

Seized Asset Fund Expenditure Policy

1. The first call on any confiscated or forfeited assets is the recovery of all reasonable costs incurred by the Fund or the States of Guernsey in any investigation, prosecution or litigation associated with their confiscation or forfeiture.

Sums recovered as respects costs incurred by the States of Guernsey rather than the Fund should nevertheless be paid into the Seized Assets Fund Costs Account, which will be used to hold them before re-imburement to General Revenue as required. The States Treasurer will establish a procedure for accounting for such costs, for application for cost recovery, and a mechanism for recovered costs to be returned to General Revenue for the benefit of either the Home Department or the Law Officers. Any costs incurred by the Fund will be paid into the Seized Assets Fund Criminal Justice Account.

2. In cases where the sums forfeited or confiscated exceed the costs incurred in recovering those sums, priority for disbursement of the confiscated or forfeited proceeds of crime should be afforded to any identified victims of that crime.

This general principle will not automatically apply in cases where the victim is a large corporation or Government where the circumstances may be more complex than situations involving individual victims. For example, within politically unstable jurisdictions there may be a risk any proceeds which are returned are then simply stolen again, so there needs to be a degree of flexibility where individual cases are considered on their merits. In such cases there is a strong argument that the proceeds would be put to better use by Guernsey to support its contribution to countering international crime.

3. Where not required to compensate victims of crime, e.g. in cases of drug trafficking or sanctions evasion, all sums which are recovered that exceed the costs incurred should be disbursed according to the following considerations and priority:
 - a. Through an Asset Sharing agreement with any partnering or requesting jurisdiction. Such sharing should only be undertaken where or when it is considered necessary. The amount shared with or from another jurisdiction should be agreed on a case by case basis but should reflect the impact and associated effort of each jurisdiction's contribution towards achieving forfeiture.

Responsibility for agreeing the terms of any Asset Share will rest with the Law Officers' Chambers but in close consultation with Law Enforcement.

Asset sharing agreements should be entered into at the earliest opportunity and prior to investigations being completed. Full cost recovery must be the minimum starting point for any negotiation which should aim to recover the maximum amount possible for the benefit of Guernsey.

- b. Save for exceptional circumstances (such as there being a precondition of any asset share that the funds are put to a specific purpose) the remainder should be paid into a Seized Assets Fund account designated as the 'Seized Assets Fund Criminal Justice account'.

An initial allocation of £250,000 will be made from that account to another account designated the 'Seized Assets Fund Community account'. Thereafter, in order to ensure that priority is given to supporting financial crime investigations and international criminal justice co-operation on an ongoing basis, all net forfeited funds will be made available to the Criminal Justice account unless the Community account requires a 'top up'.

The accounting for both the Criminal Justice and Community accounts will be undertaken by the Treasurer's team, liaising with St James Chambers as appropriate.

The Seized Assets Fund Criminal Justice Account

The criminal justice account will be ring fenced for use by Law Enforcement and the Law Officers to provide financial support for selected complex or resource-intensive investigations, individually identified international co-operation initiatives, and procurement of specific specialist equipment.

This account may be used to fund law enforcement and legal services required to be able to progress individual cases where funding is secure for a minimum of the proposed contract length. Ongoing financial support cannot be guaranteed and therefore funding should only be agreed for a defined period.

Authority for expenditure from the Criminal Justice account will be given by HM Receiver General on advice from the Director of Prosecutions, the Head of Law Enforcement and a Treasury representative.

The Seized Assets Fund Community Account

The Community account will be available to support both charitable and States work and may be used for broader purposes such as supporting Community Orders, crime prevention, drug and alcohol rehabilitation, and mental health initiatives; projects such as the Drug and Alcohol Strategy; groups like Victim and Witness support, and other relevant charitable or not for profit groups.

This account will have a maximum balance of £250,000 in the first instance. This maximum amount will be reviewed following two years of operation to ensure it remains appropriate.

As a matter of principle, ongoing financial support cannot be guaranteed and therefore funding should only be agreed for a defined period or for specific grants.

Authority for expenditure will be delegated to a subgroup chaired by Her Majesty's Receiver General, whose membership will also include one representative of each of law enforcement, the States Treasurer and one States Department according to the matter under consideration.

Her Majesty's Receiver General and the Secretary to the SAF Committee will report regularly in respect of the group's activities to the SAF Committee.