



**STANDING COMMITTEE  
OF  
TYNWALD COURT  
OFFICIAL REPORT**

**RECORTYS OIKOIL  
BING VEAYN TINVAAL**

**PROCEEDINGS  
DAALTYN**

**ECONOMIC  
POLICY REVIEW COMMITTEE**

**Regulators**

**HANSARD**

**Douglas, Friday, 26th January 2018**

**PP2018/0024**

**EPRC-R, No. 1/2017-18**

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**Members Present:**

*Chairman:* Mr M R Coleman MLC  
Mr T Baker MHK  
Mr J Moorhouse MHK

*Clerk:*

Mr J D C King

*Assistant Clerk:*

Ms N Lowney

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# Standing Committee of Tynwald on Economic Policy Review

## Regulators

*The Committee sat in public at 2.30 p.m.  
in the Legislative Council Chamber,  
Legislative Buildings, Douglas*

[MR COLEMAN *in the Chair*]

### Procedural

**The Chairman (Mr Coleman):** Good afternoon, and welcome to this public meeting of the Economic Policy Review Committee, a Standing Committee of Tynwald.

I am Michael Coleman MLC and I chair this Committee. With me are Mr Tim Baker MHK and Mr Jason Moorhouse MHK.

5 Please ensure that your mobile phone is off or on silent so that we do not have any interruptions; and for the purposes of *Hansard* I will be ensuring that we do not have two people speaking once.

The Economic Policy Review Committee is one of the three Standing Committees – now I should say that it is one of the *four* Standing Committees – of Tynwald Court, established in  
10 October 2011 with a wide scrutiny remit. We have three Departments to cover: Cabinet Office, Treasury and the Department for Enterprise; and we also have the FSA and the GSC, the Gambling Supervision Commission. This is because Tynwald resolved on 20th May 2014 that the remit of the Economic Policy Review Committee should include the work of the Financial  
15 Supervision Commission, the Insurance and Pensions Authority and the Gambling Supervision Commission; this remit to include the requirement for the Chief Executive to give evidence in public.

Since that resolution was passed we have seen the merger of the FSC and the IPA to form the Isle of Man Financial Services Authority.

We are starting with the Financial Services Authority and we welcome the representatives  
20 from the FSA.

### EVIDENCE OF

**Mr Geoff Karran MBE TH, Chairman and  
Ms Karen Badgerow, Chief Executive,  
Financial Services Authority**

**Q1. The Chairman:** For the record, please would you each state your name and your role in relation to the FSA and how long you have been in that role. And if you could go ahead, please.

**Mr Karran:** Mr Chairman, my name is Geoffrey Karran; I am the Chairman of the FSA. I joined  
25 the FSC in 2007 and became Chairman of that body in 2012, and when the merger took place in 2015 I was made Chairman of the combined body.

**Ms Badgerow:** Karen Badgerow, I am the CEO of the Financial Services Authority and I joined when the new entity came into effect on 1st November 2015.

30 **The Chairman:** I would like to thank you for the submission that you made and I have to apologise for calling you in here on one of the nicest afternoons we have had for some time!  
(Laughter)

If we could work our way through your Report just to ask a few questions on that. You mention at the bottom of the first page the decline since 2008 and closures and consolidations  
35 of banks, such that it seems to be it is going to go down a bit more – and I must confess that I have lost two places to put money already, personally!

You mentioned the alternative banking and actually Mr Baker can ask this question on the alternative banking.

40 **Q2. Mr Baker:** Yes, just before we move on to that though, the actual picture is quite stark isn't it, that it has halved in terms of the number of licences since 2010 and we are projecting a further third decline in the foreseeable future? When you dig into the 17 licences that are already in place four of those are actually not active, so actually it is more like a 50% reduction in licences.

45 To somebody from the outside looking in that sounds pretty dramatic and pretty painful for the Island. Can you help us to understand the reality behind that?

**Ms Badgerow:** Yes absolutely, the numbers certainly have declined. A number of factors I think we have discussed a bit in here, but there is more detail of course in our Annual Report  
50 around the financial crisis. I think a lot of the consolidation we are seeing is a result of restructuring in terms of banking reforming and ring fences, so banks are looking at restructuring their operations.

As well I think utility-wise, pre-crisis a lot of the banks were ... because we had many that were UK-domiciled providing an upstreaming service of deposits to the home office and that  
55 need for liquidity dried up. So as a need for that kind of liquidity dried up, the need for the kinds of operations we are seeing on the Isle of Man also dried up.

I guess one of things we tried to do in this submission was talk about the availability of service, because ultimately at the end the day we want to make sure we have available services to residents on the Isle of Man and we have seen drop offs – we see it anecdotally but you see it  
60 in the numbers as well in terms of the provision of deposit-taking services to our corporate sector, for example. That has been a big drop over the last five years, and when you look at the numbers of deposits, £27 billion now down to £10 billion or £11 billion on the corporate side.

So we are seeing that contraction. There are many reasons. I guess the issue at hand is the extent to which the Alternative Banking Regime (ABR) will over time address this situation by  
65 providing other means, other deposit-taking services.

The one other thing I would mention in the note, I guess we tried to talk a bit about – and these stats are not public as of yet – is on the *lending* side, and what we are trying to do through the collection of lending data is understand whether or not on the lending side the market is being serviced. Again we have heard anecdotally that perhaps some markets are  
70 under-serviced – first-time buyers, certain income groups as well.

So the data is fairly new in the sense it is only a year old. We are seeing still a fairly healthy market in terms of lending services – consumer lending, mortgage lending. But again I think we need a longer data set to really understand the trends.

I think the Alternative Banking Regime was intended to address that – it has not had a full  
75 applicant as of yet. So, to be seen.

**Q3. Mr Baker:** So a watching eye in terms the service level to the Island is what I am hearing there. But in terms of employment it sounds from what you are describing that actually the consequences could be quite adverse?

80 **Ms Badgerow:** As branches closed down, because they were not being absorbed by others, that is why we see in some sectors, for example corporate service providers, a lot of the attrition is happening through purchases or natural wind-down of smaller firms – one- or two-person shops. And through consolidation in the banking you are seeing loss of jobs. But on the other

85 side there is a demand in other banking areas for people so sometimes they are being absorbed. It is a mixed bag in terms of whether or not we are net losing people and again if we see some traction on the ABR that will again address some of the employment issues.

**Q4. Mr Baker:** So the picture is of quite a moving scene and restructuring effectively going on. In terms of Government policy response to that, is Government doing what it should be

90 **Ms Badgerow:** We have always taken the position that it is not our role to interfere with Government policy as it relates to services offered by banks. What we have been involved in, which I think has been helpful, is working with the Department for Enterprise, and Treasury as well, on bank policy and trying to understand where there are soft spots in the market; for

95 example, last year we did some work with them on credit cards to understand the reasons for lack of opportunity, or lack of options, for credit card offerings in the marketplace. That was helpful. We have not necessarily solved anything but again it is that technical advice. Our role really

100 has been to provide technical advice where possible around what is happening in the marketplace. I guess our role, relative to new bank formations, has been around the authorisation process for ABRs and we have been working actively with a number of parties, but again it is getting through the hurdle of the various requirements around capital, viability of business plans – because a banking licence, be it a full deposit 1(1) or an alternative bank, is an

105 important licence to be granted on the Island.

**Q5. Mr Moorhouse:** Just in terms of the broader economy, the national income figures that came out at the end of last year were suggesting that the Manx economy was not growing as many expected.

110 **Ms Badgerow:** That is a very good question.

I think we see a robust life insurance market, still. I think one of the things that came out of the National Indicators was the fact that life insurance in fact has gained some percentage

115 points in terms of contribution to GDP – I think it went from 14% to 17%. So again a thriving industry which is quite important. I think in terms of employment – again I can only speak from what we hear from industry – the thing we constantly hear from industry is the fact that it is very difficult to find the right resources. It tells us there is a bit of ... the buy sides have need for resources here on the Island.

120 But I think we see the Trust and Corporate Service Provision (TCSP) industry being relatively flat, not a lot of growth seen in that history. Banking: we are seeing a decline in banking, no doubt about that. Pensions: to be determined, in terms of what happens to our pension industry depending upon the next Budget, which is very important for pensions.

125 Captive market: the non-general or non-life insurance market is again fairly flat. It has been an industry which has been flat for a number of years. We do see the odd new formation but in the main we are more on the net loss side in terms of small numbers and that tends to be because of the natural life cycle of captives.

130 The funds industry: I think it is no surprise there, the fund industry is definitely flat, if not on the decline – we are not a big market for the funds industry; the Caymans are the big market for funds.

So I think financial services is more of a flat market, if not on the decline in certain sectors.

135 **Q6. Mr Moorhouse:** The shrinkage in banking: is that actually affecting businesses from your perspective?

**Ms Badgerow:** Well, I think the impact on the business has been more from the de-risking agenda. I think if we look at the time series of when we started to see a change in the deposit profile and corporate deposits, it is tied to more of the de-risking agenda of the banks.

140 I would say I think it is two things: the natural decline in the number of banks would be one factor, but the other would be the de-risking agenda as well.

**Q7. Mr Baker:** Have you seen any significant impact post the ‘Paradise Papers’?

145 **Ms Badgerow:** That is interesting, because we have been chatting with our licence holders about the impact. We are *not* seeing any significant impact. The odd licence holder will say we have had one or two clients saying I am either not going to bring the business or withdrawing. But from our perspective there has been no noticeable significant impact.

150 What we have used that information for is information or intelligence, so if something has come to our attention through the Paradise Papers we will pursue it where appropriate, and that is absolutely appropriate for a regulator. But we have not seen a significant – and I would use the word – ‘chill’ in the marketplace in the Isle of Man, which is important.

**Q8. Mr Moorhouse:** When the FSA was originally set up there was a hope it would be self-funding. In terms of the licence fees going down, what is the chance of that happening?

155 **Mr Karran:** Well, we always said to the Treasury Minister at the time we did not see basically the money required to operate the FSA going down, and I think we mentioned it last year and we keep mentioning it. We keep getting extra things added to our portfolio to manage. This last year we have had beneficial ownership supervision put on, without any extra budget, without any extra manpower, and we have got to deal with that.

160 So we are working very closely always with the Treasury in relation to budget and we know Government want everything to be as lean as possible, but then there has got to be regulation. We keep pointing out if you want proper regulation we need the manpower to do it.

165 **Q9. The Chairman:** Have you noticed that the impact of beneficial ownership has made people shy away from the Isle of Man?

170 **Ms Badgerow:** I would say no, not at all. (**Mr Karran:** No.) I mean, we are just halfway through the registration maybe, just the one ... Geoff was correct in terms of no new resource, we have got a temporary new resource for beneficial ownership, but again that resource is going to potentially go away after we get through the bedding-in period.

