

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M.R. HIGGINS OF ST. HELIER
QUESTION SUBMITTED ON MONDAY 8th MARCH 2021
ANSWER TO BE TABLED ON MONDAY 15th MARCH 2021**

Question

“Further to the advice of H.M. Solicitor General on 14th December 2020 regarding funding for the Institute of Law and Sea Cadet Headquarters, is it the assessment of H.M. Attorney General that this advice is consistent with that given by Mr. Howard Sharp Q.C. (former Solicitor General) on 1st July 2014, regarding the financing of the grant to the National Trust for Jersey to purchase the Plémont headland site, in relation to how the Criminal Offences Confiscation Fund may be used; and if so, will he explain how the two pieces of advice on this subject align?”

Answer

The advice given by the Solicitor General on 14 December 2020 is entirely consistent with the advice given by Howard Sharp QC on 1 July 2014.

Under Article 24 of the Proceeds of Crime (Jersey) Law 1999, monies in the Criminal Offences Confiscations Fund (COFC) can only be applied by the Minister for Treasury and Resources for the following purposes, that is to say –

- (a) in promoting or supporting measures that, in the opinion of the Minister for Treasury and Resources, 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 for Treasury and Resources in administering the Fund.

The advice given by the Solicitor General on 14 December accurately confirmed that monies from the COFC could not be used to pay for pro bono work by the Institute of Law or for funding Sea Cadet Headquarters because this does not fall into any of the purposes listed in Article 24.

This is consistent with the advice given by Howard Sharp QC in 2014. The [Ministerial Decision](#) regarding the use of fund sets out the legal basis for the use of COFC funds. In summary, COCF money was distributed to the Home Affairs Department to be used to contribute to the cost of the new Police Headquarters (“PHQ”). This had the effect of freeing up an equivalent amount from the PHQ head of expenditure, which was then re-routed to fund the Plémont headland site in accordance with Article 18(1)(c) of the Public Finances (Jersey) Law 2005, which states that all or any part of the amount appropriated by a head of expenditure may, with the approval of the Minister for Treasury and Resources, be used for the purposes of another head of expenditure.

As the Solicitor General explained on 14 December 2020, this is not the same as distributing money for one purpose, using a portion of it for that purpose and then re-distributing the rest of the funds for another purpose, as would be the case if a portion of funds were taken from the States of Jersey Police Firearms Range and applied to the Institute of Law. In 2014, the whole of the funds from the COFC were properly used for the PHQ project, which freed up existing funds to be used for the Plémont headland site.