

#### **4.3 Deputy M.R. Higgins of the Minister for Economic Development regarding reputational issues arising from the K2 tax avoidance scheme which was being promoted in the United Kingdom:**

Does the Minister consider that the revelation about the K2 tax avoidance scheme being promoted in the United Kingdom from Jersey has damaged the Island's reputation as a well-regulated and responsible financial centre and undermined the policy of attracting high net worth individuals to come to live in Jersey, and if not why not?

##### **The Bailiff:**

Chief Minister, I understand you are going to answer this question on behalf of the Minister for Economic Development.

##### **Senator I.J. Gorst (The Chief Minister - rapporteur):**

Indeed, Sir, thank you. Anything that might impact on the Island's reputation as a well-regulated and responsible financial centre must be of concern. However, I think it is recognised by those doing business with Jersey that in this case it is the U.K. laws that have allowed the publicised scheme to be promoted by U.K. tax advisers for use by U.K. residents and that Jersey is one of many jurisdictions can find that it is being used in connection with such schemes. What I believe is important for the protection and enhancement of the Island's reputation is having the right policies in place and for there to be a clear commitment to those policies on the part of all concerned. We expect this message to be understood and acted upon by all who have a part to play in supporting the policy objectives of the Jersey authorities in continuing to enhance the Island's reputation as a well-regulated and responsible international finance centre. The questioner has referred specifically to the policy of attracting high net worth individuals. I am confident that this policy has not been undermined by the recent press publicity because those individuals will recognise that the fundamental attractions of Jersey as a place of residence have not changed.

##### **4.3.1 Deputy M.R. Higgins:**

A number of questions arise from that, but I will just ask one. First of all, you mentioned policies. He expects people to follow policies. What policies are there that his department or other departments have laid down to these people? What guidance is being given and what action are you taking against people who are promoting schemes which will damage the reputation of this Island?

##### **Senator I.J. Gorst:**

The Deputy will be aware that it has been Jersey Government policy for a number of years that we comply with all relevant international standards. That policy is shown to be acting by the results that we receive from observations and reports from the I.M.F. (International Monetary Fund) and O.E.C.D. (Organisation for Economic Co-operation and Development), I think that is quite clear. The Deputy refers to promoters of this scheme. As I said in my answer, and has been quite clearly shown, the promoter of the scheme is being done in the U.K. by a U.K. promoter. I am not sure what the Deputy is asking me to do in that regard. That is something for the United Kingdom Government to deal with.

##### **4.3.2 Deputy M.R. Higgins:**

With respect, just following up on that, Jersey firms are engaged in these practices. The U.K. promoters could not do what they are doing without the support of the Jersey companies. We are getting the blame for not only the U.K. promoters but also the actions of some of our Jersey companies.

##### **The Bailiff:**

So what is the question, Deputy?

**Deputy M.R. Higgins:**

Does the Minister not agree?

**Senator I.J. Gorst:**

I am not really sure what the Deputy was asking me. I was quite clear that in the publicised scheme it is my understanding that it was indeed a U.K. promoter. Of course the scheme is administered in Jersey, it could quite easily have been administered in Luxembourg, Singapore or Delaware. No country unfortunately can ensure that incidents like this do not occur from time to time.

**4.3.3 Deputy G.P. Southern:**

When the Minister in his statement says: "There is no wish or need to accommodate or to give encouragement to those who seek to involve Jersey in aggressive tax planning schemes" he takes the high moral ground. Will he occupy the high political ground and act to close such schemes down?

**Senator I.J. Gorst:**

The Deputy appears to be confusing the powers of this Legislature with the powers of a United Kingdom Legislature. My statement was quite clear and I stand by that statement. I have said again this morning, and there is another question later today, that I will do everything in my power to ensure that industry understands the policy and makes decisions in light of the best long-term interest of Jersey.

**4.3.4 Deputy G.P. Southern:**

Is the Chief Minister certain that there is no involvement of Jersey companies in administering trusts, which aggressively avoid U.K. tax?

**Senator I.J. Gorst:**

I think I have already answered that question. I said in this instance that the scheme was administered in Jersey. It could quite easily have been administered in some other jurisdiction. I wish to ensure that industry takes into account the best long-term interest of Jersey and that is right and proper.

**Deputy G.P. Southern:**

The question was a general one: is he certain there is no involvement of Jersey companies in such schemes?

**Senator I.J. Gorst:**

As I also said, inevitably any jurisdiction will find that perhaps from time to time it might be used for such schemes. It would therefore be impossible for me to give such an undertaking.

**4.3.5 Deputy T.M. Pitman:**

I acknowledge what the Chief Minister said - that Jersey is just one of a number of tax havens that allow this to happen - however given his statement that there is no place in Jersey for aggressive tax avoidance, how can that really be enforced because it is a new policy or was the Chief Minister just borrowing one of Jimmy Carr's jokes?

**Senator I.J. Gorst:**

Jersey is an international financial centre. I have forgotten now what the remaining bit of the Deputy's question was, perhaps he could just re-ask it.

**Deputy T.M. Pitman:**

Yes, could the Chief Minister tell us how this bold and brave new policy will be enforced?

**Senator I.J. Gorst:**

It is not a bold and brave new policy. It is the course of action which successive governments have followed. As I said at the start of answering these questions, Jersey is a well-regulated transparent centre and Governments prior to this one have ensured that we comply with all relevant international standards. That has been proven, as I have also said, by the reports of the I.M.F. and the O.E.C.D. I believe that we can be proud of that but we must work to continue to ensure that that is the case.