175 So we are still in the cycle of registering companies because they had to do it within the time of their annual report. We have about 11,000 registrants new in addition to what was already on the register so we have not seen any change as a result of that. I think if we talk to industry we would be surprised to see that because they are already obliged by the AML Code to know who their beneficial owner is. So I think it is just a furtherance of our current requirement.

But on the question of self-funding, I think the other point to be made is that in an ideal world as a regulator you are self-funded, because we are an independent statutory board, and one of the core principles under the Insurance Core Principles (ICP) – the Basel Core Principles –

180 is to really have an independently funded regulator. It is very difficult in a smaller market, even  
in a market where you have a decline in licence holders – just the fact by virtue of being a small  
market. We have been looking and we are embarking on a fairly major fee project, but again it is  
all about the risk appetite of the Government because to self-fund will mean a significant ... well,  
185 an increase in fees for licence holders. Again Government would have to look at the Treasury,  
the cost benefit of self-funding the regulatory body versus the cost of compliance, and the cost  
of having a financial services industry. And that is the issue that many jurisdictions face around  
their funding model.

We did do an increase this year as part of our statutory increase and we did have an increase  
in the life insurance industry of around 15%, which on a dollar basis was not a lot. We were a  
190 little bit worried because I think the inflation rate was 4% and this was to reflect the work that  
we did on the ICP project coming to *somewhat* of an end ... And the implementation we had  
signalled a couple of years ago, and surprisingly we did not get a single comment back from the  
life industry on the 15% increase. Now, it does not mean we are going to go crazy next year but  
it was an interesting test of the system.

195 But again I think we are not quite half-funded by Treasury, I think it is a £6 million budget and  
I think our funding is £3.5 million from our fees and the remainder from Treasury. That is a big  
gap to fill with your licencing fees.

**Mr Karran:** We have always maintained that eventually supervision should be funded by the  
200 licence holders, and so we wish to get to that situation. But we have got to be very careful just  
imposing that straight away in view of the decline in certain industries at the present time.

So we are handling that with a bit of caution.

**Ms Badgerow:** On the other pieces, we do things that are in the public interest as well which  
205 are not directly regulated to our licence holder base. So our CODA – our company officer  
disqualification proceedings – applies to any officer in the Isle of Man, so it sort of sits outside  
our regulatory remit, and again it is one that we do not levy fees for because it is not directly  
related to our licensed entities.

In many cases the directors will be tied into our licensed entities, but in some cases they are  
210 not, so there are things we do that are ancillary to our regulated environment.

**Q10. Mr Moorhouse:** How competitive are our charges?

**Ms Badgerow:** I will have to come back to you on that one, Mr Moorhouse. We have done  
215 some comparisons – and it is never quite like for like – when we looked at Jersey and Guernsey,  
and as part the fee review process we are going to be looking at other jurisdictions. But we all  
have a different basis on which we levy our fees. So I can come back to you a bit more on that  
one if I can pin that number down.

I have been told our fees are quite low, and I think one example might be the Designated  
220 Non-Financial Business or Profession regime (DNFBP) where our fees are in the hundreds of  
pounds versus thousands of pounds – which is a considerably lower cost regime.

**Q11. Mr Baker:** And the £3.5 million that is effectively generated from the industry, how is  
225 that going to move given what we have talked about in terms of the structural decline of the  
banking sector? Presumably it is only going to go down? How significant will the decline be and  
are you expecting Treasury to fill the gap?

**Ms Badgerow:** What we did last year – and I do not have the numbers with me – but when  
we put our budget in we will actually now forecast what we understand to be in the pipeline for  
230 licence surrenders. So that is part of our submission.

Our budget was approved for – where are we now? – 2018-19. I know, it's hard to believe!

**Mr Baker:** Subject to Tynwald.

235 **Ms Badgerow:** And it reflects on the fact that we are going to be losing approximately eight further licences in the banking sector, which we knew already as these were ones in the process of being surrendered, and also reflected a view on how many other captives we would be losing. So we try to forecast ahead in terms of what we understand to be in the pipeline for surrenders over the coming year.

It is a bit of a moving feast, there is no doubt about that.

240 So we do look to Treasury to seek their support to close that gap off, but we always have to be in a position to justify why we need those resources. I think banking would be a great example where up until last year we had one and a half resources supporting the banking sector – which is a very small allocation of resources when you are looking at things like banking reform, D-SIB work – Domestic Systemically Important Banks, liquidity, prudential supervision –  
245 and that is a very small group of people. What we had said to Treasury in our submission is there really is a minimum – a *de minimis* – amount of supervision we have to do and one and a half at that point in time did not even cut *de minimis*.

**Q12. The Chairman:** You mentioned a couple of the other jurisdictions and Mr Baker mentioned the fact that your rates increases have to go through Tynwald. Is that the same in Guernsey and Jersey? Are they able to just increase their rates without going through their legislature?  
250

255 **Ms Badgerow:** I will have to come back to you on that, Mr Coleman.

**Mr Karran:** I think that is the situation.

**Ms Badgerow:** Yes, I am not sure.

260 **Mr Karran:** But we will confirm that.

**Q13. The Chairman:** Because if we had a mechanism here which made it easier for you – ?

265 **Ms Badgerow:** Yes, but it is one of those things that is very important from a financial sector policy. My view would be that it would be very important that the Government would support that, because it does speak to broader economic implications for the Island and I think the Government would be quite interested. And industry as well in terms of the checks and balance, to make sure that again the cost of having an industry that is thriving versus the cost of just supporting a regulator who will not have an industry at the end of the day. So I think the  
270 engagement of Treasury and certainly Tynwald is important because it has broader economic impact.

**Q14. The Chairman:** But it does slow the process down.

275 **Ms Badgerow:** It does, it is quite a lengthy process because we do have to plan well in advance. Yes, I would definitely agree.

**Q15. Mr Baker:** So given the comments that our fees are on a different basis from other jurisdictions, and you indicated they are relatively low, is there an opportunity there to address that? And if so, when do you expect to be bringing something forward?  
280

**Ms Badgerow:** We are in the process of doing the fee project and it would be for implementation in 2019-20, because one the things we have to do is consult on the fees as well,



285 so quite a long consultation process. A couple of the things we are trying to look at is around the  
cost of supervision and understanding those various things that we do in the Authority, and  
what is the actual direct cost to us from different regulated entities or licence-holder groups.  
Understanding, for example, the costs of supervising the banks versus the life companies versus  
the non-life companies, and trying to assess the impact on fees as well.

290 At the same time we are looking at whether or not ... for example, one of the things we have  
been asked to pursue by the board, which is very helpful, is around should we be looking at the  
levying of special charges for additional work. So for example you may have a case where you  
have a significant acquisition or a merger of an entity, and there is additional cost – consultation  
cost, review cost, third party – and should that be additional cost levied to the applicant.

295 We are looking at a number of means and a number of different ways of allocating or  
assessing costs, and so we are looking at the time frame of 2019-20 as being when this would  
come into effect. But we still have to develop the discussion paper and consultation paper for  
the board and then for general consultation.

300 **Q16. Mr Moorhouse:** The ring-fencing changes that are going to come through in April: are  
we actually ready or will that have a big impact in terms of banking finance on the Island?

**Ms Badgerow:** Yes, ring fencing comes into effect in January 2019, the actual effective date,  
so our banks are currently going through processes where they are making determinations on  
what their structure will be.

305 So the Isle of Man, like the other Crown Dependencies, will sit outside the ring fence and  
there are schemes of arrangement that banks have to go through to effect the transfer from  
their current structure to the new structure. We are working closely with the banks around the  
communication to their depositors – and as well with the Prudential Regulation Authority (PRA)  
because of course this is a UK requirement – to understand the impact for our local banking  
310 system.

I guess the other piece of work that ties into the ring fence, which is really important because  
now we are sitting outside the ring fence, is the banking resolution work that we have embarked  
on this year with Treasury. So this is a Treasury initiative but we are supporting the initiative  
through housing the resource in our office and also providing tech knowledge support to the  
315 individual. But this is important because as we move outside the ring fence, making sure that we  
have a strong framework to resolve a bank and to have those cross-border discussions is  
extremely important. So that is the next big piece of work to support the ring fencing, the  
recovering resolution work.

320 **Q17. Mr Moorhouse:** In terms of the ring fencing, will it make it more difficult for us to get  
future licence holders to come to the Island?

**Ms Badgerow:** Only if you are coming in as a branch or subsidiary of a UK bank. It implicates  
only the UK banking system, so the extent to which a bank from the UK wants to set up here,  
325 they will set up something outside of the ring fence.

Now, some might argue there is more opportunity because you are sitting outside the retail  
banking stream. You may have a view that you have a bit more opportunity to take more risk. It  
was interesting, we chatted with our TCSP colleagues this week about attrition and de-risking in  
the system and they said they had noticed some changes in some of our banks in terms of risk  
330 appetite. So it could create opportunities.

Our focus which has been on the ring fenced is for those current banks that are here on the  
Island to make sure they still provide provision of services to customers to make sure that they  
can still get access to services, and that has been the case so far. But it may have an impact, I  
think you are absolutely right.

335 **Q18. Mr Moorhouse:** In terms of risk and challenges ahead, are there clear risks that are going to affect the Island that you are aware of and you are taking into account at this point?

**Ms Badgerow:** Sorry, what was that part? Are they – ?

340 **Mr Moorhouse:** In terms of risk profile going forward. Is there anything within the broader economy that is going to be of significance?

**Ms Badgerow:** The most significant challenge I think for the economy has been some of the issues around the grey listing. That would be very honest. If you asked anyone – I think probably  
345 in terms of your colleagues as well ... and just making sure that we continue to adhere to international standards.

One of the challenges for any jurisdiction is making sure we have sight of what those international standards are. I think we have been very fortunate in terms of the work that we have undertaken in the last year around Moneyval and the anti-money laundering agenda,  
350 which will serve us well, I think, on the international stage because we have made significant progress. But our biggest challenge ... because reputation is everything for a small jurisdiction so you have to be able to demonstrate compliance.

**Q19. Mr Moorhouse:** Are you prepared to say no to people who apply for licences?

355

**Ms Badgerow:** Absolutely. *Absolutely.*

We *have* to be able to say no, because we are the gatekeeper in accordance with financial sector policy and risk appetite set by the Government. But one of the things we do when we look at new applicants in any class of licences is fitness and propriety, integrity, competence,  
360 and those are very important elements of individuals who have a significant governance role. And capitalisation, making sure they have deep enough pockets because it is costly in *any* jurisdiction – not just the Isle of Man – but in any jurisdiction to get any business up and running, and you will run into losses and costs and so you have to be able to support your business through the rough times. The good times and the rough times.

365 So is important for the Regulator to have the autonomy to say no – absolutely.

**Q20. The Chairman:** Would it be fair to say that a few very high profile AML infringement prosecutions and convictions would help our status, away from being on the grey list of perhaps being ... ?

