in. Once the economic impact assessment had been prepared typically the economic adviser or one member of his staff would present that at a board meeting and

we would test that. We would all be receiving a copy of the economic impact assessment before the board meeting. I do not want to go on too long but that ...

Deputy A.D. Lewis:

I think that is really ...

The Connétable of St. John:

I think that has given us a very clear picture.

Former Chair, Jersey Innovation Fund Advisory Panel:

... sets the tone as to what we would have done and each non-executive member of the panel as part of that would be aware that the due diligence, in terms of company checks, checking that they had the right licences, all of those things, were not our responsibility. The operating terms of reference make it clear. We did not have the resources to do a company ... we, the non-execs, did not have the resources to do it. But I know from the questions there is concern about expert opinion. The truth is with schemes to start-ups or scale-ups, finding the right person at the right price to provide expert advice is tricky and so in part it was, in part, our experience as those within the private sector, which would have impacted, but it was not a short process and I would not want it to be suggested otherwise. Indeed, in our first 6 months to a year we were at times strongly criticised for a process that was perceived as too thorough and too cumbersome.

The Connétable of St. John:

That is correct, yes.

Deputy A.D. Lewis:

Can I just come back on something that we asked you about, the outgoing stages there? The adequacy of the administration, you guys were doing a lot of work here, with not an awful lot of reward. You obviously believed in this scheme and wanted to see it happen and progress, as did many of us. But did you feel you had enough support administratively? Was the administration adequate, which is what the Constable was asking in his first question?

Former Chair, Jersey Innovation Fund Advisory Panel:

I think to answer that, I would look again at the Comptroller and Auditor General's report and the chronology that appears at page 31 through to 33, because over a 3-year period there were, what I would loosely describe as, a lot of different phases. So that first phase in the first quarter or 2 of the existence of the scheme there was a lot of enthusiasm. There was this huge logjam of applications, people wanting to have their applications considered. At that point, I would say the first 6 months

or so, I think there was a degree of enthusiasm and I am aware of other questions that you might ask. We did the best with the tools that we had available.

Deputy A.D. Lewis:

My question is: in your opinion was it adequate?

Former Chair, Jersey Innovation Fund Advisory Panel:

I have to put that in the context of ... did I think on day one that it was adequate? Absolutely. That is what I expected from the States and from government but at different points during the chronology that the Comptroller and Auditor General has set out I think, not just myself but others on the Advisory Panel, had concerns that things were not done as quickly as possible, perhaps not as efficiently as possible, perhaps not as commercially as possible.

Deputy A.D. Lewis:

You expressed those concerns?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Deputy A.D. Lewis:

To the accounting officer?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. And in board meetings; I think it is minuted.

Deputy A.D. Lewis:

Fine, it is minuted there.

The Connétable of St. John:

Can I just come back? You said, which there was, there was a level of frustration that at the end of the first year or over the first year that not enough loans were given, given the words you used, and I do not want to put them in your mouth. At the end of that first year were you given any political guidance as to being a little more free with loan applications?

Former Chair, Jersey Innovation Fund Advisory Panel:

The total amount recommended for lending up to 30th November 2014, so approximately one year in, was, I think, just over or just under £400,000 to borrowers. In March of that year, one of our frustrations when we looked at the operating terms of reference, related to the risk appetite and, as

I am sure we will come on to later, I was one of the instigators of a meeting to try to reappraise the risk appetite, among other things; that meeting covered a number of different topics. So by the summer of 2014 one of the aspects of the tightness around what we were being asked to do had been relieved a little by the increase in the appetite for risk for the percentages that are documented. As time went on, so I was very frustrated, as were other members of the Advisory Panel who were not within the States, for example of the length of time between our very first recommendation, which was for a modest amount. I think we made that recommendation early March 2014 and it took until the end of July 2014 for that applicant to receive the money. Coming from the private sector, which is perhaps the best way of describing it, I was surprised and I think others were, and frustrated by the period of time to implement a recommendation.

The Connétable of St. John:

I can quote an instance when an agricultural loan awarded to me took over 12 months for the cash to come through, so I understand that frustration very well. Thank you.

Former Chair, Jersey Innovation Fund Advisory Panel:

But you asked about concerns and as the different periods went on there were different concerns that arose. I mean please bear in mind that during my relatively brief tenure as the chair of the Advisory Panel I have had 3 different Ministers, 2 different accounting officers, at least 4 different executives at different times, so there was quite a lot of turnover and getting used to new things. But the members of staff who were responsible were, certainly in a number of cases, enthusiastic and really tried hard and worked hard but it did not necessarily follow that they had the skill sets to deliver, which again I think I ...

Deputy A.D. Lewis:

Which I think comes back to the adequacy of the administration. What you are saying is maybe people were not necessarily fully qualified or experienced enough to provide you with the support that you needed and that became clearer as things progressed.

Former Chair, Jersey Innovation Fund Advisory Panel:

Provide the States, as lender, with the support that it needed.

Deputy A.D. Lewis:

That is fine. Mike, can you go on to 7?

Mr. M. Robinson:

Yes, certainly. Mr. Herbert, you have mentioned a little bit about the risk appetite, and we know that in the ministerial response it was listed as 10 per cent, and then in a subsequent financial direction

it was put down as 50 per cent. We would be interested to know what number the board were actually working to and when.

Former Chair, Jersey Innovation Fund Advisory Panel:

There were the operating terms of reference and there were, as we understood it from Treasury, a number of different financial directions which were there, but none of them were specific to the Innovation Fund. I will not, Chair, be able to quote the exact numbers but there is a 5.1 in relation to procurement, a 3.3 in relation to something else. There were 2 or 3, but none which are specific to the Innovation Fund and that was, frankly, a shortcoming and should have been addressed before we were put in place. We recognise that shortcoming I think as a group of non-executives fairly early on, and that was one, not the sole but one, of the catalysts of me requesting through the Chief Executive a meeting with key stakeholders within the States so that that could be discussed. That was the meeting that took place a relatively short time after the board was in place, I would suggest, in the middle of March of the first year of operation where we asked, among other things, for that to be considered. That gave rise with quite a few iterations of the draft and feedback from the board, with a set of financial directions which are included in the bundle, Financial Direction 1.2 July 2014, and that was the risk criteria that the board operated upon from that date onwards. I suspect a question that might also be asked is what else did you do about that, and the answer is we relied on that financial direction as the tool we had to use. We did not become involved in whether that should be approved in any other place.

Mr M. Robinson:

That does answer a subsequent question.

Mr. R.J. Parker:

Can I ask a supplementary to that, and that is on that meeting that you had you were reporting through to the Minister for Economic Development. Why was that meeting not with the Minister for Economic Development and the Minister for Treasury Resources and the Accounting Officer?

Former Chair, Jersey Innovation Fund Advisory Panel:

I understand the question ...

Deputy A.D. Lewis:

Who was at the meeting? Perhaps you could just state that for the record.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes, I can tell you.

P.A.C. Officer:

Are we talking 31st March 2014?

Deputy A.D. Lewis:

I think so, yes.

Former Chair, Jersey Innovation Fund Advisory Panel:

The attendees at the meeting were Senator Gorst ...

Deputy A.D. Lewis:

Tim, there were 2 meetings, is this the March meeting or the August meeting?

Former Chair, Jersey Innovation Fund Advisory Panel:

The March meeting. The attendees were Senator Gorst, Senator Routier, Mr. Richardson, Ms. Rowley, myself, Aaron Chatterley, David Allen.

Deputy A.D. Lewis:

So no Accounting Officer from E.D.D. (Economic Development Department)?

[12:15]

Former Chair, Jersey Innovation Fund Advisory Panel:

No, but all were convened to the best of my knowledge. I did not have the ability to convene the meeting, it was done through the Chief Executive and I believe that all the relevant Ministers from the Chief Minister's Department, the Treasury and Resources Department, and the Economic Development Department were summoned to attend that meeting. But certainly when Aaron and I and one other turned up we did not know who or who would not be attending. Our intention was to try to have an open discussion not just about risk but other things too, including the equity uplift element, with key stakeholders within the States.