**4.3.6 Deputy M. Tadier:**

The Chief Minister seems to be sending out a mixed message. On the one hand saying that K2 is perfectly legal, that Jersey is well-regulated but nonetheless criticising saying that we have no need for these kind of schemes in Jersey. Would the Minister explain if this is a legal operation why is the Chief Minister seeking to claim the moral high ground? Does he agree with his Minister for Treasury and Resources when he spoke on the radio saying that morality and politics do not mix?

**Senator I.J. Gorst:**

Let me be clear that the Minister for Treasury and Resources and I are of one mind in regard to this issue. I stand by my statement, as I believe the Minister for Treasury and Resources does as well, and we continue to ensure that we, as a jurisdiction, comply with all relevant international standards. That is absolutely right and proper. As I said, in this instance, as the Deputy knows, we have a general anti-avoidance rule in Jersey and I understand perhaps in the light of some of the recent publicity and even before the Exchequer, as the Secretary is reported as saying in the media, that they are considering the introduction of a similar provision. That is absolutely right and proper that jurisdictions do consider how they might deal with what might be and has been called loopholes within their domestic tax legislation.

**4.3.7 Deputy M. Tadier:**

With due respect, in a supplementary, the Chief Minister cannot be saying on the one hand: “Yes, we agree with the U.K., we agree with the Prime Minister that we have got moral qualms about this particular device, which we see as being contrived and as aggressive, but we are not going to do anything about it because it is a U.K. problem.” One either does one or the other and says: “Look, this is entirely legal in Jersey, it is not our problem if the U.K. wants to shut it down, you shut it down.” We cannot admit guilt and then not follow up because it makes us look weak. Does this Minister not agree that we should not be sending out these mixed messages and perhaps...

**The Bailiff:**

I think that is your question then, Deputy.

**Senator I.J. Gorst:**

To be clear, I have never mentioned morality when I have been talking about this particular issue. I think the Deputy made the point in his earlier question that sometimes politics and morality are difficult bed fellows. I think the leader of the Opposition in the United Kingdom was quite clear. If the United Kingdom Government believes that it is inappropriate then they should amend their legislation accordingly. That is absolutely right and proper. But at the same time, the Deputy seems to be having difficulty with the fact that we are a well-regulated and transparent jurisdiction. That is the policy that I will continue to follow while I am Chief Minister.

**4.3.8 Deputy R.G. Le Hérissier:**

Would the Chief Minister say his policy can be summed up in a phrase, if there is a loophole and it is not of our own making we are well able and it is acceptable that we exploit it? Would that sum up current policy?

**Senator I.J. Gorst:**

I am not sure whether the Deputy has been listening to my responses so far, but I really do not understand how we can draw that conclusion from what I have said. That is absolutely not current policy. Some Members like to believe that tax law is straightforward and easy to understand. That is absolutely not the case. It can be very complex. Governments make decisions with regard to tax to try and stimulate certain actions. Sometimes they have other unintended consequences, which they in due course then have to deal with. I have been quite clear. The United Kingdom can, of course, and it is right that they amend their taxation legislation as they see fit. At the same time, we as a Government and I believe that the industry, understands that but I wish to ensure that that message is reinforced. We are a well-regulated, transparent jurisdiction. We comply with all relevant international standards. That has been proven by independent, international bodies and that is the policy that we will continue to follow.

**4.3.9 Deputy M.R. Higgins:**

I do not know how the Chief Minister can say that we are a well-regulated financial centre in this particular area because is it not the case that the Chief Minister has no means of knowing what schemes are being worked upon by firms in this Island? There are no regulations concerning them. There is no register. There is no knowledge. So in other words he cannot say well-regulated when we do not have any regulations governing this type of thing in the Island. Does he not agree?

**Senator I.J. Gorst:**

I am a little surprised at the Deputy's inference with regard to regulation. He seems to be casting doubt upon the validity of the reports of the I.M.F. and the O.E.C.D. I would not wish to do so. The financial services industry is regulated by the J.F.S.C. (Jersey Financial Services Commission). That is absolutely right and proper. I fail, I am afraid to say, to understand what it is exactly the Deputy is trying to suggest.

**4.3.10 Deputy M.R. Higgins:**

The Chief Minister is deliberately misleading the House. I asked specifically...

**The Bailiff:**

You cannot allege that another Member is deliberately misleading the House as you well know, Deputy.

**Deputy M.R. Higgins:**

Sorry, Sir, I will get round to that later.

**The Bailiff:**

No, you will not. You will withdraw it now.

**Deputy M.R. Higgins:**

I will withdraw it for this particular case, yes. What I will say is that the Chief Minister was asked specifically about this type of scheme, regulation of this type of scheme. Not regulation in general. There is no way that he knows what schemes are going on in this Island and therefore he cannot regulate them, so how he can say we are regulated I do not know.

**The Bailiff:**

So the question is?

**Deputy M.R. Higgins:**

Does he not agree with that statement?

**Senator I.J. Gorst:**

I do not agree with that. As the Deputy is aware, financial services operators in Jersey are regulated and those individuals are responsible for the operation and acting of trustees of trusts on this Island. If Members understood the amount of regulation that we have, the transparency and the quality of our regulation, perhaps they would not make some of the observations that they are making this morning.