

2.6 Connétable D.J. Murphy of Grouville of the Minister for Treasury and Resources regarding criteria associated with funding granted from the Drug Trafficking Confiscation Fund:

In his written answer to a question on 13th February this year referring to the Drug Trafficking Confiscation Fund, the Minister referred to some applications being turned down because they were not: “80 per cent for illegal drug misuse.” Would the Minister explain to the Assembly what this condition means and also what other conditions are attached to these funds?

Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources):

The use of the Drug Trafficking Confiscation Fund is determined by Article 24 of the Drug Trafficking Offences (Jersey) Law 1988, which specifically states the following: “Moneys in the fund shall be applied by the Minister for the purposes of (a) Promoting or supporting measures which in the opinion of the Minister may assist in (1) preventing, suppressing, or otherwise dealing with drug trafficking or the misuse of controlled drugs; (2) dealing with the consequences of the misuse of controlled drugs; or (3) without prejudice to the generality of clauses (1) and (2) facilitating the enforcement of any enactment dealing with drug trafficking or the misuse of controlled drugs. (b) Discharging Jersey’s obligations under assets sharing arrangements. (c) Meeting the expenses incurred by the Minister in administering the fund.” I have passed a copy of that particular extract to the Connétable. The 80 per cent rule which he has referred to was developed to ensure that the overwhelming purpose of any funds being granted is to deal with the misuse of controlled drugs in accordance with the requirements of the Law. The other main criteria against which applications are assessed is that the fund should normally only be used to finance non-recurring expenditure, as by its very nature the source of funds of the Drug Trafficking Confiscation Fund is unpredictable. I have discussed the matter at quite some length with the Treasurer, who is adamant that the criteria applied to the fund are absolutely correct. As Members are aware the Comptroller and Auditor General is also in the process of conducting a review as to the governance of the Fund, and I am sure Members will be delighted to receive his report in due course.

2.6.1 The Connétable of Grouville:

Referring to Article 24(4)(a)(ii) dealing with the consequences of the misuse of controlled drugs, and then to Part 5, Article 24: “Before promoting or supporting any measure under paragraph (4)(a), the Minister should consult with the Attorney General with such other persons or bodies including other Ministers which he considers appropriate.” Now, nowhere in this Article does it refer to 80 per cent of the charity or the institution having to be spent on illegal drug work, i.e. either the consequences of, or the misuse of, and I wonder where the Minister got the figure of 80 per cent from in order to assess the generality of the charity concerned?

Deputy J.A.N. Le Fondre:

I did inquire on this matter of the 80 per cent rule, and it goes back certainly I think it was to the early 1990s when the whole thing was set up, I believe, by the Finance and Economic Committee of the day, or in conjunction with the officers. My understanding is that the principal purpose of the fund has to be... it is how you weight the criteria of are you assisting in dealing with the consequences of the misuse of controlled drugs. Therefore, if, for example, you were dealing with purely trying to rehabilitate an alcoholic, that would not meet the purposes of the fund. A certain proportion of the use of that money has to be towards the misuse of drugs, for example. The 80 per cent is obviously a very safe rule, because if 80 per cent of the money is used towards that purpose you are definitely falling within the purposes of the fund. I would have to say that as an accountant it is very dangerous for an accountant to try and re-interpret the Law, and I would pass the question, or suggest that the Connétable ask the question of the Solicitor General or the Attorney General as to whether the 80 per cent is an appropriate level or not, or whether it can be applied at a lower rate.

2.6.2 Deputy J.J. Huet of St. Helier:

Of this more or less unknown fund, could the Assistant Minister advise us how many politicians are involved with the decision of granting applications?

Deputy J.A.N. Le Fondre:

That is very easy, Sir. None.

2.6.3 Deputy J.J. Huet:

So, is the Assistant Minister saying that these large funds are solely being administered by civil servants?

Deputy J.A.N. Le Fondre:

Yes, Sir. My understanding is that the system was set up as I said in the early 1990s and it is chaired by the Treasurer of the States who, as I said, is adamant that the governance is appropriately being observed. They do very rigorously look at the criteria on the funds, and the other members of that fund include the Chief Executive Officers of Health, Home Affairs and, I believe, Education. I can obviously confirm those details with the Deputy in due course.

2.6.4 Deputy R.G. Le Hérissier:

In the case of dispute, or where a particular department is looking for an allocation from the Fund, does the chief officer of that particular department withdraw from that discussion?

Deputy J.A.N. Le Fondre:

My understanding is, yes, but we would have to confirm that, Sir.

2.6.5 The Connétable of Grouville:

I am still a little bit worried about the 80 per cent rule, because on my trawling through the figures and through the amounts that have been paid out from this fund, £66,675 was paid out for a boat for the harbour. Now, whereas I can understand that they do need a speedboat - or a very fast rib - in these cases to try and catch these guys, I cannot believe that the sole use of that boat 100 per cent of the time was chasing drug smugglers. On the second occasion I have to say there is £634,000 which was paid to the police on a confidential basis, so we do not know what that was used for at all. Now, I am not by any means belittling the police situation in this. They have a very difficult job to do and I am sure they need all the resources they can get. However, I do abhor the lack of political control over the dispensation of money, which is over half a million pounds.

The Greffier of the States (in the Chair):

Your question?

The Connétable of Grouville:

Would the Minister agree? [Laughter]

Deputy J.A.N. Le Fondré:

I think I will defer that one and wait for the response of the Comptroller and the Auditor General's report. I believe that is an issue that he should be considering in considering the governance of the Fund. If that is something that is deemed appropriate for the C.A.G. (Comptroller and Auditor General) to be looking at, then I think he should do so and we should wait his response.

2.6.6 Deputy J.J. Huet:

Could I ask does the Assistant Minister really believe it is correct that a huge fund like this is administered by a group of people that are not elected to the States, and that no politicians are involved. At the end of this, this is money, and should it be down to just a group of civil servants to issue what happens to it?

Deputy J.A.N. Le Fondre:

As I said, Sir, the governance is under review at the moment. The system was set up in the early 1990s. I think it is certainly time that it is reassessed on that basis. I think it is probably a matter for further discussion between the Minister and the Treasurer and I would await the outcome of those discussions.