

### **3.7 Deputy D.J. De Sousa of the Minister for Treasury and Resources regarding the Criminal Offences Confiscation Fund:**

Can the Minister inform the Assembly who was responsible for setting up the Criminal Offences Confiscation Fund, upon what criteria funds can be drawn down and whether this fund was originally established to fund rehabilitation of offenders?

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

I think Members now know why I asked my Assistant Minister to do the first 2. The C.O.C.F. (Criminal Offences Confiscation Fund) was established under Article 24 of the Proceeds of Crime (Jersey) Law 1999 to receive the proceeds of assets recovered under a confiscation order or received under an asset-sharing agreement. Article 24 specifies that the funds held should be applied in promoting supporting measures that prevent, suppress or deal with criminal conduct and the consequences thereof, facilitating any enactment dealing with criminal conduct or discharging obligations under asset-sharing agreements and meeting the expenses of administering the fund. The purpose of this fund is therefore broad and does not specifically address the funding of the rehabilitation of offenders. The fund is manager-controlled by the Minister for Treasury and Resources and is a special fund under the purposes of the Public Finances Law. Monies paid into the fund do not form part of the income of the States. The law requires the Minister to consult with the Attorney General and other persons or bodies as appropriate before applying monies in order to ensure that the funds are drawn down in accordance with the law, and a steering group has been set up to govern the use of the C.O.C.F.

#### **3.7.1 Deputy D.J. De Sousa:**

Can the Minister inform Members how much of the money from this fund has gone back into rehabilitation of offenders?

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

I would need to have notice of that question. I do not believe that any of the funds from all of the notes and research that I have carried out on the C.O.C.F. in the last few weeks has gone to rehabilitation of offenders directly. But that is not a criticism; I think that is an issue for the general Council of Ministers to put allocations for rehabilitation of offenders in the Minister for Home Affairs' budget. C.O.C.F. is only applicable for one-off expenditure, not recurring expenditure, because you cannot guarantee the funding stream. If you want money for rehabilitation of offenders or more, then that needs to be built-in to the base budget of Home Affairs' budget.

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

The Criminal Offences Confiscation Fund, in the debate in the last sitting on the last day of the last sitting, the Minister said while debating this particular fund that there were no assets left within that fund. Yet several days later at a presentation in the Oules Room, the Acting Treasurer of the States said there was something in the region of £7.9 million in that fund. Will the Minister confirm or otherwise that that is correct, and if so, does he believe he misled the House several days earlier in the comments he made about no funds being available in that fund?

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

I do not believe I did. I made it very clear, first of all when I lodged the proposition for court and case costs that there was certainly no prospect of any asset seizure. I am

advised that there was an asset seizure in relation to one criminal case that was made, and now those funds are sitting in the C.O.C.F. But they have not been transferred to the Consolidated Fund. That will be something that will happen later on this year. I was very clear to Members that I was inviting Members to set a budget which I think is an important thing that this Assembly does in relation to these costs; not simply almost slip it below the line and simply slip money from the C.O.C.F. without Members setting a budget. So there will be a draw-down from the C.O.C.F. and that will happen later on this year. I will undertake to tell Members exactly when that happens and the circumstances around it later on in the year.

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

Does the Minister not believe he was not properly briefed to come to this Assembly and give us the information he did on the day in question, given he tells us how closely he works with his Treasurer? Therefore I have got real concerns that in my case I voted on the information I was given by the Minister in good faith, and although I am not permitted to withdraw that vote, I would not have voted the way I did if I had known there was £7.9 million sitting in that fund or about to enter that fund.

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

The Deputy has a fearsome reputation for being a tough questioner, and I just remind him that I was asking the Assembly to approve a budget, and that was the right thing to do; and even if we had known then - and I was quite clear that there was a prospect of a seizure - I could not guarantee it, and it is not my decision of anything of the acts of the court or anything. I think the Attorney General's office and the Law Officers have done a fantastic job in relating to getting asset seizures and getting awards of costs and looking after the interests of the Island; and certainly that money is now available in order to apply to that budget which has been approved quite properly for the first time by this Assembly. I would ask him, even if he did know that there was £7.9 million potentially there, which we did not know at the time, he would not change his vote.

### **3.7.4 Connétable D.J. Murphy of Grouville:**

This Criminal Offences Confiscation Fund originally was 2 funds, I believe. There was a drugs fund which was differentiated from the criminal fund, and part of the strategy then was that the take from the drugs fund would be used for the rehabilitation of offenders. Has that changed since the amalgamation of the 2 funds?

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

I think that may answer Deputy De Sousa's very good question about rehabilitation. I think the Connétable is right. It is 2 separate funds, then merged; they are 2 funds, the Drug Trafficking Confiscation Fund is set up under Article 24 of the Drug Trafficking Offences Fund and that receives funds under confiscation orders, or similarly asset-sharing agreements in relation to Drug Trafficking. Funds are and should be applied in promoting and supporting measures that may assist in prevention, suppression or otherwise dealing with drug trafficking or the misuse of controlled drugs. That is a separate issue, and I think I now understand what Deputy De Sousa's points are in relation to rehabilitation of offenders. I will certainly do a further note to Members on that fund as soon as I am able to; it may assist Members. I am sorry if there has been a confusion. It is 2 funds.

### **3.7.5 Deputy D.J.A. Wimberley of St. Mary:**

That might half answer my question, because I heard the Minister at the outset talk about prevention and suppressing of criminal conduct as the goal of the Criminal Offences Confiscation Fund, and I just wanted to ask him if there was a documentary trail for the change of emphasis, because it certainly does not seem to be used for those purposes now.

[15:30]

Could he make sure that in that report which I think he has just promised to Members, that he does cover the 2 funds and how they have slipped around in terms of what they are used for?

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

I will do. But nothing that I have seen in relation to these funds has been used to slip around. What I have realised in examining this issue is that there is a greater need for transparency in terms of publication of the funds. But I was incorrect, I have to say, in answering a previous question to the Deputy of St. John a while ago. These were not party to the States accounts. That was wrong, and I apologise for that. They are not States money; they are separately constituted funds. I am currently in discussions with the Treasury for an appropriate way of disclosing that information in terms of an appropriate transparent arrangement.

### **3.7.6 Deputy D.J. De Sousa:**

Can the Minister then inform Members when it was realised that the funds were so desperately low from this fund, and who is overlooking the whole accounting of the fund, and whether they knew in advance that these funds would be empty?

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

It is not something that we can budget for like income tax. I am afraid I have no control and this Assembly has absolutely no control over asset seizures and the other sources of the funds. They are entirely non-political, they are unpredictable and indeed, I was aware that there was likely to be a seizure of some magnitude; I did not really know the details of it but that was ... I was informed of that and that was going to fund last year's court case costs but it did not come; and so then we had to apply carry forward balances for court case costs. It is not possible to budget, I am afraid, for these funds because of the nature of the income, but the income is probably there and it will be properly reported.