Deputy J.A. Martin:

Can I just ask a supplementary? Prior to the meeting and when it was asked to have financial directions for the board, which was Financial Direction 1.2, what was the number the board was working to on the risk? Because I could not get this from the Chief ...

Former Chair, Jersey Innovation Fund Advisory Panel:

The operating terms of reference do not state what the number is, but we worked on the basis that irrespective of what the operational terms of reference might say this was public money and there

was relatively significant risk aversion, which is perhaps, if I may say, Deputy Martin, evidenced by the significantly small number of loans that were approved in the first 9 months.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

Which has now been repaid.

Former Chair, Jersey Innovation Fund Advisory Panel:

Which has now been repaid.

Deputy J.A. Martin:

No, that is all I wanted to ask.

Former Chair, Jersey Innovation Fund Advisory Panel:

So it could be that the Accounting Officer would have indicated, because of the documents showing he was clearly involved, a risk appetite of 10 per cent, but I do not recall a specific figure and I have no recollection now as to whether that was minuted or not. But what I would say is we moved from an atmosphere of fairly significant risk aversion in the first 6 months or so of operation to a point where, at least as an advisory panel, by the time the financial directions had been published, and so far as we were concerned those were our new tools, we then worked on the basis that a risk appetite of a greater percentage was possible. But please can I stress and go back to the remark I made earlier, we had over 50 applications for I suspect between £12 million and £17 million, and we sifted through all of those, and in the end there are only 6 recipients of funding from the States, 5 of which are still trading. So I want to impress upon you as best I can that the advisory panel, and certainly the non-executive members, I believe every single member of the panel, State or private sector, was aware of the fact that this was public money and care should be taken.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

Can I add one tiny point to that? Am I allowed to speak?

Deputy A.D. Lewis:

Of course you are.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

The one that is no longer trading, nothing that we could have done in due diligence would have picked that up, what went wrong with that business.

Deputy A.D. Lewis:

We will perhaps come on to that later. But your opinion then, Chairman, the 10 per cent figure that was given initially as guidance, was that really ever workable for an Innovation Fund that is inherently risky wherever it may? It must have made your job very difficult to be objective with applicants.

Former Chair, Jersey Innovation Fund Advisory Panel:

One of my former colleagues, who is not here, said probably every other board meeting: "We have a very, very difficult if not impossible mandate here."

Deputy A.D. Lewis:

So you recognised that and you presented that case to the people who ...

Former Chair, Jersey Innovation Fund Advisory Panel:

But we did our best as an advisory panel with the tools that we had available.

Deputy A.D. Lewis:

Okay, and worked within that until it got changed.

Former Chair, Jersey Innovation Fund Advisory Panel:

The notion of lending money to start up vehicles who as one of their criteria must have exhausted or close to exhausted every other means of funding, a 10 per cent risk in those circumstances I would leave to others more expert than me to assess.

Deputy A.D. Lewis:

Of course. I mean, there are ways of mitigating risks, as you will be well aware of, and I think maybe ... did you ask question 8?

Mr. R.J. Parker:

Yes, just to carry on the theme of risk. You will be aware clearly that the Comptroller and Auditor General addressed this, particularly in sections 4.3 and 4.8 of her report. The question leading from that is why did the board not consistently use risk minimising mechanisms available to you? An example would be the advancement of funds in tranches.

Deputy A.D. Lewis:

We are aware you did do that on some occasions.

Mr. R.J. Parker:

Yes, but consistency.

Former Chair, Jersey Innovation Fund Advisory Panel:

We were not urged by the Accounting Officer to do things in any particular way, but it is true to say, as the Chairman has indicated, that we were learning lessons as the 2 or 3 years continued, and after January or February 2015 I believe I am right in saying that no funds were advanced other than in tranches. That then had a requirement of the Economic Development team to be able to monitor the gateways for subsequent funding. To the best of my knowledge of those loans that were advanced in tranches, one met the criteria and was paid the second tranche in 2016, and one, despite best efforts and despite having employed I believe some 12 or 14 people in Jersey, did not meet one of the criteria that we had set and so the second tranche of the funds was not advanced. But with the benefit of hindsight, and with perhaps some greater input from those supporting us within the States who had no voting power it would appear, but oversight, there are certainly 2 loans which might have been better dealt with by advancement in tranches.

Mr. R.J. Parker:

So can I just clarify then, I think what you are saying is that the Accounting Officer was more heavily involved in the loans that did not involve tranches or his advice?

Former Chair, Jersey Innovation Fund Advisory Panel:

No, that would not be fair.

Mr. R.J. Parker:

I just want to clarify that because that is what it sounded like to me.

Former Chair, Jersey Innovation Fund Advisory Panel:

The Accounting Office was absolutely involved in every single loan or decision not to recommend a loan that we had. He was a member of the board the same as everybody else, and moreover had a role to play once the board had made the recommendation in advising the Minister. So that was a further check there. It would be quite wrong of me to identify a greater involvement in those that did or did not have tranches. The first loan, Loan A, was for £60,000. Frankly, sir, it would have been absurd to advance that in tranches and, as I said, and I think I would finish at this point, there are just 2 loans where with the benefit of hindsight, one in particular perhaps although Mr. Chatterley has referred to that, there would have been greater possible protection for the States as lender had that been advanced in stages. But we did not do that, we did not recommend that.

Deputy A.D. Lewis:

Why was that not considered at the time? Presumably you have got a trail of your decision making processes?

Former Chair, Jersey Innovation Fund Advisory Panel:

Chair, if you wish to, we are getting into a specific of a specific loan here, but their business plan identified ...

Deputy J.A. Martin:

We do not want to do that.

Former Chair, Jersey Innovation Fund Advisory Panel:

Am I ...

Deputy A.D. Lewis:

Well, we do not want to go into any specifics. I know it is difficult not to.

Former Chair, Jersey Innovation Fund Advisory Panel:

This is the answer to your question. They wanted all of the money on day one and had an aggressive business plan which anticipated the recruitment of a significant number of people, which was supported as a concept by those outside of the Advisory Panel. I should leave it there.

Deputy A.D. Lewis:

But did the funds need to be drawn down in one tranche? Because if it was over a period of several months that money was required then why would it be ...

Former Chair, Jersey Innovation Fund Advisory Panel:

I cannot add to my answer. Their business plan, as tested by the economic impact assessment, was predicated on the basis of a significant (I apologise but I am getting into the detail of this) a significant marketing and recruitment drive which, on the face of it, if we had done it in tranches there would have been no way of measuring whether they had met the criteria that would have been imposed 3 months down the line.

Deputy A.D. Lewis:

So it would not have worked. So you were satisfied it was necessary to act in that way on that occasion?

Former Chair, Jersey Innovation Fund Advisory Panel:

I cannot recall any reason why we were not satisfied and that was a particularly strong presentation by the applicant board.

Deputy A.D. Lewis:

Okay, we will leave it at that.

Mr. R.J. Parker:

Just to finish off on risk possibly, I have referred this time to paragraph 7.2 of the Comptroller and Auditor General's report, and the question on that is why the board did not vigorously pursue other risk minimising options, such as licence agreements or, in particular, royalty agreements?

Deputy A.D. Lewis:

We are aware you could not take the equity unless the law changed, but these were other mechanisms that could have been used.

Former Chair, Jersey Innovation Fund Advisory Panel:

There were, when we started out on our role, no template agreements whatsoever in place. Now, that is not an excuse; that is an explanation. There were no loan agreements, there were no grants, there were no guarantee documents, there were certainly no royalty agreements. In the first 2 or 3 loan applications we did look at all sorts of different ways in which some level of protection, I would never go as far as calling it security, but protection might be afforded. Certainly in one or 2 cases we did look at royalty agreements; there was resistance in almost every instance from the applicant to that. While we did consider it, I think it is true to say, which the Comptroller and Auditor General's report flags up, that it is not minuted that on each and every occasion we considered royalty agreements.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

Can I add something more to that? None of those things would have given us any protection. All they would have done is given us an upside benefit.