370 I think when Moneyval came they said, ‘Yes, you have got’ ... I can remember putting something through in here as an emergency before a certain date because we needed to have the legislation in place. Then I think the comments were coming back saying, ‘Yes, you have got the legislation, but show us that you are using it and doing the prosecutions’.

375 **Mr Karran:** Yes, you are absolutely right, Mr Chairman. The way Moneyval tests matters is that they want to see effectiveness, and it was effectiveness that we were probably let down on.

The others – shall we say the other Crown Dependencies – have not been tested at all on effectiveness, so when they had a Moneyval they did it under the old system. So in testing our effectiveness ... and you can see it from the tests that have been being carried out by Moneyval  
380 all over the world, the countries that get through without any comeback are the ones who can prove that there have been lots of prosecutions. That is what they are actually looking for.

We in fact, in the FSC, notified the Chief Minister at the time that this was a concern to us because issues were being put through to Financial Crime Units, etc. and there was then no progress being made. We felt there were cases that could have been taken that were not taken.

385 There has been a slight change but the change occurred before Moneyval’s report came out. So everybody in the industry – certain people – are now turning round saying we are reacting to

that and taking prosecutions because of Moneyval. That is not so, a lot of these things that have been happening in the last year were in the pipeline in any event to happen.

390 So yes, if you can show that, that does affect these assessors from Moneyval, there is no doubt about that.

**Q21. Mr Baker:** You described a *slight* change there, Mr Karran: is that change sufficient or is there a lot more to do? Where are we on the journey?

395 **Mr Karran:** It is being taken up now. If we get any indication we now report this through and I am more confident that action will be taken.

**Ms Badgerow:** We have set up the Financial Crime Strategic Group, we have membership from across the Isle of Man Government; so we are on the Strategic Group and the Financial Crime Unit is on the group, and the Police, and Tax.

400 I am new so I cannot really speak on what it was before but I think, from people who have been around the system for a while, there is a lot more general co-operation and sharing of information. That was one of the observations of Moneyval as well – working together as one system. GSC is on the Strategic Group as well, so again it is the information-sharing that is happening which will make us much more effective.

405 But I think in terms of being sufficient, yes. But the one thing, the one message we would give, and I think we would all share in that message, is that we are in the process of just putting the final touches on our Moneyval report as an Island, to go back to the next plenary. But the work does not stop, from there it is the start of the work. It is really: 'This is our plan; this is what we've done', but there are many things that we must carry forward to continue to do. I think that is the really important thing for the Island, not to let up on the throttle once we have the report issued, once we get more comfortable – but it is not to get too comfortable.

410 **Q22. Mr Baker:** And looking at it from a slight distance we are running a little bit to catch up, from the comments you have made, but at the same time the expectations on us are ever-increasing, would be my sense. Is that correct, in your view?

**Mr Karran:** Yes, I think we would agree with that comment.

420 The way the international regulators view this, there is continued pressure and there are new matters always being pushed forward to us and the Island has got to decide ... And again we have made this clear: what is your risk appetite for these things? How effective do you want to be?

425 **Q23. Mr Baker:** And when you say 'the Island', you meant – ?

**Mr Karran:** Well, in effect it starts with the Government giving a lead on that. We as regulators have got to regulate, but it is up to Government as to what the risk appetite of the Island should be.

430 **Q24. Mr Moorhouse:** With regard to the UK role there have been several newspaper articles in the last year about you being very proactive. One particularly case was the Quadris one.

Could you give us a brief outline from your perspective what happened there, please?

435 **Ms Badgerow:** Yes, I mentioned it in the submission and I apologise, we are limited in what we can talk about, because it is an active file and subject to the statutory prohibitions on discussing cases. But I would say generally speaking, we have seen some challenges in the fund industry over the last couple of years and they have been notable – they certainly got some press interest. The funds where we have seen some of the bigger challenges have been funds

440 which are typically more sophisticated investor funds – qualifying specialist funds. So typically, individuals who invest in those funds are individuals who have qualified in some fashion in terms of their level of interest in risk-taking, their level of sophistication as an investor. In the case of the specialist funds there was a minimum buy-in as well of US\$100,000 so again we are looking at a different class of investors.

445 So with these purported high-return funds they are higher risk. In the case of the funds that have received publicity, one of the challenges has been around the type of asset class that the funds were invested in. The assets typically were long assets in the sense that they had a long-term life in terms of any potential yield, they are not very liquid funds typically so they do not trade that well and that is part of the issue.

450 We are in the process, as you know, of the Quadris fund and it has been publicly reported, and the receiver was put in by the major lender. That fund closed down and suspended any trading back in 2011, and in 2014 they received some additional funding – secured lending. The secured lending were fairly healthy terms in terms of the interest rate, and they have not been successful in being able to satisfy the terms of the lender. In any lending agreement, be it Quadris or anyone, there are always covenants and when you breach your covenants a lender will move in to secure their position, and this is what has happened in the case of the Quadris fund.

460 Our actions range in terms of these funds and in some cases we do not register the funds, we are notified post the event. So a fund manager will invest in a fund, notify the authority and we are notified of changes to the schemes *post facto* so it is not an actively regulated fund – specialist and qualifying funds. But in some cases we will intervene and we may in some cases put a controller in which we did in the case of Quadris, and we did it in the case of Eco as well.

465 We will often do that where we see that the governance structure has in some way broken down. So we may have a resignation of the directors – which did happen in the case of Eco, all the directors resigned – and in a case where there may be a gap in terms of the skill set of the governing body and the situation they find themselves in, to try and shore them up to give them some assistance.

But in large measure it is a commercial undertaking and investors should be going in with eyes wide open in terms of the nature of the fund and the nature of the risk.

470 **Q25. Mr Moorhouse:** When you put in a controller, do you then leave it to that individual or do you still have a day-to-day – ?

475 **Ms Badgerow:** The controller relationship is one with the fund. The controllers do file reports, as per their assignment or their appointment, and there is a requirement that they provide a report on a regular basis to the Authority, so we will receive reports on the status and progress because they are the fund’s appointment – but we make the appointment. So they are paid for by the fund, for example, as well.

480 We will from time to time receive reports from the controller because they are sitting now in the shoes of a director. So in the same way we might hear from the director and we may ask questions of a director of the fund, we will ask the same questions of that controller because they are basically stepping in the shoes of the directors.

**Q26. Mr Moorhouse:** In terms of carrying out your role, how do you manage to do it when the funds are so specialist in terms of the knowledge base that you possess?

485 **Ms Badgerow:** That is really the responsibility of the managers and the administrators. The manager has to make sure through the investment advisers that they ensure those people are suitably qualified to invest in those funds. So it is definitely at arm’s length from the Authority, it is the role of the manager of the governing body to make sure that those individuals who are investing in the funds are suitably qualified. So that relationship exists between them.

We do provide information on our website about what a qualifying investor should look like, what a special investor should look like. In the case of Quadris, for example, of 1,300 investors only 8% were on the Island. These are being sold off Island, so are totally outside of our remit or control in terms of the investment advice being provided. They are not regulated here for example, they are regulated somewhere else. So again there is a distance: the fund is administered here, but the advice and the investments are typically off the Island, but we are responsible in terms of the fund managers for those funds on the Island.

**Q27. Mr Moorhouse:** Should you have additional power, or wouldn't it be possible to carry out that role?

**Mr Karran:** There is an argument as to whether every fund should be regulated and this is something I know that we have been in communication with the Treasury about. Certain jurisdictions now are moving that way and this is something that is going to have to be looked at. Whether we should do it? I am sure the fund industry would probably say no to that and they would not be agreeable to that. But it is certainly something that has got to continue to be looked at.

**Ms Badgerow:** Yes, and I think the other thing I would say as well, is we focus on the ones that are failing, of course they are the ones that get attention, but high-risk, high-reward funds are about innovation as well – and that is the other piece.

For example on Quadris, 42% of those investors are institutional investors – they are big institutional investors. They were taking a bit of a pitch to see whether or not new technologies – in this case it was teak ... But again, you do have institutional investors and for thriving economies you are always going to have high-risk, high-reward. The purpose of the qualifying and special investor is to keep the average person out of those funds, who are not aware of the risk.

But there is something to be said there. We are doing that work on the ICP project for the Code of Conduct for the Insurance Industry for that very reason, and some would say we are over-reaching our boundaries because we are looking to insurance advisers outside of our jurisdiction. But for the right reason, because we want to make sure if you are selling products that have a link to the Isle of Man in insurance, you are following our rules.

**Q28. Mr Baker:** You mentioned that could be seen as stretching your jurisdiction. Is there any pushback against that?

**Ms Badgerow:** There has been some pushback. We have been working with the industry for the last couple of years and I think there was a concern that we were reaching outside of our bounds. But I think the industry has certainly been more accepting, and are making plans based on the implementation of the Code of Conduct in January 2019, that that is the right approach because eventually those complaints come back to the life insurers on the Island, and they are selling their products.

**Q29. Mr Baker:** And that does not necessarily just restrict itself to within the life insurance, it is the whole of the financial services sector and therefore the whole of the Island – ?

**Ms Badgerow:** Well, this one project, the ICP project is focused on the insurance sector and the Code of Conduct that we have been working on, I think more focused over the last couple of years, has been for the life insurance industry.

But as I say, we have come a long way with them in terms of agreeing the timeframe implementation and what their requirements will be.

**Q30. Mr Baker:** But if there is any link back to the Island, as we have seen with the Paradise Papers that even a tangential link can be brought and used against us by people with whatever agenda, so it is important.

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**Ms Badgerow:** Yes, raising the standards – I would agree.

**Q31. The Chairman:** Looking to the future, what sorts of future things are you looking to get involved in? Areas where you think, ‘We really must start looking at that and doing something about that’? It may well be that your workload is so great that it is difficult to look.

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**Ms Badgerow:** I think this next year is a lot about completion of some very significant projects, or at least getting over the hump or the milestone with them in terms of the ICP project. One of the intended outcomes the ICP project is to achieve solvency to equivalency for our life insurance industry on the Isle of Man and that will be a very important outcome. So our focus will change from setting out the framework and implementing the framework to getting the solvency to equivalency. I think that is extremely important as well.

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We are doing a bit of work in terms of what we are focused on, in terms of trying to normalise requirements across all industries where appropriate. We are two years into the integration and we still have some differing requirements across our sectors, and that is not surprising because change takes a while. So our project around our new data system, we are hopefully going ... the expressions of interest is being issued today, and again that will bring more consistency in terms of the way licence holders interact with the Authority in terms of following information and the way we look at information. So again trying to get some more consistency – I think more risk focused.

