

# STATES OF JERSEY



## COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE – ADDITIONAL FUNDING

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Lodged au Greffe on 24th February 2015  
by the Chief Minister

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STATES GREFFE

## PROPOSITION

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree that up to a further £14,000,000 should be made available in order to provide additional funding in relation to the Committee of Inquiry into Historical Child Abuse (now known as ‘the Independent Jersey Care Inquiry’) and to request the Minister for Treasury and Resources, if there are insufficient funds from existing sources that could be re-allocated by the Minister for this purpose, to bring forward for approval a proposition asking the States to agree to amend the policy for the use of the Strategic Reserve Fund and to make available up to £14,000,000 from the Strategic Reserve Fund to fund the inquiry;
- (b) to request the Council of Ministers, if necessary, to bring forward for approval a proposition to amend the Medium Term Financial Plan 2013–2015 accordingly, in order to provide additional funding in relation to the Independent Jersey Care Inquiry;
- (c) to refer to their Act dated 6th March 2013 in which they approved the establishment of the Committee of Inquiry and approved its terms of reference, and whilst these terms of reference should remain unaltered, to agree that a separate procedural terms of reference should be appended in order that –
  - (i) the scope of the Inquiry as set out in the Terms of Reference is understood as covering the period 9th May 1945 to 3rd April 2014;
  - (ii) the Inquiry operates within the agreed revised budget of £13.7 million;
  - (iii) the Inquiry and the States publish jointly on their websites details of their expenditure on a monthly basis;
  - (iv) the Chair presents the report of the Inquiry to the States Assembly not later than 31st December 2016; and
  - (v) the Inquiry makes full use of all available published and unpublished reports which it deems relevant to the Terms of Reference.

CHIEF MINISTER

## REPORT

### 1. Background

On 6th December 2010, the former Chief Minister, Senator T.A. Le Sueur, made the following apology –

*“On behalf of the Island’s government, I acknowledge that the care system that operated historically in the Island of Jersey failed some children in the States’ residential care in a serious way. Such abuse has been confirmed by the criminal cases that have been before Jersey’s courts. To all those who suffered abuse, whether confirmed by criminal conviction or not, the Island’s government offers its unreserved apology.”*

In making that apology, the States of Jersey acknowledged failings in the Island’s historical residential care system identified during the States of Jersey Police investigation, ‘Operation Rectangle’. Operation Rectangle identified a total of 533 alleged offences reported and recorded between September 2007 and December 2010. Of these, 315 were reported as being committed at Haut de la Garenne children’s home. Eight people were prosecuted for 145 offences, and 7 convictions were secured. Police identified 151 named offenders and 192 victims. As a consequence, on 9th March 2012, the Council of Ministers agreed the details of a Historic Abuse Redress Scheme for those who were in the States of Jersey’s full-time residential care between 9th May 1945 and 31st December 1994. Detailed discussions with claimants’ lawyers concluded that individuals concerned would prefer to settle matters, if possible, outside of public and adversarial court proceedings. Under the Scheme, which began in April 2012, claimants provided the relevant details and the Scheme lawyers assessed each claim.

Since 2008 there have been a number of independent reports published which relate to Children’s Services. These have included –

- Williamson Report: An Inquiry into Child Protection in Jersey – June 2008<sup>1</sup>
- The Howard League for Penal Reform – Jersey Review: November 2008<sup>2</sup>
- Williamson Report: Implementation Plan – January 2009<sup>3</sup>
- Health, Social Security and Housing Scrutiny Sub-Panel Review: Co-ordination of Services for Vulnerable Children – July 2009<sup>4</sup>
- Report by the European Committee for the Prevention of Torture or Inhuman or Degrading Treatment or Punishment – July 2010<sup>5</sup>
- Youth Justice in Jersey: Options for Change – August 2010<sup>6</sup>
- Children and Young People: A Strategic Framework for Jersey 2011 (Consultation Document) – December 2010<sup>7</sup>

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<sup>1</sup> *Williamson Report: An Inquiry into Child Protection in Jersey – June 2008*

<sup>2</sup> *The Howard League for Penal Reform – November 2008*

<sup>3</sup> *Williamson Report – Implementation Plan – January 2009*

<sup>4</sup> *Health, Social Security & Housing Scrutiny Sub-Panel Review – Co-ordination of Services for Vulnerable Children – July 2009*

