

3. Financial Intelligence Unit Bill 2015 – First Reading approved

Mr Coleman to move:

That the Financial Intelligence Unit Bill 2015 be read a first time.

The President: We move on to Item 3, the Financial Intelligence Unit Bill 2015 for First Reading. The Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

The main purpose of the Bill is to establish an independent Financial Intelligence Unit with enhanced powers to gather additional information.

The Isle of Man has had a Financial Intelligence Unit as part of the Financial Crimes Unit since 1998-99, but as financial crime has got more sophisticated other international jurisdictions have moved away from having the responsibility for financial intelligence gathering and the investigation of serious and complex fraud in one body.

The Island is to undergo a Moneyval assessment in April and May 2016 this year. Jersey underwent a similar assessment in January 2015 and as part of their preparations decided to put in place legislation introducing an enabling power to make regulations for the specific purpose of establishing a Financial Intelligence Unit in legislation. This commitment by Jersey was consistent with Article 12 of the Warsaw Convention. Moneyval agreed that this was necessary to ensure Jersey's Financial Intelligence Unit was put on a statutory footing with its own governance. The Moneyval evaluation also identified that Jersey needed to provide its Financial Intelligence Unit with powers to obtain additional information when gathering intelligence.

The absence of these additional powers, combined with the Financial Intelligence Unit not being established in legislation will be likely to be commented on adversely in the Island's own Moneyval evaluation in 2016. The Bill seeks to remedy the situation for the Isle of Man by establishing the Financial Intelligence Unit in legislation with additional information gathering powers before the Moneyval assessment in April and May this year.

Due to the urgency of having this Bill in place before the Moneyval assessment is undertaken, I will be seeking permission, if this Bill passes the First Reading, and the Hon. Members support, obviously, to suspend Standing Orders so that the Second Reading, Clauses, and Third Reading can be undertaken at one sitting of this Hon. Council on 9th February.

The Bill was consulted on for a six-week period in August and September 2015 and has been amended to reflect comments from the consultees in the finance sector.

Madam President, I beg to move that the Financial Intelligence Unit Bill 2015 be read for the first time.

The President: The Hon. Member, Mr Crookall.

Mr Crookall: Thank you, Madam President.

I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

We have had a few of these over the years during my time in this Council and throughout those debates we have questioned as to why setting it up under the Statutory Boards Act is really required, what difference will this make by setting it up under the Statutory Boards Act? It seems like we are setting up more and more of these quangos that seem to be going further at arm's length with their

own management structures, and it certainly does not link with smaller, smarter government. I would like to know why it is necessary to set this up under a statutory board system and why it cannot be reconstituted under the current system.

It also does irk me slightly that these inspections are from bodies that are set up under the Council of Europe, when we are not even a member of Europe. The United Kingdom are re-evaluating their relationship with Europe and this is a body which is coming in which is set up directly under the Council of Europe. So I would like to know from the mover what other territories does this group come in and start making its demands – I am talking about territories that are not members of Europe in particular.

Also, I think it is important to look at the costs of establishing this under this system because whenever we establish new boards, there is inevitably a duplication of a management and administration structure. I am not talking about the actual front end intelligence work here, which will be going on by the detectives and officers; I am talking about the back office that supports all this. And when we are seeing consolidation ... I mean we are a population of 80,000 or 90,000 people, we are a dependency of the British Crown and we seem to be setting everything up ourselves, doing everything ourselves, when really I think we should be looking to use more of the resources of our British masters. I would like to know why we are going down this particular route and not using more of the resources that are available to us from the United Kingdom.

Whether we like it or not, we are British nationals and we are a possession of the British Crown, and yet we are having to fund everything from the pool of the Manx public who are having to pay time and time again. And here we are, we are about to embark on setting up another statutory board to run this operation. I would like to know from the mover why this operation cannot be operated under an existing organisation that is here, or is this just to tick some box from a European Council of a political union we are not a member of.

I am very dubious at this stage.

