

## **2.17 Deputy K.C. Lewis of the Minister for Treasury and Resources regarding compensation payments to people who invested in high risk/high return schemes:**

Given the recent difficulties to get a few thousand pounds compensation for the staff at Woolworths, does the Minister consider it appropriate to pay up to £600,000 compensation to people who invested in high risk/high return schemes?

### **Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

The Minister for Economic Development will shortly make a statement to the Assembly regarding these compensation payments. Suffice it to say that I, along with Members of the Council of Ministers who the Minister consulted before asking me to make the payments under the carry forward request, did decide in the light of the extremely unique circumstances of this particular case that there should be some redress for these individuals. The payments, as the Minister will explain, will be made in accordance with those that would have been paid in the event of Jersey having an equivalent to the U.K. Financial Services Compensation Scheme. The decision that both Ministers have made follows a court action brought by the J.F.S.C. (Jersey Financial Services Commission) against Alternate, which is the company concerned in which the Royal Court found that these local individuals were given reckless, misleading advice and they were sold high risk investments that were totally unsuitable to their needs. Therefore it is not the case, as I think the Deputy is quite understandably suggesting, because he does not have the full information, that these were sophisticated investments, that knowingly and wilfully entered into high risk schemes. That was not the case. We concluded that this was an extremely unusual set of facts that could not be repeated and we needed to deal with the redress of that.

### **2.17.1 Deputy K.C. Lewis:**

I thank the Minister for his reply and I will await the Minister for Economic Development's statement under K. My question now is would any of these monies be reclaimable from the company concerned?

### **Senator P.F.C. Ozouf:**

The Minister will answer the full extent of the mis-selling that occurred. I am quite familiar with it, having dealt with it for 2 years prior to assuming my new position, and a number of vigorous attempts were made and indeed some efforts have been made recently which have borne fruit to reclaim some of the money that was lost by the investors. It is only part of the overall figure. Extensive efforts were made in order to gain recompense from those companies concerned and this is the net minimum after what is a very tragic set of circumstances. It is inappropriate to deal with obviously individuals, but if Members were to know some of the individuals concerned and their circumstances it really is an issue of widows and orphans, not sophisticated investment.

### **2.17.2 The Deputy of St. John:**

Can Members be told of the largest deposit of any one claimant and if it was over £200,000 could these residents be called "not sophisticated investors"?

### **Senator P.F.C. Ozouf:**

The pro-rata'ing allocation... there are maximum amounts as I am advised payable to individuals. I think the worst case was some £300,000 of investors. That is not being

... the Minister will explain himself to the Assembly what exactly was the compensation made. There should be no doubt in Members minds that these were not sophisticated investments. These were tragic circumstances of people who over-extended themselves, were encouraged to over-extend themselves, in many cases their life savings which would be required to pay their pensions for their families and their partners in future. I know that some of the amounts may seem big but in the individual circumstances they were enormous and represented virtually the whole of their life savings.

**2.17.3 Deputy G.P. Southern:**

Could the Minister for Treasury and Resources inform Members what the funding base of the J.F.S.C. is? Is it not completely self-funding at the moment and supports itself by charges on the people it regulates, and could this money not have been found by the J.F.S.C. rather than taxpayers?

**Senator P.F.C. Ozouf:**

I think the Deputy is aware that fees are levied by the J.F.S.C. The J.F.S.C. now regulates its fees independently in order to conduct its own business. The J.F.S.C. ... as no regulator in the world is there to raise fees in order to pay for a compensation scheme. That must be either an issue for a statutory scheme, which the Minister has announced that he is looking into to put in place in Jersey... It is not appropriate that one would use regulatory fees. I have looked at the accounts of the Financial Services Commission. It is absolutely important that this Island sends out a clear message that we have a Financial Services Commission which is sufficiently resourced, which has the ability to go after inappropriate regulation in an appropriate way. The Financial Services Commission I think has approximately £7 million in relation to dealing in terms of its balance sheet, and I would say to Members that that is not a great amount of money when dealing with some of the international crime and some of the international matters which the Commission needs to have proper fortified resources to do so. It would be wrong to use the F.S.C. (Financial Services Commission) monies for this purpose.

**2.17.4 Deputy G.P. Southern:**

Is it not then the case that blame for this issue is accepted by the Government rather than J.F.S.C., and is it not true that we were lax in failing to regulate properly to include this particular area in the proper regulations run by the J.F.S.C.?