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So we are embarking on our supervisory approach. It has been something on our plate that we probably talked about last year, but are really looking at the way we supervise our licence holders. We have someone coming on board for a year to give us some support around looking at that framework, so again a more consistent approach to how we supervise. One of things we hear from industry is understanding the expectations and being transparent on what is required of them and I think this will go a long way to helping with transparency.

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But I think it is just supervising. We have had a lot of activities around the merger – integration, making sure we are spending time with our licence holder community and understanding their risks. We have learned a lot from Moneyval and we have put some good tools in place now in terms of making sure that we can have more information around the nature of the risk in our sectors and using that to inform our supervisory approach.

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So I would like to say BAU – business as usual – but it is never business as usual as a regulator. And just keeping on top and ahead of things, I think that is the mission critical.

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**Mr Karran:** When you say though, Mr Chairman, what are we doing for the development of the finance industry and new products, and whatever, a regulator would argue with you that is not our job to do that. In our particular country it is for the Department of Enterprise to be coming up with these particular ideas and working with us.

Certainly in the last few years I have made it very clear to all our management team we should be working with the Department of Enterprise. We work with the Treasury, work very closely, and there is certainly a lot more harmony between us now in relation to development and we will help them. They have in our eyes got to come up with the ideas and we will then work with them putting it into practice and to see whether it is possible to do that.

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**Q32. The Chairman:** I did not intend to mean that you were going to develop products, it is developing ways within your remit to make sure that these products are being run properly. So it is internal process which I really meant.

**Mr Karran:** Yes, I think Mrs Badgerow has dealt with that, we do everything possible to work with everybody in relation to that.

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**Q33. Mr Moorhouse:** In terms of blockchain technology there has been lots of media attention in terms of how it can be great or cause problems. How does the Island stand in terms of that arena?

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**Ms Badgerow:** Yes, interestingly the thing about blockchain technology is a couple of things: one is that blockchain technology is a good thing, it is more the virtual currency side of it, I think – so blockchain technology is an enabler to virtual currency.

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What we have been looking at with our colleagues internationally is the whole issue of Initial Coin Offerings (ICOs) in the issue of virtual currency. We did have some concerns around ICOs because of one of the big areas of concern is that in some cases ICOs are embarked on and there is no visibility as to where those funds are being used. So you will see in some jurisdictions initial coin offerings are raising money for the development of software, but no real tangible reference to asset; and it has a high Anti-Money Laundering (AML) risk because you have no understanding as to where those funds are being used.

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Just before Christmas ... and I think similar to a number of jurisdictions, and I was quite pleased that we were in the middle of the pack – we were not the first ones out of the gate on this one but we were not the last ones. We did post a series of Qs and As on ICOs in terms of the kinds of things that we would be interested in entertaining as applications under the DNFBP regime and the kind of things where we would be less inclined. So to your comment around are we willing to say no, yes we are.

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We felt then the case where the ICO was being used to support a particular asset class or investment property, ICOs for example, that will be okay because the investor understands what they might get at the end of the day. Where the ICO had no visible link to a return on something we were very cautious and would likely not support those. We never say 'no' on our policy, we say, 'we would likely not support those', because again of a high risk for fraud or a high risk for terrorist financing – raising money for this cause or this software development never to be seen again, and the money goes.

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**Q34. Mr Moorhouse:** One of your key concerns that you have raised is that issue of where the money goes. Could the Government actually get involved in this process?

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**Ms Badgerow:** I am not sure how. I mean it is –

**Mr Moorhouse:** In terms of issuing the currency.

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**Ms Badgerow:** Oh, I had never thought of that! You mean in terms of actually doing an ICO? (**Mr Moorhouse:** Yes.) Corporations do a Kodak, for example – a Kodak, for people who are a little older might remember it, like me. They have issued a Kodak coin, as an example. They have done an ICO with Kodak coin. So it is a way of raising funds but again for legitimate purposes.

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Arguably a government as a corporation could use an ICO to raise money. Corporations do it. They had an article recently saying about 10% of the funds raised through ICOs are fraudulent. It is a big market, I think it was a \$37 billion market or something, but 10% are fraudulent. So it has a higher risk for fraud.

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We have talked to some potential applicants, they have been very useful conversations, and they again prefer to know what would be possible and what is not possible. So distributed, or blockchain, technology is not the issue, it is more the issuance of the virtual currency and how that is being organised which is more the ones we are a bit more cautious on.

**Q35. The Chairman:** So the concern is where there is no tangible investment behind it and it is therefore just speculation on the bitcoin itself?

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**Ms Badgerow:** It is typically speculation on the value of the bitcoin, yes. Or even in those cases and in the cases we are most concerned about, it is not even based on the value of the bitcoin going up, it is saying, 'You give us your money, we'll give you a bitcoin and we are going to use your money for something else'. And your value of bitcoin is not tied into that 'something else' it is tied into maybe software development that you will have access to, not necessarily access to the revenue stream off that software.

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So there is a fairly big distance between your bitcoin and the value of the asset and that is our concern. It is very difficult, they do not tie the return from that investment back to the bitcoin. Or, not bitcoin, I should not use the word bitcoin because bitcoin is a legitimate virtual currency – to the 'virtual currency'.

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**Q36. The Chairman:** You may have covered this already, but how many people are looking at the moment to come here for banking licences – people who we have not mentioned before?

Do you know where basically we were having an agent like a virtual hole in the wall banking licence linked to another country, or the private bank where you have a very ... Well, my understanding, and I worked for an organisation which managed private banks, is it was normally for individuals who wanted to get access to the money markets without going through an intermediary.

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How many of those people are showing interest?

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**Ms Badgerow:** I think in terms of the numbers we have on our internal stats right now – we have three classes of licence, 1(1), 1(2) and 1(3) – and in terms of the 1(2) and the 1(3) we have about four that are sitting in the pre-application phase. I think I did put a link – and it is a long document and I apologise. We have set our process out in two stages of approval but a series of four of five different stages for the application process. So we have a number sitting in the pre-application, but they have been probably in that pre-application mode for the last year.

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So again, interest is there, it is just meeting the entry requirements to move to the next stage of the application process.

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**Q37. The Chairman:** I think one of the motivations for the alternative licences was to provide availability of banking where it was not being provided, or banks locally were reluctant to provide it. So what we are really saying is that possibly our pre-qualification procedure justifiably is frightening them off a little bit, because if they are not signing on the dotted line something must be happening.

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But also, we do not seem to be solving the problem. I mean, you were involved I think when we did the confidential investigation into banking availability, which I will not go into much more. Are we still, are you still, hearing of problems such as the ones that we were hearing about previously where people were not able to get banking facilities based upon their nationality or based upon their organisation's purpose?

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**Ms Badgerow:** I think it would be fair to say we are still hearing of those. As I said the Association of Corporate Service Providers (ACSP) did indicate that they are seeing some warming because a lot of the de-risking has happened, but I think there are still examples.

The Department for Enterprise has that Bank Review Group that we participate in to provide some advice and they see pockets in maybe the mortgage lending from time to time, or credit cards from time to time, or deposit taking. So I think it would be fair to say that there has been a contraction of services.

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I do think they are a harder issue, absolutely, you have hit it, in terms of what do we do to solve that, and the ABR was intended ... But again they have to meet certain minimum criteria to



695 establish a bank and at this point some are still very much in play. So I would say they are not  
out of the game, but those hurdles are significant enough to be ... prove serious applicants.

I think that is the other piece as well, that some of the applicants may run into problems  
around correspondent banking and clearing facilities because the same problem that a  
700 corporation will run into ... Because they have to clear some place, and so it will depend upon  
the appetite of the clearing bank. So again it would also apply to a, I say tier 2, they call them a  
1(2) bank, that they would have to have access to clearing facilities.

**Q38. The Chairman:** So essentially, an off-Island mandate by a UK bank was saying to their  
operation in the Isle of Man, 'Don't take e-gaming'? So we were actually being affected by a  
705 global mandate for that bank, or a global mandate saying, 'Don't take Colombians'? I am using  
those as an example, because there is quite a lot of legitimate industry in Colombia and yet we  
just say everyone is a drug dealer, essentially.

**Ms Badgerow:** It is a risk appetite of head office and the cost benefit because they would  
710 say – and it is true – the cost of compliance. So when you are looking at – and it could be a  
jurisdiction, it could be politically exposed person (PEP), for example – it is not necessarily that  
they are a higher risk but you have to do work to assess what risk they are. A PEP as an example,  
would require a higher level of monitoring.

So again, a bank looking at their bottom line will say, 'What is my cost benefit of taking on  
715 this account?' And that is purely a commercial decision of that bank.

**The Chairman:** We know about PEPs!

**Ms Badgerow:** Oh yes, I guess!  
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**The Chairman:** Our children know about PEPs because they have been called in, exactly the  
same way.

**Mr Karran:** But you mentioned global bans of certain products and we have obviously got the  
725 situation with gaming money, because not all the banks will take gaming money. It is a  
commercial decision taken by somebody but the ironic thing is they might not take it in the Isle  
of Man, but that same international bank will take it in the Far East. They will take gambling  
money.

So it is very difficult to work with these particular banks in relation to that argument.  
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**Q39. The Chairman:** I think a lot of it is caused by where they have been found wanting by  
the legislators and fined for not doing things properly in those areas.

**Mr Karran:** We are all very concerned about the American situation and where the action  
735 was taken in America.

**Q40. The Chairman:** We have had them in London, as well, in exactly the same way, so that  
bank which has been massively fined for doing something irregular is not going to be too keen  
on saying, 'My branch of the organisation in the Isle of Man ...' – or my subsidiary in the Isle of  
740 Man, or whatever the relationship is – 'you will not take that sort of stuff because we could not  
manage it properly'.

**Ms Badgerow:** It is more of a global phenomenon as well, we are in 'good company' if I can  
use that term, with other Crown Dependencies and other jurisdictions who are experiencing the  
745 same sort of accessibility for certain sectors in the economy, and we talk about it a lot.

**Q41. The Chairman:** I cannot see there being much of a change when the Vickers thing gets implemented everywhere, they are still going to have control. A lot of the money which is deposited in the Isle of Man gets swiftly – it's a good word, 'swiftly' – off to the UK treasury of that bank for them to manage. There is some local lending, obviously.

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**Ms Badgerow:** It is whether or not in a ring-fenced or non-ring-fenced environment, the non-ring-fenced bank would be willing to take on more risk, because the reason for the Vickers was to be able to isolate and protect those in the retail. The Isle of Man, like Jersey and Guernsey, will be sitting outside the retail ring-fenced banks. So it is whether or not they will have a separate view on risk appetite for the more commercial non-ring-fenced – and to be seen.

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Some would argue that there is more opportunity – some of the banks would argue there is going to be more opportunity in the new post-ring-fenced world.

**The Chairman:** But possibly, obviously, more risk.

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**Q42. Mr Baker:** Just one final question from me: we have touched on resourcing and I sense that there is some challenge around that, but other than that what are the two or three critical things that really challenge you in delivering an appropriate regulatory framework for the Island?