Deputy A.D. Lewis:

Give us an upside, yes. That is what we were driving at really because we are well aware that the law change did not take place and we will come on to that later but it is just another way of perhaps achieving the same.

Member, Jersey Innovation Fund Advisory Panel:

It is important to state the fact that if this is about protecting the investment it would not have addressed that at all.

Deputy A.D. Lewis:

No, it would simply have helped the top the fund back up.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel

It was sustainability.

Former Chair, Jersey Innovation Fund Advisory Panel:

It is upside benefit, Aaron is absolutely correct.

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel

But if the business was going to go “bang” it was going to go bang regardless of we had in terms of licensing.

Former Chair, Jersey Innovation Fund Advisory Panel:

But also somebody would have had to administer, monitor, the royalty agreement, performance against criteria and all of that sort of thing, and I did not see evidence of that experience or expertise within the States.

Deputy A.D. Lewis:

So even if you recommended it and the applicant had accepted it you would have had concerns whether it could be administrated anyway?

Former Chair, Jersey Innovation Fund Advisory Panel:

On a number of occasions we suggested the outsourcing of controls over that sort of thing, yes.

Deputy A.D. Lewis:

Right. Judy, do you want ...

Deputy J.A. Martin:

Yes, which sort of follows on to the question I was going to ask earlier. So the scrutiny reports there was a commitment to bring back to the States Assembly within 6 months, changes to the Public Finance Law so that the intended private equity model could be debated. So did you report any concerns that this was not followed, did this constrain you, and if so to whom and when did you follow this up?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. Well, the board was aware of the statement that had been made that a proposition would be brought back to permit equity investment through the States. Different members of the non-executive panel had different views about the suitability or otherwise to follow that through. One member, I remember, being very vociferous about saying, meeting after meeting: “Why aren’t we getting anywhere with the equity model?” There is no doubt that the replenishment criteria would

have been more easily effected with the ability to take equity but it would have required, in my view, considerably more than the amendment to the Public Finances Law to deliver this, and in anticipation of a question that I might be asked, 6 months was an extremely optimistic timeframe and I did report that at the meeting that was held in March of 2014 to the people I outlined earlier. It is one of the bullet points that was covered in that meeting and I did certainly mention it in meetings, which I had on a fairly regular basis, with my first Minister, The Minister for Economic Development, in 2014. But I reiterate, it is easy to say, if we could take equity we would benefit from the upside. In my view the J.I.F. semi-loan scheme was not the vehicle to do it and it is why, if I may, I come back to my original remark, J.I.F. had no separate corporate capacity and we had a £260 billion fund industry out there in St. Helier.

[12:30]

This was a £2 million loan scheme and the things that were ... would require to be done would have been significant in my view and I think it is shared by ...

Deputy A.D. Lewis:

So even if you could outsource it, it is probably nobody would be interested?

Former Chair, Jersey Innovation Fund Advisory Panel:

No.

Mr Corbel, former Member, Jersey Innovation Fund Advisory Panel:

Do it to scale, probably nobody be interested.

Former Chair, Jersey Innovation Fund Advisory Panel:

I mean I cannot think of anything that would be described as a private equity investment, done through something that is described as a fund for £60,000 or indeed £600,000. As Mr. Corbel says, the scale would be significant.

Deputy A.D. Lewis:

Very different numbers and non-private equity models.

Former Chair, Jersey Innovation Fund Advisory Panel:

So Deputy Martin's question was, did we press for that? We could have pressed harder. We could have pressed harder but we did press and on a relatively regular basis and I would mention 2 things if I may in 2015. The first is we were, in the autumn of 2015, presented with a paper produced by a member of the Economic Development Department to take forward the equity upside scheme but I

recall his words: “You know, this is a work in progress and will be long in the gestation.” So there was a responsibility, in my view, on the Economic Development Department, to bring that forward but I did not ever feel a significant impetus behind that. The second matter that I would refer to in 2015, is that one loan that we recommended we included, or we recommended inclusion, in the States loan agreement a provision which said in effect: “If at some point in the future the State does have the ability to take equity we, the States as lender, have the right to convert that debt into equity at a discounted rate.” But that was a relatively unsophisticated but nonetheless genuine attempt for the fourth of the 6 loans to try, at some point in the future, with lots of ifs, lots of ifs, but to enable to share in the upside. In relation to loans 5 and 6, as a board, we did test the ability or otherwise to take that sort of convertible debt into equity provision. We looked at that on the States behalf. So I hope that answers your question. It is 2 specific events in 2015 which shows that we were pushing but I would accept criticism that we could have pushed harder, subject to the caveat that it is much more complicated than simply saying ...

Deputy A.D. Lewis:

You have already expressed concern about the level of administrative resource.

Former Chair, Jersey Innovation Fund Advisory Panel:

... “Let J.I.F. take equity.” By 2016, frankly, there were so many other things going on that I think the appetite to push ahead with an equity sharing model, by that time we were and others were aware of the problems with loan C. I think that gave rise to a different atmosphere within the corridors of power as to what the Innovation Fund did.

Deputy J.A. Martin:

Yes, that is fine.

Deputy A.D. Lewis:

I mean on page 8 and 9 of the P.124 it does outline the various models the States could have adopted with this equity model being one of them. I know you were sitting in on the previous hearing so you would have heard the Treasurer’s response, which is not dissimilar to your own, in that he felt that 6 months was way over optimistic in terms of putting the structures in place to handle an equity style fund model. So I take it you are of a similar view in that to do this well would have required extra administration, a lot more of your time and there were other things that needed to be done or could have been done in a different way. You did mention royalties and licence arrangements but you said that the applicants did not like that idea.

Former Chair, Jersey Innovation Fund Advisory Panel:

There is always a resistance with start-ups to giving away any of their hard earned equity.

Deputy A.D. Lewis:

It would be in the equity model was well.

Mr. Chatterley:

As an entrepreneur if you are going to make me a loan it is either a loan or it is a licensing agreement; you cannot have your cake and eat it. Do you understand? If I am borrowing money, you know, I am not going to pay you interest and a licensing fee.

Deputy A.D. Lewis:

No, I absolutely accept that. But if it was a prerequisite of the agreement and that is what you knew you had to do to get the money then you would consider that as an option. If you did not get it you would go elsewhere.

Mr. Chatterley:

Instead of repaying the loan?

Deputy A.D. Lewis:

You could have both.

Mr. Chatterley:

That would be a tough ask.

Deputy A.D. Lewis:

It would be a tough ask and I presume that is why they said no in the planning. It was not pursued any further.

Mr. Chatterley:

That is why I would say no as an entrepreneur.

Deputy A.D. Lewis:

Yes, but that is why the applicant said no. Is that fair to say?

Former Chair, Jersey Innovation Fund Advisory Panel:

We tried to use the different tools that we had available to assist the States but in many instances, do not forget it is supposed to be replenishing, pretty difficult when it is really just a loan scheme. It is one of the reasons again, as evidenced in the C. and A.G. report that we were recommending interest rates that were up to 9 or 10 per cent, which is not high but it is certainly not low.

Deputy A.D. Lewis:

It is almost in the finance levels, is it not? Robert, come in on question 10.

Mr. R.J. Parker:

Yes. One of the key indicators for assessing a loan is creating economic benefit to the Island. How was that assessed?

Former Chair, Jersey Innovation Fund Advisory Panel:

Through the economic impact assessment principally.

Mr. R.J. Parker:

What weighting was given to the views of the economic adviser?

Former Chair, Jersey Innovation Fund Advisory Panel:

The economic adviser had 2 roles, one to prepare the economic impact assessment through his department but also he was, himself, a member of the Advisory Panel so, as was the case with more than one person, he was wearing 2 hats. He was wearing a hat of an economist and he was wearing a hat of a panel member. I would say that considerable weight was placed but there was certainly one instance where the economic impact assessment was neutral but nonetheless the board looked at the different criteria and particularly the benefit to the Island of Jersey as we saw it through the business plan, and for that reason, relatively heavily caveated, we made a recommendation for a loan in that instance.