**Senator P.F.C. Ozouf:**

I do not think that is right. The F.S.C. have improved because this Assembly has given it the additional powers, additional regulatory oversight. There is no suggestion that there has been a failing in relation to the F.S.C. Sadly there will always be some rotten apples in a barrel and the J.F.S.C. is there to identify with their risk approach in order to deal with those issues. I would remind Members that this Assembly organises and governs over an Island which has a low percentage of G.D.P. (Gross Domestic Product) on spending. France has 52 per cent of government spending and has all sorts of measures of protection that we do not here. We have run on a low-cost model of arrangements in Jersey, and there are some issues that sometimes we need to stand in the breach to deal with and this is one such one. There is a completely different issue that the Assembly seems to want to go down. It is putting in place huge protection, huge expensive schemes, to protect in all eventualities. I would just say to the Deputy and the Assembly that that comes at a cost.

### **2.17.5 Deputy J.A. Martin:**

Getting back to the original question from Deputy Lewis, I really think the Minister for Treasury and Resources absolutely misses the point. He has just told us how in the Chief Minister's view we need to be open and transparent but there is one law for Peter in Jersey and one law for Paul, because suddenly they could find half a million pounds and we are supposed to believe - and I put it that these people come under widows and orphans - and we are supposed to take this on trust and not ask any questions. Does the Minister really not understand why States Members and the public out there are angry over what has happened? **[Approbation]**

### **Senator P.F.C. Ozouf:**

I completely agree with the Deputy's sentiments. I would remind her respectfully that the carry forward requests, which were under-spent balances last year, have been applied to the Woolworths' issue and to other issues. I would also remind the Deputy, she seems to characterise the fact that this Assembly has not looked after, I am not sure the wealthy ones and the not so wealthy ones and whether they are the Peters or the Pauls... but this Assembly has a proud record in the last 2 to 3 years of investing and directing money in the low income support to help families and individuals who have not been helped previously. We can only do so on the basis of a prosperous economy. I was faced with a difficult decision in relation to dealing with carry forwards and underspends and I had to make a balance of decisions as to where that money would be allocated. This Assembly has placed social improvement, child protection, improving the resources available to low income families as a high priority and we have invested much in that area. We need to make sure the economy continues to work so we can continue to do that. As far as transparency is concerned, as soon as the decisions were made they were put into the public domain and I circulated the Ministerial Decision. They have all been made in public: the public can see where the money is.

### **Deputy J.A. Martin:**

The Minister is totally missing the point. Exactly as he ended that: "When he had made a decision" he put it, he made a Ministerial Decision and he put it in the public domain. Woolworths' staff, Pound World staff and the whole of this Assembly had to sit through about 4 days of debate to decide whether they were going to get the money. **[Approbation]** Can he not see the difference?

### **Senator P.F.C. Ozouf:**

I can see the difference and there is an important difference in the 2 matters, because of course I as Minister for Treasury and Resources have to find the available resources to deal with issues. I have an opportunity only once a year with no contingency to find money for additional expenditure. What is clear after discussions with the Health Department is that they are already heading for an underspend, and I have no alternative if we are to increase the resources of the Health Department but to come forward under Article 11(8) in order to allocate additional monies. I am afraid the carry forward was used up in the manner which Members have had the full communication. It is a difficult balancing act and I accept that.

### **2.17.6 Deputy M. Tadier:**

To follow on from Deputy Martin, does the Minister not concede that there are double-standards at play here? We did quite rightly sit through a long-winded and I

feel ignominious debate for people who, in the Minister's words, were perhaps also not sophisticated workers, for a sum which is effectively peanuts compared to this £600,000 and meanwhile the Minister simply gives us a memo and that is the first that we ever hear of this decision which has already been taken without the consent of the House. Does he concede therefore that there are double-standards at work in the Council of Ministers and would he pledge to have better communications and to have real consensus in future?

**Senator P.F.C. Ozouf:**

There are, I would respectfully submit to Deputy Tadier, different issues here. First of all the Woolworths issue was debated prior to these decisions. I am quite clear that if the Alternate investors' scheme would have come to this Assembly; I was fully expecting that a Back-Bencher would bring forward a request to the Minister for Treasury and Resources to find the money. I have absolutely no doubt that if this Assembly would have considered that request we would have been asked to find those resources. I have no doubt about that. We have also taken clearly on board Members' increasing desire to deal with issues such as Woolworths. There are balancing acts to be taken. I would remind the Deputy that it is only this Assembly, with the exception of carry forwards, that allocate money to departments. That is the role of the Assembly; that is the role of Parliament. On this occasion, on this issue, once a year there are underspends which have to be allocated, and I am charged with making those decisions and they are not always easy.