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**Ms Badgerow:** I think it is around risk in terms of it is having resources, but having a methodology to allocate your resources appropriately – so making sure that you have the ability to pinpoint your highest area of risk and your highest area of needs. Any regulator will always be subject to constraints and you have to be able to make good judgements around where you want to spend your time. I think for us that is critical and that is where the work and the framework will be very helpful.

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And maintaining compliance to international standards: I think it is extremely important because of the reputational challenges and attacks we have seen on the Isle of Man. As a regulator we want to be able to stand up and say you *can* comply and you have the resources to do the work to comply with those standards, be it AML or be it just general good corporate governance standards.

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I think those are the challenging things for the regulator, making sure that we have the people in place and we have them allocated to the right level of work. I think as well one of the challenges will be sustaining the right workforce – probably like every other body on the Island we are always challenged around getting the right resources and making sure that we have an environment that fosters development for people. Not everyone would think that regulation is the most interesting work, but it is! But making sure we develop our staff.

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We are dealing with a generational issue that many organisations are dealing with in terms of younger people who do not stay in jobs for a long time, so you have to be more resistant or resilient as an organisation – making sure you have proper training, development and succession planning, and management of your staff. I think that is a challenge for us as a smaller organisation, when there are 64 people and you have teams of three and you lose one person – that is a *big hit* to the group. So I think that is building our resiliency over time in terms of how we are structured.

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**Q43. The Chairman:** My last question is this: can you suggest areas where we ought to be involved in something financial on the Island that we are not particularly involved in – and I am asking you a question outside of just the FSA.

You have been around the world financial markets a long time. Are there any things you can identify that when you say, 'Do you know, if we were doing that maybe we would be doing quite well here'?

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**Ms Badgerow:** The one thing I would say is just making sure we invest in research. I think it is the thing that will serve the Island well.

800 I think that we bring people here with lots of knowledge and connections, and we make sure we continue to invest in research and being out and about. It sounds like a silly thing, but making sure we are keeping tabs on what is happening in other markets and investing in research and what are the areas we should pursuing – so blockchain technology, lots of opportunities; fintech and regtech, *tons* of opportunities to streamline how we supervise. I think that innovation and research are extremely important for a vibrant financial and economic environment, and I am a big believer in that.

805 So I think that is where if I had a magic wand of money – that is where ... And we are hearing it from our licence holders. I am saying ‘financial sector’ but it has a knock-on, so regtech and fintech are all about applying technology solutions to existing business processes. We have a lot of smart people on the Island and we have a good base in our economy, and then how do we make sure we keep pace? That is certainly my view.

810 I’m not sure ... Geoff? (*Interjection by Mr Karran*)

**Q44. Mr Moorhouse:** Is there one thing the Government could do to make us more attractive for potential licence holders?

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**Ms Badgerow:** I don’t know, I’m not sure. I think there is a range of things: being open and transparent. I think we are, though, I think we are doing all the things, but showing that we are investing in the future as well. It is not just about doing the same thing all the time, it is thinking about the next wave and investing and getting the bright minds.

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**Q45. The Chairman:** Is there anything you would like to ask us?

**Mr Karran:** No, thank you.

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**Ms Badgerow:** No, I think not, and thank you very much.

I am not sure if the package was helpful at all? And anything you need afterwards, glad to –

**The Chairman:** Yes, good. That is very kind of you.

On behalf of the Committee can I thank you very much for coming along this afternoon –

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**Ms Badgerow:** Yes, great, thank you.

**The Chairman:** – and missing out on this lovely afternoon. I’m sure you probably wouldn’t be out anyway!

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**Ms Badgerow:** No, I know, it’s beautiful. I think it has gone cloudy now that we are leaving!

**The Chairman:** Yes, thank you very much.

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**Ms Badgerow:** Thank you very much for your time.

**Mr Karran:** Thank you, Mr Chairman.

*Mr Brennan was called at 3.38 p.m.*

**EVIDENCE OF  
Mr Steve Brennan, Chief Executive,  
Gambling Supervision Commission**

**The Chairman:** The Economic Policy Committee will now hear from the Gambling Supervision Commission and welcome the Chief Executive, Mr Steve Brennan.

845 Welcome.

**Mr Brennan:** Thank you.

**The Chairman:** Thank you for your submission that we have. I will just get myself in order, I do apologise, my papers have been ... Here we go.

850 We got the submission from you, which was very helpful, (**Mr Brennan:** Thank you.) and one of the things it seems to us is that our licence fees are going down but our duty is going up. (**Mr Brennan:** Yes.) Can you just explain that dynamic please?

855 **Q46. Mr Brennan:** Yes, certainly.

First of all, I would like to open by passing my sincere apologies on from the Chairman, Mr Spencer. He has recently undergone surgery and he expected he would be here today and recovered suitably but he phoned this morning just to let me know that he would not be able to make it.

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**The Chairman:** Could you pass on our best wishes to him.

**Mr Brennan:** I will and thank you for that.

865 So in terms of the sector data that I supplied you are correct, the licence fees have gone down but the duty has indeed risen. I am not going to speak too much on duty because that is a matter for the Customs and Excise. I will be able to talk you through why the licence fees have gone down and give you an overview of the performance of the sector which is probably going to be the reflection in the duty.

870 The fall in the licence fees can be attributed to the different types of licence fees that we issue and the abolition of the network partner fees that happened last year through regulations in January 2017. The network partner fee was set at £5,000 per partner, but after some discussion with industry and with Government it was considered to be an inhibitor to business, the business development, and as such it was a barrier to business establishing relationships with Isle of Man companies. So that removal of the fee was removed last year in regulations, and that would be one factor for why the fees have gone down, so we did lose a number of network partner fees.

875 The other reason that we have lost them is while the sector in terms of its numbers has remained largely static on paper – you will see the land-based numbers are pretty much the same as last year in the sector overview I have provided – the number of online gambling licences has gone up by one in the year but that actually belies the movement with our licensees. During the year, seven licences were actually surrendered and another eight licences were approved.

880 So the difference in the licence fees is attributable to we may have had licences surrendered at a higher licence fee rate, such as a network licence, and we may have got new licence holders coming towards us at the standard licence rate. The differences can be seen between the different licence fees that have been issued and the abolition of the network parties.

885 **Q47. Mr Baker:** In terms of that – if I can call it – ‘churn’ in terms of licence holders, (**Mr Brennan:** Yes.) is that a structural change in the sector on the Island or is it pretty much like-for-like replacement? What is the bigger picture? What is going on there?

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**Mr Brennan:** The reasons that operators leave are generally mixed reasons. What we have seen in the last 12 months is we have some licence holders who are dependent on other licence holders on the Island to provide some form of service towards them, whether it is the games or whether it is the back-office systems. So there is that co-dependency that exists and, for various

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reasons – generally commercial reasons – some of those relationships during the year have ended and the licence holder that was dependent on the Isle of Man licensee has sought partnerships elsewhere. So we have seen some of those operators move to different jurisdictions – Malta being one, Curaçao being another. That is purely a commercial decision taken by the Island licence holder – what to do with one or two of the partners.

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Typically, in any year we see businesses get into financial difficulties. We see a lot of start-up business come toward the Island – high aspiration, a different way to go in to tackle the market – but at the end of the day it is an expensive business to get into and they burn through their start-up capital, they do not actually break into the market and they surrender their licence when their financial buffers run out.

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**Q48. The Chairman:** Can I just ask one question there please? (**Mr Brennan:** Sure.) You said that the people who had relationships with ... are dependent upon other organisations on the Island – Malta, Curaçao – people have gone to. (**Mr Brennan:** Yes.) But is there any attraction there that compares more favourably to our offering?

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**Mr Brennan:** Each jurisdiction almost has a bespoke and fairly unique offering for licensing, so the Isle of Man has a different offering to Alderney which has a different offering again to Gibraltar and a different offering again when you compare to Malta. So what we do see is licence holders coming and testing the Isle of Man and checking to see if the regime that we are operating is more conducive to their business than Malta, or than Gibraltar, or than Alderney.

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So what we are then seeing is, with the changing regulation across the globe – and there are a lot more jurisdictions now that are introducing licences – that changes the dynamic in a market. So, for example, the Isle of Man is not within the EU and if there is legislation that changes in the EU, in a particular jurisdiction within the EU, and that happens to be the target market for one of our licensees, they may see that they are better placed to serve that market if they were licensed in an EU jurisdiction. So they would leave the Isle of Man and they will probably typically go and get a licence in Malta and then they could continue to target their EU market.

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So that really is sort of a changing feast as more jurisdictions introduce online gambling legislation. That always causes licensees, whether they are in the Isle of Man or further afield, to have a look at what they are going to do within that market. Are they going to go and take a licence in the jurisdiction that has just introduced legislation and operate two licences – an Isle of Man licence and a licence in that jurisdiction? Is it more commercially viable for them just to leave the Isle of Man licence because their complete market is in that jurisdiction and they have not got any other players to serve?

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They are the sort of discussions that go on and that is what we have seen: where an operator has targeted one country in its entirety, and when that country has introduced legislation the operator has no use for an Isle of Man licence anymore and will get a licence in the country that it is wholly operating. It makes no commercial sense if you are not targeting anyone more broadly than that country, to hold the licence elsewhere.

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**Q49. The Chairman:** Does the Gambling Commission get involved in any of those deliberations by the licence holder? (**Mr Brennan:** Sorry?) In other words, do they come along and say, 'We are thinking of moving,' and do you get involved in conversations with them about – ?

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945 **Mr Brennan:** They are purely the decisions of the licence holder. Our objective is to make sure that they are complying with our legislation, and their commercial decisions are their commercial decisions. They are much better placed to understand what is happening in their target markets than we are. We know what is happening in the Isle of Man, but we are not necessarily skilled to understand or advise on what is happening in any other market.

**Q50. Mr Moorhouse:** In terms of those new licence holders, is there a clear trend of where they are coming from or is it quite mixed?

950 **Mr Brennan:** Again, it is quite mixed. This year we have seen three main areas. The GSC is a well-established and a trusted regulator and as a result of that we see a lot of Southeast Asian business coming towards the Island, and it is coming because of that trusted regulation; but it is coming because there was already Southeast Asian businesses here and doing really rather well, so there is a sense of a 'me too' attached to that.

955 As the regulatory authority, we understand Asian gambling as well, so that helps that application process and that conversation when we are in the early stages of a discussion. So Southeast Asian business continues to be a steady stream of business that comes towards us. There has been some disruption in Southeast Asia as well, in some of the areas where they have offices and they hold licences, and so I see that some of those organisations are moving because  
960 of their internal business risk assessment, which is telling them that they should not necessarily stay in the jurisdiction they are in at the moment and they are looking to move out of their jurisdiction, and the Isle of Man again becomes home for them.