Mr. R.J. Parker:

Because looking at some of the original documentation about the G.V.A. (gross value added) requirements it looked like the objective was to create something that was basically high profit benefit but low risk which would be any equity funds sort of basically Holy Grail and it couples up with a fund of last resort.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. G.V.A. was analysed in each case and all that I would observe there is that typically, if you are an applicant, a business plan is put together which is usually optimistic and, too quick to present an outcome and it was for that reason that different scenarios were tested within the economic impact assessment assuming, for example, half the revenue that is forecast what would still be the effect? That analysis was done in relation to G.V.A. and you are right, if I may say, to pick up on the "benefits" because that too was something that we had at the forefront of our minds. This was not

about making a loan of £100 and getting 5 per cent back on the loan. This was about diversifying the economy and employing people.

Mr. R.J. Parker:

No, I understand that. I mean I was quite surprised when I read the aspects on a G.V.A. and it compared that the figure that was the sort of aspiration, was basically being compared to the finance sector and was not taking into account the massive amount of capital and resources that are involved in creating that related to a fixed employment.

Former Chair, Jersey Innovation Fund Advisory Panel:

I think the short answer is, we did test that as an advisory panel in making our deliberations but, yes, at times it was a tough ask.

Deputy A.D. Lewis:

Okay. On question 11, Robert, you mentioned external advisers. Do you want to add anything else to that?

Mr. R.J. Parker:

Yes. I mean when it was, you know, and this was within proposition, P.124, that you could use external expert advisers be engaged by the board as and when necessary, did this happen?

Former Chair, Jersey Innovation Fund Advisory Panel:

Not on a formal basis, no, but external advice was sought from, certainly in a number of cases, a representative on the Digital Jersey Board. We looked for testimonials. The non-executive director appointed, would also, on many occasions, sound out others who had expertise in that area. I should come back to my decision-making tree. What I always tried to do was to appoint a non-exec member who had some relevant experience or affinity to the applicant. So if there was something, for example, with a strong compliance bias I would have been more typically asking somebody from the financing or risk area, who was on the board, to look at it. If it was something which, if I may put it this way, an out and out invention then I was surrounded by entrepreneurs and certainly did not want somebody like myself looking at whether a particular scheme or proposition would work or not. So I did try to identify the best non-exec to explore this further.

Mr. R.J. Parker:

Did you use the basically, you know, the States of Jersey other departments or was it through getting external advice through Economic Development?

Former Chair, Jersey Innovation Fund Advisory Panel:

No. We did ask people outside of the States environment but in response to your question, that was not done in a documented way. We did not, at any point, say: "We want to spend £50,000 retaining X, Y, Z accountancy practice to test the viability of this start up scheme." In my humble opinion that would have been a ...

Deputy A.D. Lewis:

It would have been over the top for a £50,000 loan, would it not? Is that your point? Yes, but was there opportunity though to take ... well, there was opportunity to take external advice if you needed it, you know, in a more formal basis. Did you never take up that opportunity? You did not need ...

Former Chair, Jersey Innovation Fund Advisory Panel:

We were never advised to do that apart ... there was one occasion that I recall when we were having real difficulty with an application that was a good application but we could not get our way through the numbers. I know there was a suggestion that was made by the Treasury representative on the board that we could perhaps spend £10,000 or £15,000 on an accounting firm to test that.

Deputy A.D. Lewis:

Yes, because there were funds available to do that. Although the loan might be relatively insignificant, let us say it was £100,000, it is still a lot of money, and you ended up investing £10,000 or £20,000 in advisory of course the payback to the economy later on may well be more significant so it was not just about the loan.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. Please understand we, on the one hand, were never told that you could not get that independent advice.

Deputy A.D. Lewis:

Yes. It was definitely there.

Former Chair, Jersey Innovation Fund Advisory Panel:

But also we had and I, as chair of the Advisory Panel, had no input on how the administration or other costs were managed within the States.

Deputy A.D. Lewis:

Okay. So would you have expected the chief executive to say: "Well, look, okay, we have seen a recommendation on that we think we would like to get an adviser in on this and we will ... you know, we have the finance to do that", or would they be waiting for a recommendation from you?

Former Chair, Jersey Innovation Fund Advisory Panel:

I would have expected those with oversight connected with the Advisory Panel to have suggested that. I do not want to be specific and say: "The chief executive" I would ...

Deputy A.D. Lewis:

Yes. I use that in the broader sense of the word. No, it is not the individual, the corporate body, there is a department there that has expertise in economic development, may wish to bring in experts to look at particular applicants over and above what recommendations you have made. Would that be what you would expect? As far as you are aware, that did not happen?

Former Chair, Jersey Innovation Fund Advisory Panel:

External advice, expert advice can take all sorts of different forms. For example, it did happen ...

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Panel:

On more than one occasion I would have brought in an expert in a certain field to have a look at something while I was looking at it but it would not have been on any kind of paid for or formal basis where they would have produced any kind of report because I would not have felt comfortable asking for it. But certainly I, more than once, had spoken to people externally and said: "Look, I am looking at this; what do you think? What do you think of ..." whether it was as a concept or as a technology.

Deputy A.D. Lewis:

Well, that sounds eminently sensible. Sorry, C. and A.G., do you want to come in?

[12:45]

Comptroller and Auditor General:

I just wanted to ask a couple of questions if I could. The first is about the analysis of business plans. As members of the panel, you had got a representative from Treasury and you had got an economic adviser.

Former Chair, Jersey Innovation Fund Advisory Panel:

And the accounting officer.

Comptroller and Auditor General:

And you had got the accounting officer. When you talked about the business plans earlier it sounded as if you took them and you gave them to one of the other board members and they sort of kicked tyres with them. Could you just explain a little bit more about what happened in terms of some of this expertise that you had on the panel and how that was used?

Former Chair, Jersey Innovation Fund Advisory Panel:

What would typically happen is that the non-executive advisory member would be the primary kicker of the tyres on the business plan but all members of the board would see the business plan and typically, and I think, Comptroller, this is documented in the minutes, although I accept the minutes do not record each and every nuance of each and every conversation because in my view that is not what minutes are there for but there are 300-odd pages of minutes over a 3-year period showing our deliberations.

Comptroller and Auditor General:

I am not going to criticise your minutes or ...

Former Chair, Jersey Innovation Fund Advisory Panel:

No, what ... thank you so much. What would typically happen is that if, for example, Aaron was presenting on applicant A he would go through the business plan. We would often have a one-sheet bullet point appraisal of the business plan that would be presented at the board meeting and every member of the Advisory Panel would have had the opportunity to make input. My experience was that the input came primarily, not exclusively but primarily, from the non-executive members of the Advisory Panel.

Comptroller and Auditor General:

Was a report produced in terms of the business plan from either the economic adviser or the Treasury representative, was it documented?

Former Chair, Jersey Innovation Fund Advisory Panel:

Well, the economic impact assessment would have included an analysis of the business plan and also tested, as I mentioned earlier, alternative scenarios, awful word, but alternative scenarios to the business plan as presented. But I cannot recall detailed analysis either by Treasury or the E.D. (Economic Development) in the context of the board meetings. However, bear in mind that when the recommendation goes on, so the board have made their deliberations and decided that a recommendation should be made to the States to consider funding, the economic impact assessment, the recommendation letter, the business plan, a fairly long checklist of other criteria are met, would all be presented to the Minister, who had legal responsibility for making the decision, and also at that point the accounting officer, under the operating terms of reference, would also have had input and would have ... one of the reasons why he did not have a vote is he needed to be an independent voice if the Minister sought advice from his accounting officer.

Comptroller and Auditor General:

If you do not mind, Chairman, I have just one further question. I am not quite sure I understand why you were not happy to go to the accounting officer to ask them to bring in external advice and pay for that potentially when you were moving in to some, perhaps, quite new areas. I do not know whether ... was there a block? Was the ...

Former Chair, Jersey Innovation Fund Advisory Panel:

No, there was no block.

Comptroller and Auditor General:

There was no block at all.