**2.17.7 Senator S. Syvret:**

Following some very expert financial advice I recently gave up the habit of a lifetime and started to take up gambling. I put my life savings on Laughing Boy at 50:1 in the 3.10 p.m. at Kempton and it fell over and I have lost everything, and notwithstanding some expert advice from a minicab driver who assured me it was a banker, what action will the Minister take to reassure and rebuild confidence in the gambling sector?

**Senator P.F.C. Ozouf:**

The Senator attempts to make some sort of joke out of a very different circumstance. The circumstances, as the Minister will explain, in relation to the Alternate investors was not taking a punt on a horse from the back of a minicab driver, it was by taking advice from supposed professionals that were regulated by the F.S.C. but did not ... only to a point at that stage, regulation has been improved subsequently, it was reckless and it was mismanaged. It was on the borderline of fraudulent activity, dealing with individuals. This is a very different issue from Senator Syvret sitting in the back of a minicab and putting something on the 3.20 p.m. at Aintree. If he were to know the circumstances I think that he would agree that we needed to make redress of this issue and the Minister has made a further commitment to look to put in place a statutory scheme for depositor compensation, something which will cost money and this Assembly will have to adjudicate on.

**2.17.8 Connétable G.F. Butcher of St. John:**

I am not sure if I am having hearing difficulties but I thought the Minister said earlier that this circumstance would never happen again. I would like to know how he can convince us that that will not happen again?

**Senator P.F.C. Ozouf:**

I think the situation, and this is clearly a matter for the Minister for Economic Development to answer probably more than me, but I am aware that since the misunderstanding took place a number of years ago there has been a change in regulation, there has been additional focus by the F.S.C. on the issue of domestic financial services regulation, and putting in place domestic financial services regulation is a top priority of the F.S.C. and certainly consumer awareness, there is work going on with the Consumer Council and additional work to raise awareness by consumers. We need empowered consumers, we need a J.F.S.C. that will go around and do difficult things like mystery shopping expeditions to see whether or not people are being given the right advice with, effectively, decisions about their savings, their futures, their children, *et cetera*. Standards have improved, new regulations have been improved and I hope it does not happen again.

**2.17.9 Senator B.E. Shenton:**

I brought a proposition to this House seeking compensation for Reg's Skips. One assumes that if I was still on the Council of Ministers I could have just had a chat with my colleagues and written out a cheque. Does the Minister concede that while technically he may have been in order to pay out this compensation fund morally - and I think he had a duty to this Assembly - that this should have been brought forward in a proposition to this House and this policy change should have been agreed by the Assembly as a whole? **[Approbation]**

**Senator P.F.C. Ozouf:**

I would say to the Senator that there are judgment calls on individual issues and perhaps there could have been a proposition in relation to this particular matter to request. That was clearly a policy option. However as usual, as in normal circumstances, Ministers take a judgment on whether or not something is likely or should be supported, and clearly the Council of Ministers believed it was to be supported. I have no doubt that if this Assembly would have considered the individual circumstances the matter would have been requested to the Minister for Treasury and Resources to find the resources. I would say to Senator Shenton in relation to Reg's Skips: I have met - also having clearly understood the mood of the Assembly in relation to Reg's Skips - with the principal of Reg's Skips and I am in discussions to understand better what the circumstances were. I would remind Senator Shenton that what he asked ...

**The Deputy Bailiff:**

I am sorry, I do not think we need to go into Reg's Skips.

**Senator P.F.C. Ozouf:**

He asked for £300,000 for lawyer's fees, which is a rather different situation from widows and orphans in relation to a mis-selling of investment products.

**The Deputy Bailiff:**

I think 3 more and then we will have to call it a day, I think.

**2.17.10 Deputy A.E. Jeune:**

Could the Minister confirm that I have the right understanding inasmuch as it was effectively a ruling in the courts which identified failings in the system that we had here in Jersey at the time that these people invested which failed those persons and

therefore, effectively, in order for Jersey's credibility, it was in order that we should compensate these people in some way?

**Senator P.F.C. Ozouf:**

Reckless and misleading was the judgment of the court. There was a clear statement by the court which was high up on the Council of Ministers consideration of whether or not there was a case. The Council of Ministers does not give and does not support another Minister lightly in terms of dealing with compensation on this scale. The Deputy's sentiments and research is correct.

**2.17.11 Deputy M.R. Higgins of St. Helier:**

I would like to also highlight another piece of inconsistency and double-standards being applied by the Minister. For example the depositors of the Landsbanki Guernsey Bank also include widows and orphans. There was also regulatory failure in the sense that the Financial Services Commission had not brought in an advertising order or legislation that would have, for example, insisted that details of the lack of a depositor protection scheme would have been made known to these people. Thirdly, the people who were investing in Landsbanki Guernsey thought they were investing in the Cheshire Building Society which was taken over by Landsbanki Guernsey and these people, like most people in the Island, believed that if you place money in a bank or a building society it is probably the safest way to put your money into something. These people ...