The other area that we have seen a lot of – and it was touched on earlier in the previous discussion – was we are seeing a lot of new technology companies coming towards us.  
965 Blockchain technology can be used for everything, including gambling, and we see operators using cryptocurrencies – and they are not solely using cryptocurrencies but they are looking to introduce cryptocurrencies so players can play in sterling, in any fiat currency, and they can also play in cryptocurrencies as well.

970 So we talked about how we have changed some legislation to enable, to facilitate play in cryptocurrencies. We have not taken our foot right off that brake altogether, we have allowed that in a very, what we consider to be, minimum risk phase at the moment. There is a real volatility around cryptocurrencies at the moment, so we are mindful that if a player plays in one particular cryptocurrency before that gets paid out, the value of that cryptocurrency could have gone through the roof and if he has put one in and he is due 10 out, the operator has got to  
975 make sure it can source those funds to be able to pay them back out in the currency that it was deposited in.

980 So we are very careful about how much we let in in terms of cryptocurrencies. We will not allow, for example, you can play in crypto and you can get paid back out in fiat and things like that. So we know the different routes in and the different routes out and at the moment we have allowed just one or two of those. But we have seen operators who are offering a completely blockchain-based operation played for with cryptocurrency only, and that was the first operator that we have seen anywhere that has gone through that licensing process. That was a challenge. It was a challenge for us as the regulator. It is new technology. We are not necessarily technologists, so that slowed that process down. We had to learn an awful lot about  
985 the blockchain, we had to learn an awful lot about ethereum, of smart contracts and all of these other things that were associated with that. We had a very patient applicant, and they needed to be patient because we could not do it at the normal pace we see our vanilla applications.

990 Another area that is growing is in skin betting – and I think I may have touched upon this last year – but that is in-game currency where you buy an item or you win an item in a game; so let's use a hand-grenade or a gun and then once you have got that item you can pay to dress it up, for want of a better phrase, to 'skin it'. Those skins are valuable and they are rare and they can be traded, and if they can be traded they can be gambled.

995 We have seen websites that have started up where that is a currency that is being used, and largely that is unregulated, largely that is under 18 and we have seen some operators coming towards us making enquiries about offering skin betting. Our view as the regulator is: keep an open mind, let's look at can we regulate that, do we understand that? The value of that is that you are then regulating that market which is currently being offered to the under aged and obviously then they would not be able to offer that type of product to underage gamblers.

1000 The final area that we have seen in the technology aspect of it is e-sports. We are all too old to know what e-sports are, but a very brief explanation: if you go and have a look at your son playing the FIFA football game on his computer or Legal Legend, or any one of these big multiplayer games, they have competitions, they have teams playing against each other and they have stadiums full of people watching and they have it streamed to millions of people. It is passing us by but there is a gambling market now emerging on that as well. So if there is an event, there is an opportunity to have a wager on it and then they will get offered. We have seen that as well.

1010 The other thing that we have not seen before that we have seen this year is that we have licensed our first US tribal gambling operator. In the US, tribes have sovereign rights over their sovereign lands and generally the bigger tribes near the bigger conurbations put up gambling casinos and they do really rather well, and that money is then reinvested back into the tribe for welfare, health, education, housing etc. We were approached by a tribe from Oklahoma and that was in the unique position of having federally recognised support to offer internet gambling as long as that internet gambling was offered to citizens outside the United States.

1015 So in order to diversify its products away from just a land-based casino in the tribal grounds, it has taken an Isle of Man licence and it is going to look to launch online gambling from the Island. As far as I am aware, that is the first of the US native tribes to get in the online space – certainly in the areas that I am aware of.

1020 **Q51. Mr Moorhouse:** Do your licence fees actually reflect the challenges you are facing in terms of this new technology and the issues you are dealing with?

1025 **Mr Brennan:** At the moment our licence fees are well in excess of our cost as an organisation. They are well in excess of our cost. We do face the challenge, which is around staffing and it is about staff knowledge; it is about staff knowledge in a fast-moving sector and it is about retaining that staff knowledge – and that is a huge issue for us.

Listening to the FSA beforehand, where they are saying they have a staff of 64 and if one person leaves that has an impact, we are a staff of 14 and when one person leaves that is a bigger impact.

1030 We are in almost a *Catch 22* situation at the moment, which is that we get our staff complement, we get a new inspector in, we train that new inspector up, that new inspector goes out, does its visits and that visit is almost like a job interview – and then they come back and they have just been offered more lucrative terms in the private sector. We have just got them up to speed and they just walk out the door and we start again, and we start again, and we start again. That has happened the last number of years, the last three or four years, and our turnover has been for a small organisation, very high. Staff retention is our biggest issue at the moment.

1035 To that end, the board has asked us to commission a root-and-branch review and we have engaged a consultant to do that root-and-branch review, and that is to have a look at all aspects of staffing, terms and conditions, ability to retain staff numbers and knowledge levels that are needed for us to adequately support the obligations that we have got.

1040 The only big problem we have got is because we have not had the staff we have not been able to give the consultant the staff time that is needed to get the review going. So we are just stuck a little bit at the moment. We are hoping, post-Moneyval, with that big project out of the way that we will be able to move on towards that through this year.

1045 **Q52. Mr Baker:** Can I just ask you about that? Presumably they are effectively going into the e-gaming sector, which we all know has a reputation for paying significant amounts of money. To what extent do you think that the sector distorts the job market on the Island?

**Mr Brennan:** It is not really my expertise, so I will open with that as the caveat.

1050 It is a sector that does pay well, it is a sector that is very attractive and it is a sector that the skill sets in other sectors do apply. There is a lot of compliance work in the online gambling world and there is a lot of compliance work in the financial services world as well.

1055 So for those skill sets there is almost a ready market for the shrinking financial sector, then they can get swept up into the online gambling sector. The issue around those skill sets that are needed for system development – and that is I think where the distortion could come in – simply because everybody is after a *very* finite and unique resource. I would imagine that there is a lot of competition for those and the pay is significant as a result; but like I say it is not really a view that the regulator would hold, or particularly want to comment any more on.

**Q53. Mr Baker:** That is fine.

1060 The other question is: I found your explanation about the dynamism in the sector really interesting and also the other jurisdictions which are obviously evolving their offering. You made it clear, Mr Brennan, that each jurisdiction has a fairly bespoke offering to the marketplace. For those of us who are not close to the detail of the gambling and gaming sector, where would you position the Island as a jurisdiction relative to the marketplace?

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**Mr Brennan:** I think you could fairly easily divide the regulated market, or the regulators, up into two camps. There are those which I will term the offshore regulators, who are regulating business that is operating more broadly than just its home market, and then there are the regulators who regulate in their home market. We very firmly sit in the former alongside the likes of Malta, Alderney, Gibraltar and to a certain extent Jersey who is starting to move into that space as well.

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We are all looking for the same type of business and that is where we look at that and we say, 'Well, what differentiates one regulatory authority from another?' That might be that they are inside Europe and that gives certain rights that we do not enjoy as an Island, or it might be to do with the taxation, or lack of taxation, which is a benefit to an online operator, or it could be the fee structure or it could be a combination of all of those things.

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What we are seeing at the moment – and it was an interesting point that got raised in the previous discussion around fees – fees are not necessarily the only consideration in terms of the cost of regulation, taxation is a consideration for our licence holders, simply because there are markets where you can go to where your only cost is the fee, or you come to the Island where you are going to have a fee and you are going to have tax, albeit it a fairly low tax. You could go to another jurisdiction where you could have a low fee and you could have taxation but that is capped. Or you could go to another jurisdiction where you have no fee and you have no tax and you have a sliding scale of fees – so in other words the jurisdiction gets its money because the fee is effectively based on your profitability. So you will have a small fee for your licence if you are not particularly profitable and you will have a big fee if you are, but you will not pay any tax.

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So operators, when they come to licence, are taking all of that into consideration and as I say our fees are pitched to be competitive. There was an interesting discussion before about fees covering the cost of regulation. Our fees are competitive fees against our competition and they more than adequately cover regulation but they are pitched to match the competition rather than the cost of regulation.

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**Q54. Mr Moorhouse:** When fees and taxes change does it affect existing licence holders or does it change the future ones?



1095 **Mr Brennan:** If you could explain where the changes were?

**Q55. Mr Moorhouse:** Just in terms of you raised awareness that taxes and fees have an impact (**Mr Brennan:** Yes.) on licence holders and where they locate. If they do change, does it impact on the existing licence holders or does it impact on future decisions?

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**Mr Brennan:** I would say it impacts on both. The existing licence holder will review their position if the fee or the tax changed, and go and do a comparison at one of the other jurisdictions and determine whether or not financially they would be more suited in a different jurisdiction, if the tax or the fee rate changed – whether that is a tax or fee rate change in the Island or a tax and a fee rate change anywhere else.

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**Q56. Mr Moorhouse:** So that has been visibly seen?

**Mr Brennan:** Oh yes, we do see licence holders moving. If the taxation goes too high your licence holder will move. If the fee goes too high in some cases licence holders will move, yes, for sure.

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**Q57. Mr Baker:** When you referred to tax, the figure that you quoted in your submission was described as ‘duty’: are we talking the same thing there? (**Mr Brennan:** Yes.)

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So we have got £5.1 million which was just under 20% growth against the previous year and presumably that primarily comes from the 38 online gambling licences – ?

**Mr Brennan:** Yes, that is online duty, yes.

**Q58. Mr Baker:** So that is roughly £150,000 each. How substantive is that in the overall economics of the business? Certainly the perception of the online gaming sector is that there are some huge amounts of money washing around that system and when we hear about payouts making millionaires in a single payout, as has been publicised recently by one operator, an average of £150,000 does not seem a particularly substantive cost.

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**Mr Brennan:** Again, that is outside of my remit really to talk about the economics or the policy that was behind those sorts of tax rates. I can tell you what those tax rates are because they are within our legislation, and the tax rates are there is 1.5% on the first £20 million of gaming profit, and then it is 0.5% on the next £20 million of gaming profit, and then it is 0.1% on everything thereafter.

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So we do not operate a cap. We have got very low tax rates but we do not offer a tax cap at the end of it. There are other jurisdictions that offer a cap on tax at about £400,000. So if you are a really big operator in the Isle of Man you will pay over £400,000 worth of tax, but if you are a really big operator in another jurisdiction that is the maximum that you will pay.

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The tax rates are very low and the economic policy that sits behind that is probably one for Treasury and more specifically Customs.

**Q59. Mr Baker:** Yes, but it is interesting looking at the numbers that were in your submission and the balance between the duty and the licence fees.

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So there is a competitive market around the cost of doing business. What about some of the qualitative aspects? Obviously, not all regulators are of equal quality, or diligence, or ease of doing business with. Equally, there must be many other factors in terms of technology, infrastructure, availability of people, climate, etc. that these people bring into the equation when considering where to locate?

