

2.6 Deputy M.R. Higgins of St. Helier of the Minister for Economic Development regarding the powers of the Financial Services Commission to protect the consumers of financial services and products and the reputation of the Island:

Is the Minister satisfied that the Jersey Financial Services Commission has the powers and resources it needs to carry out its functions effectively in ensuring that the Island is a well-regulated financial centre that protects the consumers of financial services and products and the reputation of the Island?

Senator A.J.H. Maclean (The Minister for Economic Development):

I am satisfied that the Jersey Financial Services Commission has both the powers and the resources it needs to carry out its statutory functions effectively and I have no reason to believe that either the Commission's powers or the Commission's resources are in any way deficient.

2.6.1 Deputy M.R. Higgins:

Does the Minister in particular think that the Jersey Financial Services Commission has sufficient funds to take on the very large banks operating in the Island when they are determined to be in breach of regulations, bearing in mind that they have deeper pockets to contest these matters than the Commission? Does he also feel they have sufficient money to cover the many enforcement actions that are likely to be brought because of a number of firms engaging in business that because of the recession that they would not otherwise be dealing with?

Senator A.J.H. Maclean:

Yes, I do. The J.F.S.C. (Jersey Financial Services Commission) has significant resources and, with regard to taking on large organisations like banks, there is a track record where, in fact, the Commission has in the past successfully taken on a bank that acted inappropriately.

2.6.2 Deputy M.R. Higgins:

On this particular matter, I know for a fact that the Commission does not have sufficient funds to contest these actions and has shown reluctance to take on, for example, Standard Chartered Bank who are alleged to have committed a fraud by Mr. George Burrow, a Canadian investor who has been standing outside Standard Chartered Bank with a placard for the last week. Now, the point on this is that this man has been let down, not only by the Jersey Financial Services Commission who are afraid to take action because they realise that Standard Chartered Bank have a bigger bank balance, if you will pardon the expression, than the Commission does. I do think that the Minister is highly misleading if he feels that the Commission is properly resourced in this area. The question is again specifically how much money do they have to fight court actions and is it sufficient?

Senator A.J.H. Maclean:

As I have said, the J.F.S.C. has significant reserves. If the Deputy refers to their latest stated published accounts in 2010, he will see that they have got more than £6.5 million of reserves. There is no question that they are not prepared to take on banks or any other organisation if indeed there is a case where they can so do. I am afraid the Deputy is talking about a specific case here. Clearly he would appreciate that neither I nor the J.F.S.C. are in a position to comment publicly about that but nevertheless I am very satisfied with the way in which the J.F.S.C. has undertaken its duties and indeed engaged in this particular matter that the Deputy is so concerned about, and rightly so, as I might add, has my department.

2.6.3 Deputy R.G. Le Hérissier:

Can the Minister confirm whether the J.F.S.C. has indeed the powers to investigate a case where a person contends that they have received the wrong advice and indeed that they have been lied to? How would the J.F.S.C. embark upon such an investigation and can he confirm it has powers so to do?

Senator A.J.H. Maclean:

The J.F.S.C. has no explicit statutory responsibility for consumer protection. I think that is a key point and I think if we were to get to the heart of this matter, the Financial Services Ombudsman, which this Assembly voted upon progressing and is indeed being progressed. I have previously said at the last sitting, I believe, that we hoped to have that legislation in place by the beginning of 2014. That indeed is the route that would have perhaps provided some resolve for the individual case that the Deputy is referring to.

2.6.4 Deputy R.G. Le Hérissier:

Can the Minister confirm that in a case such as has been alleged or that I have outlined and the mis-selling that has occurred recently in the U.K. and which has been the subject of massive compensation that the J.F.S.C. cannot act in those cases?

Senator A.J.H. Maclean:

There is a route through which the J.F.S.C. could act in a case such as this and it relates to Article 26 of the Financial Services Law and that is in regard to restitution orders. Clearly in order to do that, the Deputy and Members would appreciate, that it is an extremely expensive route to take. That said the J.F.S.C. has in the past taken that route. In 2006, Members may recall the Alternate Insurance Services case where the J.F.S.C. successfully took a restitution order to the courts and won. However, in this particular instance, upon advice, there was not sufficient evidence in order to go down that particular route.

2.6.5 Deputy G.P. Southern:

Is it not the case that the Minister has to maintain the pretence that J.F.S.C. can take anybody on whereas the reality is that £6.5 million would soon be eaten up by 2 or 3 of such cases?

Senator A.J.H. Maclean:

No, the reality is the J.F.S.C. do take on, where necessary, organisations and have a successful track record in so doing. That is absolutely clear. There is no pretence whatsoever.

2.6.6 Deputy T.M. Pitman:

It is a shame that Deputy Higgins or any of us have to bring individual cases up in the States but we are seeing this type of thing more and more. So does the Minister not concede that if finance is not the issue here, then for people like Mr. Burrow, the real issue is that there is an unwillingness to take that on and have this bad publicity? I understand this is going into the national papers now, you know, a man walking the streets with a sandwich board. I have met with him. How very sad is that. Does the Minister not agree that Jersey cannot afford this type of publicity? We need to act.

[10:15]

Senator A.J.H. Maclean:

Indeed, Jersey does not like this type of publicity and that goes clearly without saying, but the suggestion there has been a lack of action is not true at all. The J.F.S.C. have been communicating with this individual and I think it is regrettable that his name has been mentioned in public since 2008. They have voluminous files on the subject and, indeed, on his recent visit to the Island, they even provided him with coffee and shelter from the rain. The Commissioner of the J.F.S.C. met with him personally and went through the details of the case and explained the limits of which the J.F.S.C. can act, in particular with regards to his particular circumstance. Officers from my department also met with this individual and gave him as much support as possible and I myself have written to the bank laying out our position. There has been significant assistance to this individual. The circumstance he finds himself in is clearly most regrettable.

Deputy T.M. Pitman:

Could I just point out that the individual is quite happy with his name being mentioned.

The Deputy Bailiff:

I took it that it was necessary to mention his name to identify what the questions were about. Final supplementary, Deputy Higgins?

2.6.7 Deputy M.R. Higgins:

Just a brief comment first. Yes, the Head of Jersey Financial Services Commission did meet with Mr. Burrow and again he did emphasise his lack of resources as one of the reasons why they did not take action. Secondly, the Minister was asked to meet with Mr. Burrow and could not find the time in the, I think, 2 weeks that he has been in the Island. In terms of the final question, is the Minister aware that Jersey's reputation has already been damaged by this particular incident because the visiting French delegation from the French Senate that were coming in to examine how well we regulate our finance industry went across the road to meet Mr. Burrow and discussed the practical aspects of the regulation in this Island? They said they were told one thing in the Commission, how well we are regulated, and they were very interested to hear in practice how we do regulate. Is the Minister aware of this?

Senator A.J.H. Maclean:

Yes, I am aware that the Senate met him. Clearly, they were having meetings with the J.F.S.C. and he was located very close by. Yes, I am aware of that. I also would like to restate the inaccuracies of what Deputy Higgins has just said with regard to the lack of resources of the J.F.S.C. I met with the Commissioner of the J.F.S.C. yesterday and that was certainly not said. What was probably said was the fact that it is an expensive route to take and there has to be solid evidence in order to go for a restitution order. There was not and is not, on the advice that has been received, sufficient evidence to pursue that particular course.

Deputy T.M. Pitman:

Sir, could I raise the défaut on Deputy Martin please?

The Deputy Bailiff:

It is proposed the défaut be raised on Deputy Martin. Do Members agree? The défaut is raised.