Former Chair, Jersey Innovation Fund Advisory Panel:

But we were also aware that this was public money and getting external advice that would meaningfully add to our deliberations as an Advisory Panel, I think certainly the entrepreneurs on the panel would question the value of that. I was much more focussed on getting external advice on the monitoring of the loans, getting external advice on the preparation of documents, rather more tedious, more boring stuff, but if ... I certainly pressed on at least one occasion to outsource some of that grind work.

Deputy A.D. Lewis:

Did it ever get outsourced?

Former Chair, Jersey Innovation Fund Advisory Panel:

The monitoring of the loans was outsourced in the summer of 2016.

Deputy A.D. Lewis:

Yes, I am aware of that, but before that?

Former Chair, Jersey Innovation Fund Advisory Panel:

To the best of my knowledge there was no outsourcing of legal advice or documentation.

Deputy A.D. Lewis:

Despite you suggesting and requesting it. Thank you.

The Connétable of St. John:

Can you just say yes for the sake of the record?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Deputy A.D. Lewis:

We are now going to come on to operating terms of reference if I may. What was your view of the operating terms of reference when you became chairman? Have you changed that view at all since then? So you were presented with the O.T.L.R.s (operating terms of reference), what was your view of them?

Former Chair, Jersey Innovation Fund Advisory Panel:

Were they workable? Yes, they were workable. Did they have flaws, contradictions, confusions in them? Did they have overlap? Did they have gaps? Yes. I do not ...

Deputy A.D. Lewis:

That being the case who did you raise your concerns with?

Former Chair, Jersey Innovation Fund Advisory Panel:

That was one of the purposes of the meeting in March. It was one of the roles of the accounting officer. It was one of the reasons why I pressed for, along with others, Aaron being one them, the amendment of the ... well, the drafting of some financial directions that were specific to the Innovation Fund which removed a sort of unspoken straitjacket that existed. So were they workable?

Deputy A.D. Lewis:

So you were instrumental in getting the F.D. (financial directions) sorted?

Former Chair, Jersey Innovation Fund Advisory Panel:

Were they workable? Yes. Do I read pages 8 and 9 of the Comptroller and Auditor General's report which talks about confusion, underestimation of officer resources, allocating specific roles to States personnel, the level of support, mechanism for ... I look at those and while I do not agree with everything the Comptroller and Auditor General and her team have said, I agree with the shortcomings identified there but ...

Deputy A.D. Lewis:

Similarly with page 28, 15.2?

Former Chair, Jersey Innovation Fund Advisory Panel:

I think that is a summary of that ... yes, that is a summary of what ... there was confusion, yes. However, those were the tools that we had available and we really had 2 options on day one, was to say: "There are so many confusions here we are going to cross our arms and do absolutely

nothing until this is put into a perfect form or we are going to do the best with the tools that we had available”, and we chose the latter.

Deputy A.D. Lewis:

So creating the F.D. was a major step forward?

Former Chair, Jersey Innovation Fund Advisory Panel:

Creating the F.D. was a step forward but, as I think the Q.C.’s report identifies, I personally had frustrations about the length of time that it took, the fact that the financial directions still repeated some of the things that were in the operating terms of reference and I would, therefore, again accept the criticism that ... not personally, but of the documentation, that the financial directions 1.2 and the operational terms of reference, even by the summer of 2014, still contained conflicts and overlap but it is true to say that we were led to believe that getting States debate of changes to the operational terms of reference would be a long job.

Deputy A.D. Lewis:

It is not entirely correct ...

Former Chair, Jersey Innovation Fund Advisory Panel:

Sorry, it is correct, in the sense that was what we were led to believe. I cannot comment as to ...

Deputy A.D. Lewis:

No, I can understand what may have been said but obviously it was not your ultimate responsibility to change it, you are quite right, it was the States employees and the States Assembly ultimately potentially. So who did you regard as really responsible for making those changes that you have clearly articulated needed to be made?

Former Chair, Jersey Innovation Fund Advisory Panel:

The operating terms of reference or the finance directions?

Deputy A.D. Lewis:

Yes, the operating terms of reference.

Former Chair, Jersey Innovation Fund Advisory Panel:

The operating terms of reference, the accounting officer. With input from us.

Deputy A.D. Lewis:

Of course. Well, you were given that input ...

Former Chair, Jersey Innovation Fund Advisory Panel:

But we were not the lead. We should not have provided the impetus. We should have highlighted, which I believe that we did do on a number of occasions, the conflicts.

Deputy A.D. Lewis:

What I want to know is, you did raise your concerns, you articulated that very well and as far as you are aware, some of your concerns were not acted upon but the financial direction was created but there was still a lot of overlap and the accounting officer was responsible for moving that forward.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. But, whereas, with the financial directions I saw that as a responsibility of the Treasury Department because that was an amendment to something which affected the Public Finances Law and so my meetings with representatives of the Treasury Department were to try to get that set of documents, financial direction 1.2, as best knocked into shape as possible and I think, again, the Q.C.'s report identifies my frustration that even what was passed in the end did not ...

Deputy A.D. Lewis:

What we want to know is that you did push for that and you just said that and that is what we want to know.

Former Chair, Jersey Innovation Fund Advisory Panel:

But it is for others to judge but I believe that I and other members of the panel did push.

Deputy A.D. Lewis:

That is fine. It was understood and implemented so that is fine, thank you. Coming on to others that were involved, did anyone ever put inappropriate pressure on the Advisory Board in the decision-making process, the discussions it had?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Deputy A.D. Lewis:

Okay. Were you comfortable with that?

Former Chair, Jersey Innovation Fund Advisory Panel:

No.

Deputy A.D. Lewis:

Can you explain who that may be?

Former Chair, Jersey Innovation Fund Advisory Panel:

I think it would be inappropriate because it would be in respect of specific loans or rejections of loans and so, if I may, Chair ...

Deputy A.D. Lewis:

Sorry, is it a range of individuals, one individual?

Former Chair, Jersey Innovation Fund Advisory Panel:

A range of individuals from different walks of life and I do not find that surprising. It does not ... it was not what we bought into as an Advisory Panel with a restricted number of days a year but, yes, there was pressure and in fact the greatest pressure at times was brought about through things which barely got to the application stage. But there would be pressure and rejection which we were perceived as "rejecting" applicants; gave rise to pressure. Equally there were occasions where a rejected applicant would say: "I disagree with your decision not to recommend that the States fund my proposition however can I remark that I was extremely helped by the input that my business received from the non-exec that you appointed to look at it." So we very rarely got bouquets but occasionally we did get positive feedback from applicants that had not been successful but I gave you a yes and a no answer to your earlier question.

Deputy A.D. Lewis:

Okay. So the pressure that you referred to, was that internal from the department, political pressure or just from people interested in the applications? All of the above?

Former Chair, Jersey Innovation Fund Advisory Panel:

Not a great deal of pressure from the department but the other 2 above, yes.

Deputy A.D. Lewis:

We will leave it at that, thank you.

Former Chair, Jersey Innovation Fund Advisory Panel:

Sorry, I think ... Aaron, do you want to say something?

Member, Jersey Innovation Fund Advisory Panel:

No. No, I do but I should not so I will not.

Deputy A.D. Lewis:

It is your opportunity.

Member, Jersey Innovation Fund Advisory Panel:

No.

Former Chair, Jersey Innovation Fund Advisory Panel:

We tried to do our utmost to balance that and be fair and I come back, sorry, to be tedious, but 50-odd applications, there were an awful lot of disappointed people and they would sometimes be quite vocal and get others to be vocal about it and I would say that is not what we bought into but that comes with the territory.

Deputy A.D. Lewis:

Yes, we know that feeling. Come on to a question now from Gary ...

Mr. G. Drinkwater:

This is going back to 2012 ...

Mr. G. Drinkwater:

Just really the operational terms of reference, and we are going down to page 19 and the proposal which was 124 in 2012 as evidenced, all right, so we are going quite a way back.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Mr. G. Drinkwater:

It states that J.I.F. ...

Former Chair, Jersey Innovation Fund Advisory Panel:

Could you refer me again to the number please, Mr. Drinkwater?

Mr. G. Drinkwater:

Yes, I can. Page 124 of the ...