1145 **Mr Brennan:** Yes, I will agree with regard to the external factors such as climate,  
infrastructure, links, hospital facilities in the jurisdictions. We are all different and nobody will  
come to the Isle of Man for the sun, but what it does have for business is it has a very good  
infrastructure – and I do not just mean the physical infrastructure, but it is also those  
1150 knowledgeable about the online gambling sector. If you are located on the Isle of Man then you  
have got that ability, you just need to go and walk down the road and you can get the expert  
advice that you do need; and you do not get that in some of the other jurisdictions, they do not  
have the infrastructure and they just offer a licence and you could have your infrastructure  
anywhere else that will allow gambling to take place. So in some other jurisdictions it is just  
1155 about the regulation and not about the infrastructure.

Turning to the regulation itself, we do not have much in the way of international standards in  
online gambling regulation. Probably the closest we have got – or the only thing we have got – is  
AML and CFT, which I will come on to, but beyond that there is nothing in terms of international  
standards. I think that is going to be changing over the coming years, there are more  
1160 jurisdictions now that are regulating. We all talk to each other, we all meet at conferences, we  
are all learning from each other about what those standards are, what the best practices are in  
these new areas. So like the financial services I am sure at some point they will start to emerge a  
standard over and above just AML/CFT for our sector.

With regard to AML/CFT, which is probably one of the biggest areas of regulation for us all,  
1165 there is that international standard there so all of the regulators are operating to that standard.  
We have just had our Moneyval assessment and I know that Moneyval are on the way through  
some of our fellow regulators in the Crown Dependencies and they are going to go further  
afield. So in terms of have we got higher standard or lower standard of regulation, I think at an  
AML/CFT level that is all going to be levelled off in the coming years.

1170 **Q60. The Chairman:** The Casino (Amendment) Bill, (**Mr Brennan:** Yes.) it seems to be  
coincidental that this is going through when we have the end of the deal with the Sefton coming  
up. The deal with the Sefton is due to expire, I think, at the end of this year or next year –  
February.

1175 **Mr Brennan:** The support deal, that they pay back –?

**The Chairman:** Yes that we put in there. So therefore the land which is presently the ... what  
is it, the Moneymarch? (**Mr Brennan:** Middlemarch.) Yes, the Middlemarch site will start to  
1180 become available.

Was this intended to facilitate anything like that?

**Mr Brennan:** The reason that the change for the ability to be able to transfer a casino licence  
came about, was primarily a GSC concern, and risked that when the development of the key  
1185 area in its broadest sense came along, if the casino was to be a party to that – which was what a  
lot of the early conversation was around – what sort of facilities would be down there? The last  
place the GSC wanted to be in was the authority that had not got the legislation to facilitate the  
transfer; and what we did not want to be in is a position whereby the deal is about to be inked  
and we say, ‘Yes, in about 18 months’ time we will get that legislation changed as well.’

1190 So we recognised the legislation was really quite specific about the premises. We saw the  
view that there was going to be a big development on and we started this conversation two  
years ago to get to where we are now. We saw there was a big development opportunity, we  
understood there were lots of local businesses who were looking to be party to it, and we  
thought that our legislation needed to be more flexible in order to be able to help and facilitate  
1195 that. We did not want to react at the point the decision was being made, we wanted to be able  
to have that legislation in position ahead of that.

1200 On the back of that, we also took the opportunity to include some requirements that had arisen from the Moneyval assessment to make sure that we had the right explicit powers to do AML/CFT. We had powers that we had via licence condition, but Moneyval suggested they would prefer that to be more explicit and in the legislation.

**Q61. The Chairman:** The legislation: does it also allow the use of the casino licence in another venue – for example a massive poker tournament at the Villa?

1205 **Mr Brennan:** Not this piece of legislation. That was a piece of legislation that was passed probably three or four years ago now, and that was for a temporary casino licence and that was to facilitate poker tours, rummy tours. There are lots of big land-based poker tours which originate from the online world. So you play online and then you get down to the last thousand players and they are invited to a tournament. We have hosted a couple of tournaments at the  
1210 Villa Marina under the licence of the Casino.

**Q62. Mr Moorhouse:** In terms of licensing decisions in 2016-17, there were four withdrawals. What sort of thing does that relate to?

1215 **Mr Brennan:** Withdrawal of the licence or withdrawal of the application?

**Q63. Mr Moorhouse:** I see. Was it withdrawal of the application?

1220 **Mr Brennan:** What page are you referring to?

**Mr Moorhouse:** That is page 10, I think. Yes, page 10.

**Mr Brennan:** Of the Annual Report? (**Mr Moorhouse:** Yes.) Just let me get the context right here.

1225 Sorry, yes I understand. Surrendered and withdrawal.

We have had applications come towards us and as we have gone through the application process it has not reached a conclusion and it has not gone before the Commission, but for various reasons, the applicant has withdrawn the application and not offered to put that further forward.

1230 Usually that comes about ... we have had some where there has been a change in the business plan, when they have started to really consider where the best place is going to be they have changed their business plan, they have decided it might not necessarily be the Isle of Man. Other times it may be that the investment that was forthcoming may not necessarily have continued, so the application then gets withdrawn. They may get re-presented further down the  
1235 road, and we have seen one or two in the past where that has happened. We will see.

**Q64. The Chairman:** I just have one question and that is – it is a similar question to the one I asked the previous session – is there anywhere that you feel we are missing opportunity where perhaps the legislators can be of some assistance in making life a bit easier?

1240 **Mr Brennan:** In terms of making life easier from a regulatory perspective or a business development perspective? (**The Chairman:** Both.)

1245 Okay. So from a regulatory perspective, I echo the comments that Ms Badgerow made, which is about the ability to research to see what is coming towards us. We are running to stand still and we are in a technology business and we are not the best technologists in the world, we are regulators, and having that time to sit down with an applicant to understand the technology that that they are bringing forward, to map how that could fit within the environment that we are offering, to have a look at how we can change our processes but not necessarily our principles to

1250 accommodate that. That takes an awful lot of time and we would ideally like to spend more time on it.

I think Ms Badgerow touched on the point of if the Island can be seen to be innovators, can be seen to be receptive to understanding the technology that is coming towards us, that facilitates those conversations, those first conversations, and that was how the crypto lottery came towards us, because we as a jurisdiction had talked about cryptocurrencies and because we as a regulator had said what our policy position was very early on, that brought the principal behind that business over to the Island for that conversation.

1260 But we had to work really quite hard to understand the technology that was coming towards us and how that did fit within our framework. Our framework can be changed but our principles generally cannot. Just because it is new technology does not mean we can cut corners or turn a blind eye to anything. So building that relationship based on research and understanding is something that will reap benefits from a business perspective, but it takes an awful lot of time.

**Q65. The Chairman:** The problem is if you actually get a resource to be able to do that sort of investigation and speak to the potential licence holders it is actually putting that member of staff right in the marketplace.

**Mr Brennan:** For sure, and it is forever the risk, as Mr Baker mentioned before, resources. Is the gambling market distorting the jobs within that sector? There are some very valuable resources and I mentioned they were IT resources generally in there, but resources that understand regulatory compliance are equally sought after – which I know to my cost. I mean practically everyone in the GSC has had an approach from the private sector or other regulatory authorities who wish to procure their services.

1275 So it is an ongoing issue for us and one we have got to address or we will be on that continuous cycle of training up all the time and never quite getting on top of, and then getting in front of, the sector.

**Q66. The Chairman:** Unless you had the funds to actually buy the service irrespective of the individual?

1280 **Mr Brennan:** And therein lies the difficulty. The sector is not really mature enough. There are no online gambling regulation courses, so you get those resources by the knowledge that the GSC already has and the experience of going out on the job or looking over the cases that we have. That is how you get that knowledge and that understanding of the policy, the regulations that come from that policy, the application of those regulations and what we consider good looks like. Then we go out to our operators and we go, ‘Well, that is not good enough and that is not good enough and that is not good enough,’ and they go, ‘Where am I going to get that knowledge from?’ and then the offer comes.

**Q67. The Chairman:** Is that a potential income stream – running courses? *(Laughter)*

1290 **Mr Brennan:** Possibly one for DFE.

1295 **Q68. Mr Baker:** You mentioned in your submission around wanting to do some more legislation in terms of consolidating the gambling law. *(Mr Brennan: Yes.)* How mission-critical is that, because clearly it has drifted, for understandable reasons, but I want to understand the significance really of moving that forward?

1300 **Mr Brennan:** If you have a look at the legislation we have moved in recent years, it has been piecemeal – very piecemeal. We have moved a couple of clauses in the Casino which we have just talked about. We have moved some legislation for AML and Countering the Financing of

Terrorism this year as well. We have done some other regulations at the end of last year and what we recognise is we have got really quite a flexible piece of legislation, but it is really creaking at the edges now.

1305 We have also got some very old legislation that looks after the regulation of the Casino, of the bookmakers, of the lotteries and of the slot machines on the Island. That goes back to the early 1980s – innovation is moving on in those areas as well.

1310 The way that the law has been structured or the law was structured back in those days was a lot of the legislation today we would put in orders or secondary legislation where we can react a little bit more quickly. It is in primary legislation so it does not get changed quickly or at all, because if we wanted to make that change it is not really a legislative priority in the grand scheme of legislation for the Island.

1315 So we recognise that legislation needs modernising and it needs modernising into one code that recognises gambling and then gives the flexibility to be able to react more quickly, either through orders or secondary legislation, when fees need changing – which was a conversation a number of us had earlier – or when we need to introduce a different type of machine or a different type of protection. We just need a more flexible piece of legislation to cover that off and to future-proof as well.

1320 **Q69. The Clerk:** Can I just ask from a staffing point, you were talking about the market not being mature: do you think there will come a point where there are some people who have been through the process you described who used to work for the regulator, went off to work in the private sector and for whatever reason feel like coming back to the public sector?

1325 **Mr Brennan:** With my understanding of the current offer out in the private sector, I would say that is highly unlikely. I do talk to my former colleagues who are now out in the private sector and we just get to round to how things are going and how things are getting on, and while they enjoyed working with the bunch of people they worked with within the GSC, they are rewarded far more superiorly outside of the GSC than they would be with us.

1330 **Q70. The Clerk:** You are providing a service, you sound dejected about the throughput. You are providing support to the sector in a way by doing what you are doing.

1335 **Mr Brennan:** Yes, and that is the only consolation I can take out of it – that we know there are some good people who have gone through the knowledge and have taken the knowledge of the GSC and now they are applying that out in that broader sector. That is the only crumb of comfort I take.

1340 **Q71. The Clerk:** There must come a point where you have a critical mass where you can cope with throughput.

