

Blow this for a Sark lark

PETER MANDELSON, former mastermind of New Labour and a Cabinet Minister, spoke in Guernsey in April 2004. When asked about European attitudes to the islands he answered that they were not really on the EU's radar screen and advised that they should '... remain un-introduced'. Later that year he became EU Commissioner for Trade.

*H*is advice was good. The Channel Islands occupy a unique position in Europe. They are very small, near autonomous societies benefiting from their relationship to the Crown and enjoying a privileged position as regards the EU generally, taking the most important benefits with few of the burdens.

*T*he same goes for the Bailiwicks individually. Guernsey has long pursued a policy of cooperating with external financial regulatory authorities in order to avoid being blacklisted. Even then it was unable to avoid being given, with the other Dependencies, 'intermediate' status in a recent European list of financial centres rather than 'white list' status. There is a strong suspicion of political motivation given that Russia has been declared 'white' (even if the country is no longer red).

*O*f course, Guernsey has little choice but to continue what it is doing. Its future and economic well-being is linked inextricably, at least for the foreseeable future, to the finance industry. It deserves to be white-listed; there is no good reason why it should not be. Of course, it should operate with the highest regulatory standards necessary to continue doing business, which is not to say that regulation should not be business-friendly – it should. Effective regulation is a pre-condition for the Crown Dependencies carrying on as finance centres. The trick is to remain competitive, not withstanding that regulation. Over-regulation will destroy the industry as surely as the islands' worst opponents would, given a free hand. Fortunately the Guernsey Financial Services Commission appears to be waking up to this reality.

*O*ne of the problems Guernsey has had in terms of international reputation and standing is to explain the embarrassment of the 'Sark Lark'. This was the unhappy situation where a number of Sark residents held directorships of literally hundreds and, collectively, thousands of foreign companies in circumstances where they could not possibly have known what the business of those companies were, let alone directed them responsibly. They operated as rubber stamps for all manner of shady outfits. There was enormous reputational risk for the Bailiwick of Guernsey and the Channel Islands generally. With the introduction of the Regulation of Fiduciaries legislation in 2001 and the inclusion of Sark within the Bailiwick regulatory regime it became much harder for individuals to 'Lark'; but it has not stopped it altogether.

*R*ecent research of company registries showed individuals at the highest level of Sark society with 30 Panamanian company directorships in one instance and 20 in another. Another individual had 15 directorships, yet another had 12. These are just directorships in Panama; it is often impossible to make such enquiries in the likely jurisdictions. It is impossible to obtain an accurate assessment of the overall picture.

*W*hat is left of the Sark Lark is a continuing embarrassment to the Bailiwick and has the potential to be very damaging indeed, if it turns out that Sark residents were directors of a company involved in a major international incident. Unlike Guernsey, it is not even as if what passes for its financial services industry produces any public good for the people of Sark. The income it generates is not taxed because there is no income tax. There are few, if any, jobs generated by the Sark Lark. Those who carry on in this way abuse Sark and embarrass the Bailiwick. When asked at an IoD seminar in April whether Guernsey's efforts to be squeaky clean, as he advocated it should be, were being hampered by other islands in the Bailiwick, Nik van Leuven QC, HM Procureur, answered simply and unequivocally: 'yes'. He was undoubtedly referring to Sark, an island with which he is very well familiar as a former tenement owner and member of Chief Pleas.

*S*ark enjoys a great deal of autonomy; it has freedoms which other communities of an equivalent size can only dream of. However, it will only preserve those freedoms if it carries on responsibly and does not attract the attention of infinitely more powerful national and international bodies unlikely to be deterred by the terms of a grant of land made to one Helier de Carteret in 1565.

*S*ark should make legislation outlawing the carrying on of any financial services or fiduciary business in, or from, the island save that of a purely domestic kind. In other words permitting bona fide banking, insurance and other businesses concerned exclusively with Sark residents but not otherwise. Sark, as a community, should wash its hands of anything to do with the Sark Lark and demonstrably so. It must not give external forces a reason to question, interfere with or threaten the extraordinary freedoms Sark enjoys for the sake of permitting a very few individuals to line their pockets to the detriment of others. We will be proposing such legislation to Chief Pleas.

Sir David Barclay

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