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

Can I just ask the mover, taking a slightly different view on this Bill than the previous speaker, is my understanding correct in that we have this, in effect, in existence at the moment and what it effectively does is make sure that say if the Police came under pressure and they had to make cuts to their services, this would confirm that this particular part of their organisation had to be up and running at all times. Surely, my understanding is that if we want to be serious players in the financial services industry, we have to conform to the rules that our players actually take part in, regardless of whether we are in an organisation or not.

If the Member could confirm if we did not we would risk the spotlight being put on the Isle of Man and this is simply an enabling measure to make sure that we actually do tick a box, but it does not cost us any money.

The President: The Hon. Member, Mr Corkish.

Mr Corkish: Thank you, Madam President.

Along the same lines really as my hon. colleagues, just a matter regarding the funding and where would the staff be drawn from to service this? Would it be from an existing office and what resources are needed there; would there be extra training needed for this and if we are working, if I understand it correctly, in concert with other agencies and jurisdictions, could we see more outside agencies of the same ilk coming to the Isle of Man, where necessary?

The President: The mover to reply.

Mr Coleman: Thank you, Madam President.

If I can address Mr Anderson's comments first of all. The Financial Intelligence Unit will be the intelligence-gathering body; they will not be the enforcement body. The enforcement body will be the Financial Crime Unit, where the staff have already been moved away from the Police, under the auspices of the Attorney General. That is initially for a short period of time to confirm that everything is going to work okay, but I am fairly certain that that will continue to indicate and demonstrate a level of separation. And the level of separation will be Intelligence passes information to Enforcement. Enforcement within the Financial Crime Unit which will be under the Attorney General's Office will start doing or recommend prosecutions which will then be done by the Attorney General's Office. *(Interjection)* Well, previously the Financial Crime Unit was an animal which seemed to be moved from pillar to post and the staffing of it was subject to the vagaries of other necessities within enforcement. What this does is it ring-fences people for at least a year within the AG's office control, let me put it that way.

I think it is right to say that Moneyval is probably the *de facto* standard for financial jurisdictions now and thus far we have been at the head of that, in the fact that we are having some of the earlier inspections. Jersey has just had the one to the previous standard of Moneyval, so we will be three years, possibly four years ahead of them – as long as we get a good report – for people to come and rely on the Isle of Man as a good financial jurisdiction.

The problem that you have is if you do not get a good Moneyval report then if, for instance, you had a corporate entity here and you were trying to take expenses, let's say, for that corporate entity in another jurisdiction where some of the people may be based, you might not get the allowances that you would wish to have if it was in a non-Moneyval compliant jurisdiction.

As far as independence, I think the fact that ... okay, we know that the Statutory Boards in the Isle of Man are not totally independent but they are a little bit more independent than Departments. Statutory Boards require a direction from the Council of Ministers, if there is a disagreement between the way things happen. Departments, I do not think it is quite like that. I think they can basically say within CoMin, 'You will do this,' or 'We would like you to do this.' So I think that having the Statutory Board structure ... which I actually have a lot of respect for, because I have been in Statutory Boards for 12 years, and I think they work quite well.

With reference to the Council of Europe, when it says the Warsaw Convention, it does not mean the Warsaw Convention that you see on your flight ticket. It actually means the Warsaw Convention on, I think it is financial probity and money laundering. The countries that are in that, the Council of Europe some of them are not within Europe. *(Interjection by Mr Turner)* I have them here and there are some outside that are involved in it as well, outside Europe, outside the Council of Europe.

Mr Turner: Which ones?

Mr Coleman: Sorry?

Mr Turner: Which ones?

Mr Coleman: Georgia. So that is that one.

Mr Corkish; the funding, I think the funding has already been determined because the Attorney General has already taken over the people in the Financial Crime Unit which is the enforcement unit and also essentially this.

So I think that has probably answered most of the questions. If I have not answered satisfactorily then let me know, and I will get a better response for you for the Second Reading.

Madam President, I beg to move that the Financial Intelligence Unit Bill 2015 be read for the first time.

The President: The motion is that this Bill be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

A division was called for and voting resulted as follows:

FOR

The Lord Bishop
Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson

AGAINST

Mr Turner

The President: Seven votes in favour, one vote against, the motion therefore carries.