Former Chair, Jersey Innovation Fund Advisory Panel:

Earlier on you said proposition 124, page ...

Former Chair, Jersey Innovation Fund Advisory Panel:

Page 19. Yes, I am there.

Mr. G. Drinkwater:

So basically it stated: "The J.I.F. Board, being fully satisfied with the due diligent checks, referring the experience and obviously the technical economic opinions and delayed ..." obviously they have got a date detail ... "the alliance of the proposal which will be recommended to the Minister to approve or reject." So that was what was in that detail. How do you satisfy yourself that the appropriate due diligence was underway at that stage?

Former Chair, Jersey Innovation Fund Advisory Panel:

The responsibility for what I described earlier as being grind, company searches, credit checks, world checks, all the usual things; that is clearly stated in the operating terms of reference as being the responsibility of the Economic Development Department through the JIF executive.

[13:00]

When the recommendation was made there would have been a large pack and I satisfied myself on each occasion that the checks were done but there were, as I mentioned earlier, and as is identified here, other advice that would have been received, informally or otherwise, often by way of a feedback from the non-executive member, which would have all gone into the pot. The recommendation pack was relatively voluminous and the recommendation letter that I was required under the operating terms of reference to sign, would have tried to identify the business case, the commercial assessment, the risk assessment, the availability of security, and would often ... had been ... in fact I think in virtually every instance I would have offered the ability to meet with the accounting officer and the Minister to discuss if anything needed amplification. So we were aware of what needed to be put before the Minister but I was also clear that the due diligence checks were the primary responsibility ... I think it says in the operating terms of reference that the JIF executive takes a lead role or some phraseology such as that.

Mr. G. Drinkwater:

Obviously C.A.G.'s report, page 20, paragraph 9.3, is critical of the approach of the due diligence. How do you feel about that?

Former Chair, Jersey Innovation Fund Advisory Panel:

That there are general remarks in there and specific remarks. I think I would not choose to respond on specifics on a loan by loan basis because I think that would be inappropriate. I have to accept the board, the advisory panel, has to accept that the findings of the Comptroller and Auditor General are that there are shortcomings but I come back to the role of the non-executive members of the

Advisory Panel. Ours was not to follow through on the due diligence processes. That was clearly the responsibility of those within the States.

Mr. G. Drinkwater:

Right. Do you accept the chief executive's assessment, early today, that the board had responsibility for between one and 2 setting up and detailing the formal work forward? So basically, there was a process that the chief executive was saying, were the board taking full responsibility for this?

Former Chair, Jersey Innovation Fund Advisory Panel:

No, I do not accept that criticism.

Mr. G. Drinkwater:

Okay, fine.

Deputy A.D. Lewis:

I know we are trying to, and we will continue to, respect anonymity here but you will note in the papers, 34, there is a statement of the loans.

P.A.C. Officer:

Of the C. and A.G. report.

Deputy A.D. Lewis:

The C. and A.G.'s report, yes, and it is just A to G. So if you felt there was anything you can add to explain what your last answer was then feel free to do it. The calculations are anonymous. If it helps you.

Former Chair, Jersey Innovation Fund Advisory Panel:

I do not think it does help.

Deputy A.D. Lewis:

If it does not that is fine obviously.

Former Chair, Jersey Innovation Fund Advisory Panel:

I would repeat that we had the operating terms of reference which were the best tools that we had available which had, as the Comptroller and Auditor General has identified, conflicts and confusion. We did our best with the tools that we had available. In relation to the loans I was heartened to hear the update on the loans today because irrespective ... any loan book has an element of risk to it. If you went along to the largest clearing bank they would be making provision from time to time for the

likelihood of a loan to be repaid. The fact is over 50 applications, only 6 loans recommended ... 6 borrowers I should say; 7 loans, 6 borrowers, and as at today's date several of those repaying and only one that is in the public domain having very significant financial difficulties, in administration.

Mr. G. Drinkwater:

Okay. This is question 15?

Deputy A.D. Lewis:

Yes.

Mr. G. Drinkwater:

So just your comment. Why was there not a risk register for the operation of the fund as a whole?

Former Chair, Jersey Innovation Fund Advisory Panel:

I think you need to expand on your question.

Mr. G. Drinkwater:

Right. So normally you would have a process, one to 5 let us say, of the risk register, which is the highest risk and which is the lowest risk? Do you think there should have been a better process in looking at that risk ...

Former Chair, Jersey Innovation Fund Advisory Panel:

A process in relation to what, post lending or an assessment?

Deputy A.D. Lewis:

It is the publishing of a risk register I think is what Mr. Drinkwater ... publishing of the risk register that Mr. Drinkwater is trying to get at.

Comptroller and Auditor General:

Shall I just help a little bit? I know that you had a risk register for each of the individual loans but this was about the operation of the fund in its entirety. Because what you would normally do within any organisation or if you are setting up a fund, is you want to learn from each of the stages as you go through it and what the risk register does is it enables you to have a look at those and begin to move and shift on it.

Former Chair, Jersey Innovation Fund Advisory Panel:

Okay. As chair I did not feel I had a responsibility to provide an overview, risk register, of the performance of the fund. There are extant a number of reviews into this scheme and the first review

was Tera Allas's in September of 2015 and everything can be improved. I do think, as a board, we had an awareness and a consciousness of the performance of different of the loans but it was not our responsibility to monitor those. Our responsibility was where there was an issue that arose to recommend what steps, if any, could be taken to alleviate potential breaches.

Comptroller and Auditor General:

Did you have anything else in place that was structured to begin to take learning from those that you had already given? Admittedly this was in the early stages but you have to put that in place at the beginning so that over time you could begin to learn from what is working, what is not working. So I would call it a risk register and would have it done in a certain way but I recognise you can do it in another way as well so was there anything?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes. There was nothing structured as such but I would, forgive me, return to my opening remarks. We had a huge logjam at the start. We could have simply said: "We are not going to process these." In fact we processed very ... we processed a lot but recommended very few. As time moved on one could see, more and more, the shortcomings in the operating terms of reference and the way in which they were being delivered but I did not consider it was the non-executive's role, spending already considerable amounts of time, to provide that risk overview.

Comptroller and Auditor General:

Just one more question. Whose responsibility do you think it was?

Former Chair, Jersey Innovation Fund Advisory Panel:

Insofar as the law makes it clear that the accounting officer is responsible for that, that is the easy answer to your question but I just ... I think we did have an overview as to the strengths and weaknesses of the scheme as is evidenced by the changes over that 3-year period, enthusiasm, frustration, delay, changes from advancing the funds to doing it in tranches, trying to overcome the absence of the equity upside possibilities and then by the time ... we are just a year and a half or so into it, reviews and bad news in relation to one loan which then began to dominate thought patterns, added to which ... which we have not touched on today ... but which is relevant and the document is here, the confusion that reigned from November 2014 to April 2016 with regard to reporting lines.

Mr Drinkwater:

So that was quite a long time, was it not?

Former Chair, Jersey Innovation Fund Advisory Panel:

It is 21 months.

Deputy A.D. Lewis:

So at any time during that process did you have any clarity as to which Minister you were reporting to?

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Deputy A.D. Lewis:

Who was it?

Former Chair, Jersey Innovation Fund Advisory Panel:

The recommendation letters were always sent to the Minister for Economic Development because that is what the operating terms of reference said. They were copied to the Minister who was identified as having responsibility for innovation. I say "identified as". I am not going to push it any further than that for all the reasons that are set out in the Q.C.'s report. But I think the best way of doing it is to say, I knew that our legal responsibility, under the operating terms of reference, was to send the recommendation to the Minister of Economic Development. I tried my best to have a proper rapport with the person who was responsible.

Deputy A.D. Lewis:

But your practical day to day dealings were with ...

Former Chair, Jersey Innovation Fund Advisory Panel:

The accounting officer was still the chief executive of the Economic Development Department. The J.I.F. executive was in the Economic Development Department and then got moved to the Chief Minister's Department but that took an inordinate length of time. I think I am much better relying on the much more eloquent words of Jessica Simor Q.C. who identifies confusion and a real mix-up of who was responsible for what, both at civil service level and at ministerial level.