**The Deputy Bailiff:**

The question?

**Deputy M.R. Higgins:**

I am coming round to it. The thing is that the people who invested in Alternate Investment were investing in highly risky endowment policies; yes there was leverage, yes there was misleading and so on, however my question to the Minister is are you not applying double-standards to the Alternate investors and denying the people in Landsbanki Guernsey assistance as well, especially that the Minister only wrote one letter to the Guernsey authorities seeking some information from them when this case came up?

**Senator P.F.C. Ozouf:**

The Deputy, I am getting increasingly of the opinion, is the Deputy for cheap shots in relation to some matters. He said one letter was written. I carried out extensive discussions with people involved in Landsbanki and I know a lot about it. The Landsbanki issue is very different. That was a bank which was regulated by Guernsey, not Jersey. I will not speculate on the action that we would take in this jurisdiction in relation to Landsbanki, that is a matter for Members to decide, but it was a very different situation and he is quite wrong to parallel and to attempt to cast the 2 issues in one light. I would also ask him to consider whether or not he thinks we have some extra-territorial powers over dealing with advertising order. I know, because I have asked them, where the majority of the Landsbanki investors took their investment awareness, in terms of this product. Yes, there was some local advertising, but it was also in the *Daily Mail* and other journals and other newspapers that were advertised over which we had no control. Does he really believe that we were in a position to cut out adverts from the *Daily Mail* in Jersey?

**The Deputy Bailiff:**

I think you are answering the questions. Deputy Higgins, do you wish a supplementary?

**2.17.12 Deputy M.R. Higgins:**

I think yes. It is a bit hard to say that for example the Jersey Government has no responsibility for Jersey citizens who have been wronged. Certainly I have criticised him for writing one letter to the Guernsey authorities. He has supplied that information to me in the past, there is no other correspondence, no other sort of information has been given about trying to help the Jersey citizens recover the money that has been lost through this bank failure.

**Senator P.F.C. Ozouf:**

I am not going to get into a tit for tat with Deputy Higgins, he also promised the investors he was going to carry out lots of work on their behalf and I am unaware of what he has done. What I will say in relation to the Landsbanki investors is that was a Guernsey institution of which, I am afraid to say, we have responsibility for Jersey institutions and the Jersey regulatory authorities and I know that that is a sound regulatory authority and that Jersey did not have any of the issues that, sadly, other jurisdictions have had. We certainly do have a duty of care to assist the Landsbanki people in making representations to the authorities in Iceland, to the authorities in Guernsey, and that is exactly what we are doing and I would finally remind the Deputy that only recently, and every Member of this Assembly will be pleased to hear this, that there is an indication that those investors, of which there are some very sad cases, will be getting, as I understand it, up to 70 pence in the pound from their investment. No investor should have lost in any bank and we hope that they get all of their money back and 70 pence is a good start.

**Deputy M.R. Higgins:**

I hope that the Minister will give to the House all that information.

**2.17.13 Senator A. Breckon:**

First of all for Members' information I do have a copy here of the full judgment of the Royal Court from 16th February 2007, if anybody wants to borrow it or copy it, then perhaps that will be useful to give an insight into that. But knowing of that and having some dealings over the years my question to the Minister is this, does he agree that perhaps there is a failure of the former Minister for Economic Development to listen to those who wanted a financial services ombudsman for exactly these situations?

**Senator P.F.C. Ozouf:**

I will say to the Senator that I am afraid that an ombudsman would not deal with the tragic circumstances of a mis-selling issue. What is the remedy required in relation to mis-selling is a statutory investor compensation scheme and there are discussions, as he well knows, and I think that he misrepresents the point. My position is that I do believe that there should be an ombudsman, there should be a case of dealing with disputes for financial services players, but we also need and we are going to get a bank compensation scheme - an investor compensation scheme - but it comes at a cost and if we are moving to a higher cost Island in order to deliver high levels of protection then that is a matter for this Assembly to consider. That has not previously

been the decisions that I have not made, but have been supported by this Assembly. It is this Assembly that decided ombudsman, not me.

**Deputy K. C. Lewis:**

I too have constituents who have lost their retirement funds in Landsbanki but I accept the Minister's word that he will continue to press Guernsey and Iceland. Thank you.

**The Deputy Bailiff:**

Very well. Then we come to questions without notice and the first question for the period is to the Minister for Education, Sport and Culture. We have some very keen Members here. Senator Ferguson.