**Mr Brennan:** We are a staff of 14. The sector is running at 600 people.

**Q72. The Clerk:** What is the answer? Apart from paying your own staff more.

1345 **Mr Brennan:** I do not want to pre-empt what is coming out of a review that is being undertaken. So a root and branch review is going to go on there and let's see what that falls out. I would expect that pay and terms and conditions are going to be a feature of that review, they will have to be.

1350 **Q73. The Clerk:** Some of the skills you are talking about are technology skills, some of them are the skills of being a regulator. Is there any mileage in improving the critical mass by further consolidation among regulators?

1355 **Mr Brennan:** Funnily enough, that was a point I think my Chairman mentioned to this Committee in 2015 actually, just prior to the merger between the FSC and the IPA, as it was then. Is there any benefit from that? Well, there will be benefits in some areas, for sure, which are that we will have a broader resource to call upon from those areas of commonality in terms of compliance requirements, for preparation for fines and prosecutions and we will have a broader base of knowledge to call upon.

1360 But that skill set is still required for the online gambling sector, for the compliance and for understanding the operation in the context of the Isle of Man, and more broadly in the Isle of Man's context as a global marketplace – that resource will still be attractive even if we were absorbed within another regulator. It would still be a premium and a sought-after resource.

**Q74. Mr Baker:** My two final questions.

1365 One is just a very quick summary of your take on the overall health of the sector on the Island. Then finally, again as I said to Ms Badgerow, other than resources what are the two or three key challenges that really impact you in your role as CEO of the GSC?

1370 **Mr Brennan:** That really impact? Well, we have talked resources to death so I will not go on about that.

1375 The difficulty that we are having I think within my role and within the sphere of the sector, is that we have got a very active advisory sector on the Island, a very knowledgeable sector on the Island, and it is looking for a new business opportunity to bring to the Island. Not to put too fine a point on it, banking becomes the issue. So that is within the gambling sector and it is difficult to secure banking services.

1380 One of the requirements that we have as the regulator is that funds for players will be protected. One of the cost-effective ways of protecting those funds is to put those in a ring-fenced client account within a bank, and that is difficult. It is difficult to get the banking facilities therefore it is then difficult to get that consumer, that player-protection mechanism in place.

**Q75. The Chairman:** Have we not allowed that to go off Island?

1385 **Mr Brennan:** We have, but regardless banking is difficult off Island. It was an interesting conversation that you had before where I think it was Mr Karran said that you cannot get banking in the Isle of Man, but you might be able to get it in the Far East for the same bank.

Sometimes you cannot get banking on the Island but you can get it in the City of London with the same bank. It is a little bit more localised sometimes and I have not really understood how that works.

1390 **Q76. Mr Baker:** I guess that is a matter for the individual commercial and risk management structures within – ?

1395 **Mr Brennan:** It is absolutely, the risk management appetite is driven from head office and head office is usually down there. We are at the mercy of the risk managers in a different jurisdiction.

1400 **Q77. Mr Baker:** Given the point you have just made there about the critical dependence on banking services and the question observation earlier about potential benefits of bringing regulation more closely together, would there be benefits in that context of a closer working relationship with the FSA? It seems to overlap, the two conversations that we have had today.

**Mr Brennan:** I think there would certainly be a better opportunity to consolidate the risk appetite for some of the bigger sectors into one to have a better understanding of the risk appetite for the jurisdiction across a broader spectrum of business but from a consolidated

1405 regulatory position. I think that would benefit enormously, because we would all understand and apply the risk appetite from that consolidated base more broadly.

**Q78. The Chairman:** But that is the risk appetite that the banks are prepared to tolerate.

1410 **Mr Brennan:** Yes, the risk appetites the banks are prepared to tolerate and the risk appetite or the risk policies of the regulatory authorities would be more aligned, is probably a better analogy.

**Q79. Mr Baker:** Does that require a clearer steer from wider Government, because  
1415 Ms Badgerow referred to 'the Government' quite specifically.

**Mr Brennan:** I do agree with Ms Badgerow's position on that. The Isle of Man has got to understand, and the Isle of Man Government has got to understand, what business it wants, what business it can effectively facilitate. We have had an awful lot of external pressures recently, not least the Paradise Papers, and the Island needs to understand what business it is trying to facilitate and what good business in that sphere looks like.  
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Probably a more direct steer from Government as to what it is prepared to tolerate would be helpful; but it would not just be helpful from the regulator's point of view, I think it would be helpful for the Department for Enterprise about the business that it is going to look at, and it would also be helpful for those advisers within our sector, of which we have a lot, so that they have a much better idea of the business that is going to be supportive of the economy and supported by Government.  
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**Q80. Mr Baker:** So the picture I get is, effectively, we are looking for some clarity so that everybody is working from similar hymn sheets, if you like. Are there any processes in place at the moment whereby those conversations take place, or is there a vacuum there that really needs filling?  
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Clearly as a body we are a scrutiny committee for Treasury, Cabinet Office and the Department for Enterprise, so if there is a gap there then potentially that is something that we could explore further.  
1435

**Mr Brennan:** A gap or maybe clearer communication, I think that would be most helpful. The thing which we guard against, or we really do try to guard against as best we can, is that business is brought over by one party to that mix that I just mentioned earlier only to find that actually does not fit and we work really hard to try to avoid those situations within the gambling sector.  
1440

So, for example, there is a big conference on in London next week – it is the biggest conference that the Isle of Man attends, I would suggest – a gambling conference. There is a lot of business and the Isle of Man has a very prominent stand, and the Department for Enterprise has a very prominent stand and we have a lot of business that comes towards that stand.  
1445

But we put our inspectors on that stand as well, and they are not there to aid the business development, they are on there to make sure that whoever comes over and is having a conversation with the advisers and the business developers, that it is clearly understood if the business will fit or if the business will not fit. The last thing we want is them to turn up on the Island and put an application in, and for us to say actually that is never going to work. So it is really quite important that everybody within that party understands what business the Island is looking to facilitate.  
1450

**Q81. The Chairman:** Do you have a spreadsheet anywhere which basically says this bank will take that, that, that and that; however, where they say no they can be leaned on if we find someone senior enough to lean on them?  
1455

1460 **Mr Brennan:** No. We do not have a list of banks and again we do not advise our operators. There are a lot of professional services out there that facilitate those types of business and they have built banking relationships locally, they are aware of banks who will forge relationships outside of the Island as well.

What we do hear back from our operators and the advisers in the sector is that that has been difficult for some time. But as the GSC, we do not involve ourselves with the facilitation of banking facilities.

1465 **The Chairman:** Is there a committee looking into banking availability on the Island at the moment?

**The Clerk:** Not specifically, Mr Coleman.

1470 **The Chairman:** Because we did a report and I was asked whether it could go into the Reading Room. Do you remember the one where we did it *in camera*?

**The Clerk:** Yes, I know the thing that you are talking about, but the remit of the Committee is not specifically banking.

1475 **The Chairman:** Oh, okay.

1480 **Q82. Mr Baker:** Just going back to your helpful explanation there about the conference coming up, that sounds as though the GSC and DFE are quite joined up in that particular situation. Is there something that should be built on from there and is there anything we can do to help that, or is that really part of your normal ongoing relationship with the Department?

1485 **Mr Brennan:** The Department has an established team that just focuses on the business development for the gambling sector, so we do work closely with them. They come to us if they have got a potential applicant coming and there is anything specific or unique about that. So they will have come to us with the blockchain applicant, they will come to us first and said this is on the way, and then we would have had those early conversations even before the application came in.

1490 So we have a good working relationship with the Department for Enterprise, with the team that is charged with developing this area of the sector. But again, our interest is just to make sure that promises are not made that we cannot deliver on as a jurisdiction. It works really quite well in my opinion. We do not have many applicants that come towards us where we end up saying, 'You are just not going to fit'. That conversation is had really very early on and applicants have got the opportunity to either change their business model to make it fit or go and look at another jurisdiction where they may be better suited.

1495

**Q83. Mr Moorhouse:** Yes, just one final question.  
Have the changes to the support of problem gamblers been affecting your opinion?

1500 **Mr Brennan:** I will give you an update on where that process is currently sitting. I have provided you with the figures for 2016-17 of what the sector contributed. The position that I mentioned last time I was here was that Mental Health Services were tasked with doing an assessment. It is called a joint strategic needs assessment and the purpose of that joint strategic needs assessment is to outline the current and future mental health needs of the Island's population in relation to gambling addiction.

1505

They are at the very starting point of saying, 'Is there a problem?' rather than saying, 'There is a problem that needs a solution'. So they are identifying what the Island's mental health need is in relation to problem gambling.



1510 What has happened so far – and this information is really coming because we have a small  
role within the Mental Health’s initiative in this particular area. Mental Health Services is the  
body that is tasked with addressing this issue.

1515 In October 2017, a lifestyle survey was issued by Mental Health Services and that survey  
included questions about gambling habits and behaviours. The surveys have all been completed  
and returned, and the information collated, and I understand that has now gone to the research  
department in Liverpool John Moore’s University. They are going to assess the data and that will  
in turn inform Mental Health Services’ strategic approach to dealing with gambling on the Island,  
and their policies thereafter. Once that is understood and that is known, then we will be sitting  
down with Mental Health Services once they have understood what the strategic need is and  
what that delivery is going to be, and we will be talking about how the Island’s gambling sector  
can fit within that.

1520 So at the moment our gambling sector is doing what it did last year, which is it has a  
contribution to make, we will assess that contribution they make is commensurate with the size  
of the business and we will make sure that the contribution they make goes to something that is  
commensurate with their business. So that might be within their target market or they may put  
that money locally. As I say, I gave you the breakdown of those figures earlier.

1525 The way that Mental Health are approaching this project is there is an executive board of  
clinicians who are going to be ultimately determining their policy and the strategic direction, but  
they are calling on a number of stakeholders from the sector – so whether they are charitable  
organisations who currently offer mental health services for gambling addiction, or they are the  
land-based casino or the land-based slot machine people, or the online people. So there is a  
broad cross section of people who are involved and there is a stakeholder group who are  
offering input into this initiative.

1530 It is anticipated that they will conclude this towards the end of this year and there will be a  
more informed position coming from Mental Health Services about the extent and the strategic  
approach to tackling this mental health issue. So it has not moved as fast as we probably  
thought, but nonetheless there is a clinical assessment being done that will determine what the  
need is and what the solutions are.

1540 **The Chairman:** I think I would like to just thank you for coming along – (**Mr Brennan:** Thank  
you.) again. (**Mr Brennan:** Again, yes.)  
Again, please wish your Chairman –

1545 **Mr Brennan:** I will do. He will be disappointed that he could not make it. He does quite enjoy  
representing the Gambling Commission, but he has been really quite unwell today.

**The Chairman:** I think we quite understand that.

**Mr Brennan:** Okay. Thank you very much.

1550 **The Chairman:** Thank you.

*The Committee adjourned at 4.38 p.m.*