Deputy A.D. Lewis:

You feel the same?

Former Chair, Jersey Innovation Fund Advisory Panel:

I do.

Deputy A.D. Lewis:

That is what I was driving at really.

Mr. G. Drinkwater:

With hindsight, and hindsight is a great thing, with all the time that was running through would it have been better for you as a team just to resign and put the whole problem elsewhere?

Former Chair, Jersey Innovation Fund Advisory Panel:

The glib answer is, that is for others to judge. I take the view that a board, and I know for the reasons I explained earlier on we are not a board, we do not have corporate capacity and Aaron was right to pick me up on that and any time in today's hearing where I have referred to "board" or "director", please enter that caveat. But equally the Comptroller and Auditor General is right to say: "You have to have some form of corporate approach to this." I believe even if we did not operate as a company's board, to answer your specific question, if you are a director of a company, which we were not, if you desert the ship you are leaving the problems to others. I can do no better than to say in September 2015 I has decided that I did not intend to renew my term of office in September 2016. I wrote as a courtesy 6-months in advance to advise the States of that and I offered, if need be, to stand down, but I took the view that for so long as I was asked, along with the other members of the board, to continue doing the job that we were doing our best to do, that was the right approach. If I were a director of a company I would say the same: "You have a responsibility to your shareholders, you have a responsibility to your stakeholders."

Mr Chatterley, former Member, Jersey Innovation Fund Advisory Board:

Can I answer that question as well? I would not have resigned. I think I made it very clear, very, very early on, it is probably minuted, that when one of the businesses we invested in failed it was going to be a P.R. (public relations) disaster and we should be prepared for that. I still stand by the fact that we made 5 other investments that are still trading and had we not made those ... take that word back. Had we not recommended those loans some of those businesses may not exist now, and there would not be the benefit to the economy that having those businesses currently trading is. So in terms of the kind of philanthropic exercise, which this has been, because in reality the payment that we have received, for the work that we have done, barely covers the expenses of getting there and back, I feel really good about the loans that we made. So putting aside this whole kind of process, which I find kind of slightly odd given I still view what we have done as a success, no way would I have resigned because I feel we have done a good thing.

Mr. G. Drinkwater:

I think for a public arena like this it is your opportunity to have your say, and that is why I asked the question.

Former Chair, Jersey Innovation Fund Advisory Panel:

I accept what Aaron said but I do not want to underplay the frustrations personally that I felt for a considerable amount of time, and that is despite some very good support work that we received from those within the States.

Deputy J.A. Martin:

Can I just ask for a clarification from where we started from today, just on that point? You were going to go in September 2016 or you could have gone in September 2016 and you got a letter from the Minister asking you to stay on *pro tem* to the end of the year.

Former Chair, Jersey Innovation Fund Advisory Panel:

Yes.

Deputy J.A. Martin:

Sorry, which Minister was that?

Former Chair, Jersey Innovation Fund Advisory Panel:

Philip Ozouf.

Deputy J.A. Martin:

It was Philip, okay, thank you.

Former Chair, Jersey Innovation Fund Advisory Panel:

Who was, so there is no confusion there, by then duly appointed, but, yes ...

Deputy J.A. Martin:

No, it was just something you said earlier. I meant to ask it then, but thank you.

Deputy A.D. Lewis:

Can we just go on to some questions about monitoring, Constable?

The Connétable of St. John:

Once the loans had been granted what monitoring information did the board receive on the various businesses?

[13:15]

Former Chair, Jersey Innovation Fund Advisory Panel:

We received information in a relatively sporadic way. The applicants who were successful were to report quarterly. They were regularly delinquent in their reporting, which is not surprising. These are small businesses, start-up, it is not always perceived as a priority.

Deputy A.D. Lewis:

Is it a contractual obligation, for example, to supply management accounts?

Former Chair, Jersey Innovation Fund Advisory Panel:

It was a contractual obligation.

Deputy A.D. Lewis:

So how did you go about trying to enforce that?

Former Chair, Jersey Innovation Fund Advisory Panel:

We cannot. It is the States who are the lenders.

Deputy A.D. Lewis:

So would you expect them, the States or the Treasurer or accounting officer to do that?

Former Chair, Jersey Innovation Fund Advisory Panel:

I would. I am responding to Constable Taylor's question: we received reports on a relatively sporadic basis from about Easter 2015 onwards, because bear in mind, up until around 2015 no borrower had any obligation to repay the States. They had an obligation to repay, sorry, but no payment was due. So up until around Easter, the summer of 2015, there was not anything which would amount to a warning sign, say, for late reporting. In the summer of 2015, reported to us by the executive, who had the obligation to monitor the loans, we identified for the first time a potential defaulting borrower. That is minuted and steps put. We took the things that we pressed the States as lender should do is contained within the minutes from October, or thereabouts, 2015 through to 2016, when it was finally escalated to the Minister.

The Connétable of St. John:

Did you at any time push for more regular updates and monitoring as to what took place, what was going on?

Former Chair, Jersey Innovation Fund Advisory Panel:

The board, the non-executive members of the Advisory Panel, did not have a responsibility for monitoring the loans. Our responsibility was under a later and rather conflicting and confusing part of the operating terms of reference, to recommend action that the States, as lender, might take in

the event of a breach. So if borrower A and borrower B were performing a little delinquent but relatively satisfactorily it would be unlikely that we would be asked for a view as to what we should do. If borrower C was causing a problem, by way of example, we might well be asked for our view and we were, in relation to the loan that caused a problem, asked for our view and we gave it. I cannot again talk to the adequacy of the minutes but it occupied a reasonable amount of time at board meetings on 3 or 4 occasions at least.

Comptroller and Auditor General:

I just have one question I would like to ask as well. You talked about the performance of loans, when did you last receive an update, because I think you stopped being board members last year?

Former Chair, Jersey Innovation Fund Advisory Panel:

There is absolutely no reason why we should any more than any other member of the public now receive any knowledge of the loans and it was one of the reasons why I was interested by remarks made earlier today. The last time that I recall anything being reported back on the loans would have been ... to me as a then almost lapsed member of the Advisory Panel, would have been November 2016, which would have been the reporting that was coming through, through the independent accountants who are retained to advise on certain of the loans. The first loan that was ... where the company went into administration, that was the first one that the advisers were appointed on and I believe, but this is from memory now, forgive me, that 3 or 4 other loans were also subject to that sort of forensic accounting inquiry. That is relatively heavy duty, third party, costly monitoring of the loans and is perhaps evidence of the skill set that was needed to monitor the loan book for its duration.

Deputy A.D. Lewis:

So as far as follow-up and monitoring, that is very much a matter for the department, yes?

Former Chair, Jersey Innovation Fund Advisory Panel:

In response to Constable Taylor, our responsibility was almost to deal by exception and, secondly, we were, as a board, required to produce an annual report and we did our best to make the contributions required to the annual report. There was always some tardiness in the preparation of that report but that is linked into, we understand, the late production of numbers by other parts of government.

Mr. R.J. Parker:

I just wanted to ask: was there any structure related to handholding or aftercare, taking into account that these were start-ups?

Former Chair, Jersey Innovation Fund Advisory Panel:

Structure, no, in terms of any sort of ongoing responsibility. But I refer back to my earlier remarks on an unsuccessful applicant where you would often get a small bouquet for the contribution made by the non-exec. It is the case that the non-execs who were originally appointed to champion a particular loan would probably have taken more than a passing interest in the performance of that borrower and would typically, in the absence of a good communication rapport between the state and the borrower, have served as a bridging point. I think it is true to say that on each of the loans that were drawn down that ... not structured, not required, and I think handholding is almost too strong a way of putting it, but would that borrower have felt: "I will pick up the phone to X or Y who was my sponsoring N.E.D." yes. That is absolutely evidenced, other than the defaulting one.

Deputy A.D. Lewis:

Clearly you were pretty passionate about some of these applicants and that is borne out by some things you have said, which is great. On that basis then, would you have not been very interested to see management accounts, regardless of the fact it was not your responsibility to follow up and do the aftercare? Would you not have wanted to see management accounts on a monthly or quarterly basis?

