

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY SENATOR F. du H. LE GRESLEY
ANSWER TO BE TABLED ON TUESDAY 15th FEBRUARY 2011**

Question

Would the Minister, after consultation with H.M. Attorney General if necessary, advise if the use of money in the Criminal Offences Confiscations Fund could be applied for the purpose of funding the cost of a Committee of Inquiry into historical child abuse by virtue of Article 24 (4)(a)(ii) of the Proceeds of Crime (Jersey) Law 1999 which states that "*the Fund shall be applied by the Minister.... in promoting or supporting measures that, in the opinion of the Minister, may assist..... in dealing with the consequences of criminal conduct*"?

Would the Minister also advise the current balance of the Criminal Offences Confiscations Fund?

Answer

Having consulted with H.M. Attorney General, I have reached the view that monies in the Criminal Offences Confiscation Fund ("COCF") are unlikely to be capable of being applied for the purpose of funding the cost of a Committee of Inquiry into historical child abuse.

The COCF is established under Article 24 of the Proceeds of Crime (Jersey) Law 1999. Article 24(4) sets out the circumstances in which the COCF, which is separate from the general revenues of the States, can be used.

Article 24(4) and (5) are the relevant provisions:

- (4) Subject to paragraph (5), monies in the Fund shall be applied by the Minister for the following purposes, that is to say –
 - (a) in promoting or supporting measures that, in the opinion of the Minister, may assist –
 - (i) in preventing, suppressing or otherwise dealing with criminal conduct,
 - (ii) in dealing with the consequences of criminal conduct, or
 - (iii) without prejudice to the generality of clauses (i) and (ii), in facilitating the enforcement of any enactment dealing with criminal conduct;
 - (b) discharging Jersey's obligations under asset sharing agreements; and
 - (c) meeting the expenses incurred by the Minister in administering the Fund.
- (5) Before promoting or supporting any measure under paragraph (4)(a), the Minister shall consult the Attorney General and other persons or bodies (including other Ministers) as the Minister considers appropriate.

Where there has already been a full criminal investigation and prosecutions have taken place, it would be difficult to construe such an Inquiry as "dealing with the consequences" of criminal conduct (Art 24(4)(ii)).

A final view could be taken when the terms of reference of any such Committee of Inquiry are published. However, on the basis of present information, any link with criminal conduct is likely to be indirect or tangential.

The total available balance in the COCF as at 31 December 2010 was £8,257,520.