Former Chair, Jersey Innovation Fund Advisory Panel:

That is a slightly closed question in the sense would one be interested? One might be. Was it one's responsibility? No, absolutely not.

Deputy A.D. Lewis:

No, it was not. You have already said that, yes. So were you a bit surprised then to discover that or did you discover that the department was not receiving such information?

Former Chair, Jersey Innovation Fund Advisory Panel:

Not surprised because they are start-up businesses and it was reported to the board by the J.I.F. executive, who was very able, in the spring/summer of 2015 that reporting was delinquent. So it was not a surprise, no. But when issues started to arise it was a surprise that they were not escalated within the States.

Deputy A.D. Lewis:

Do you feel the department could have done more to get that information on a regular basis?

Former Chair, Jersey Innovation Fund Advisory Panel:

We supported the department in putting greater pressure on the borrowers to report in a timely way. We encouraged to the best of our ability. There is a remark that the Comptroller and Auditor General

made about putting greater pressure on management and I struggle, may I say, with that phrase because I ... if that means should the non-executives have put greater pressure on the accounting officer, then I would understand that slightly more. I think we did in what were, at times, quite trying circumstances.

Deputy A.D. Lewis:

So what you are saying is you did put pressure on the department, not least the accounting officer, to get their house in order on things such as that?

Former Chair, Jersey Innovation Fund Advisory Panel:

We supported the accounting officer when he took a decision to write a strong letter to all borrowers reminding them of their reporting obligations. In the private sector that would probably have happened earlier, in my view.

Deputy A.D. Lewis:

Yes, because in the bank scenario you would normally be expected to provide management accounts probably monthly and if you did not get them, then, yes, the bank would take normal action.

Former Chair, Jersey Innovation Fund Advisory Panel:

Can I make one observation, I am conscious of time? But which relates to conflicts and the financial interests of members of the board because the Comptroller and Auditor General has flagged this up. I am very much aware of the Nolan principles which are in your pack and you can read them out, and I am very much aware of how important it is to manage conflict, especially in a small community. I believe that although we did not have any or any significant guidance on how that should be done, as chairman I managed conflicts as I saw fit in accordance with the Nolan principles. I would like to stress that at no time ... the Comptroller and Auditor is right to identify that 2 members of the Advisory Panel had a financial interest in a borrower that had received funding. That is a correct statement. But I would like to reiterate that no member of the Advisory Panel ever had a financial interest at the point at which a recommendation to receive funding from the States was made. That may appear a nuance but I think it is important to stress because the board have been subject, not through the Comptroller and General but elsewhere, to criticism for that. It was regularly the case that board members would leave the room because that is the proper way to manage conflict. There were one or 2 occasions on which a board member remained within the room when a matter was being discussed in relation to a company that had received funding. That was declared and managed and I do not believe that impacted at all on any of the decisions that were made. Indeed I would argue strongly that that person participating in the discussion was for the greater good of the States as lender. I think perhaps the Comptroller and Auditor General and myself will

agree to disagree on that, but I understand why she raised the point, but I wanted to raise it in this forum, because I have not had an opportunity to clarify it before.

Deputy A.D. Lewis:

That has been recorded now and that is useful.

Former Chair, Jersey Innovation Fund Advisory Panel:

I think it is important to state that and on every occasion when an advance was made by the States, every single non-executive member of the panel was required to sign a no-conflict on a case by case basis, a no-conflict statement.

Comptroller and Auditor General:

I think perhaps it would help just to come back as well and to say that I am aware of those comments; that we have indeed had this discussion before, the report is as the report is. I respect your viewpoint and I know you respect mine.

Former Chair, Jersey Innovation Fund Advisory Panel:

Absolutely, but I think it's because of other things that have been said.

Deputy A.D. Lewis:

Can I just move on to one penultimate question, and this has caused us some concern and at the previous hearing it was mentioned, but in P.124 it states: "The J.I.F. board will at all times ensure that the Jersey Innovation Fund operates within both the Public Finance Law and any current or future financial direction." Are you confident that the board discharged this duty at all times? It was a duty stipulated in 124, but of course as you quite correctly said in your opening statement you are not bound by the Finance Law here, you are not the Accounting Officer. You are not a director in the fiduciary sense. So with that background and that statement in mind, did you feel you discharged your duties as laid out in P.124 with regard to ensuring compliance with the Finance Law and the financial directions?

Former Chair, Jersey Innovation Fund Advisory Panel:

I believe we discharged our functions as best we could with the operational terms of reference that were presented to us, yes. But, as the Comptroller and Auditor General has identified, there are conflicts and confusions in there, so it is almost impossible to say we have complied with something, which requires the same action to be carried out by 2 different people. Is that a fair concept?

Deputy A.D. Lewis:

Yes, it is interesting that paragraph was in P.124 because the Law says something slightly different, but it was clearly in there and that was the proposition passed in the States. So there was an expectation from the Assembly, let us say, that you in fact would ensure that those Laws were complied with, whether that was ensuring that the Accounting Officer complied with them or yourself. But by Law it is the Accounting Officer that has to comply with that Law, not you. That is the way I see it, perhaps my colleagues feel the same, but of course in the proposition itself that is what it said that you were to ensure compliance as the board. But I am satisfied with your answer, you have said that, within the constraints you had to work within, you are satisfied that you complied to the best of your ability, is that what you are saying?

Former Chair, Jersey Innovation Fund Advisory Panel:

To the best of our ability, absolutely, yes.

[13:30]

Deputy A.D. Lewis:

Mindful of the time, I think we have covered a lot of ground there and we thank you very much for your co-operation. Does anybody have anything else they wanted to add?

Mr Drinkwater:

I think this is just an alternative view, is there any comment we have missed or any issues that you would like to answer direct to us?

Former Chair, Jersey Innovation Fund Advisory Panel:

I will invite Carl and Aaron first to say anything before I make the concluding remarks.

Deputy A.D. Lewis:

You will have other opportunities; this is not the end. I mean if you have things you want to bring up with us you can by correspondence or by further meeting.

Mr Drinkwater:

I think it's an opportunity, if you want to you should do.

Former Chair, Jersey Innovation Fund Advisory Panel:

I will be brief. I wanted to make the point about conflict management. This is our opportunity to speak and I spoke to the Chair about this on the day the Comptroller and Auditor General's report was published. We have kept out counsel and I think I can only speak for myself, I cannot speak for other former members of the panel, but we wanted to use this opportunity to get some accurate

facts and a fair assessment about the way in which we performed and we will probably not say anything further.

Deputy A.D. Lewis:

That is fine. Well we would like to thank you very much for your co-operation today; it has been very helpful indeed. There is opportunity in the future to provide us with any other evidence you might feel relevant as this review unfolds. There is still some more desktop work we need to do, there are other witnesses that we may well call. So, at any time you feel there is something you might want to add or you felt uncomfortable in talking in the public forum, we are the Public Accounts Committee, so I need to caveat that whatever you tell us may well end up in the public forum. But if you feel there is something you would like to discuss with us in a different forum then we are happy to consider that and you can submit anything you wish by way of correspondence to the review.

Former Chair, Jersey Innovation Fund Advisory Panel:

Thank you for giving us the opportunity to explain ourselves.

Deputy A.D. Lewis:

Thank you for your time you have given the Innovation Fund today as well, I can see a lot of work has gone in and your successes should be noted. Sadly, good news does not always make the news, but there is some bad news here we need to deal with as well, which we will be endeavouring to do with this process, so that in the future these sort of instances do not occur so that we can continue to encourage people like yourselves to sit on boards like this. Because that is one of the downsides of this type of publicity that you are not going to get people going forward. So I would like to try to help, maybe do something here that will hopefully make people think there is still a role to play here with independents such as yourselves and encouraging people to continue to put themselves forward. So it is not all bad news but we do need to investigate the bad news when it occurs I am afraid and that is part of our role. But thank you for coming along today and I hope you have found it useful as well.

[13:33]