<sup>5</sup> *Report by European Committee for prevention of Torture 2010*

<sup>6</sup> *Youth Justice in Jersey: Options for Change – August 2010*

<sup>7</sup> *Children & Young People: A Strategic Framework for Jersey 2011 (Consultation Document) – December 2010*

<sup>8</sup> *Children and Young People – A Strategic Framework for Jersey – November 2011*

- Children and Young People: A Strategic Framework for Jersey – November 2011<sup>8</sup>
- Care Inspectorate – States of Jersey Inspection of services for looked-after children – January 2012<sup>9</sup>
- Health, Social Security and Housing Scrutiny Panel Review: Respite Care for Children and Young Adults – April 2012<sup>10</sup>
- Action for Children – Review of Services for Children and Young People with Complex and Additional Needs – September 2012<sup>11</sup>
- Care Inspectorate – Report of a follow-up inspection of services for looked-after children in the States of Jersey – September 2013<sup>12</sup>
- Health, Social Security and Housing Scrutiny Panel Review: Child and Adolescent Mental Health Services (CAMHS) – June 2014<sup>13</sup>
- Services for Children – Service Improvement Plan 2011 – 2013<sup>14</sup>
- Verita Report – Report to Council of Ministers<sup>15</sup>.

The recommendations and actions contained in these reports were reported to the Children's Policy Group<sup>16</sup> on a quarterly basis and are contained in the Health and Social Services Department's Service Improvement Plan. Since the approval of this Plan by the Children's Policy Group at the end of 2011, significant progress has been made in implementing many of the recommendations.

## **2. Financial costs to date**

### **Operation Rectangle**

In September 2007, Operation Rectangle began as an investigation into historical child sex abuse accusations. It was made public in November 2007. In response to a written question from the former Deputy of St. Martin on 1st March 2011, the Minister for Treasury and Resources reported the expenditure to date by the various departments in relation to the Historic Child Abuse Investigation. The Minister reported that on 8th September 2008, the States approved P.91/2008, as amended, to permit the withdrawal under Article 11(8) of the Public Finances (Jersey) Law 2005 of up to an additional £7.5 million from the Consolidated Fund as a contingency sum to meet anticipated expenditure by various departments. The Minister's answer also included funding reimbursed from the £4.25 million approved by the States in P.83/2009. In

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<sup>9</sup> Care Inspectorate – States of Jersey Inspection of Services for looked-after children – January 2012

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<sup>9</sup> Care Inspectorate – States of Jersey Inspection of Services for looked-after children – January 2012

<sup>10</sup> Scrutiny Respite Care 2012

<sup>11</sup> Action for Children – Review of Services for Children and Young People with Complex and Additional Needs – September 2012

<sup>12</sup> Care Inspectorate – Report of a follow-up inspection of services for looked-after children in the States of Jersey – September 2013

<sup>13</sup> Scrutiny Panel Review: CAMHS – June 2014

<sup>14</sup> Service Improvement Plan

<sup>15</sup> Verita Report

<sup>16</sup> Jersey's Children's Policy Group is made up of the Ministers for Health and Social Services, Education, Sport and Culture, Home Affairs; and includes the Assistant Minister for Health and Social Services with special responsibility for children, and the Assistant Chief Minister with special responsibility for social policy

total, departments had spent £11.3 million to date. This included £7.5 million for Home Affairs, £2.4 million for the Law Officers, £810,070 for Health and Social Services, £210,000 for Economic Development, £135,000 for Education, Sport and Culture, £122,193 for Property Holdings, and £83,087 for the Chief Minister's Department. £346,416 of the approved funding for this purpose was returned to the Consolidated Fund by public Ministerial Decision of the Minister for Treasury and Resources on 24th January 2011.

### **The Historic Abuse Redress Scheme**

The Redress Scheme commenced in April 2012 and closed to applications at the end of September 2012. It has received 132 claims, and by January 2015 had settled 116 claims. The cost of the scheme to date is £4.6 million. Of this, £1.9 million has been paid in compensation and therapy costs to claimants.

### **The Inquiry**

The States Assembly, at its meeting on 6th March 2013, adopted unanimously, as amended, the proposition in P.118/2012 – Committee of Inquiry into Historical Child Abuse (the Inquiry) (see **Appendices 1 and 2**). This approved the establishment of the Inquiry and its Terms of Reference (see **Appendix 3**).

The States Assembly had previously asked the Council of Ministers in 2011 to propose terms of reference for a possible Committee of Inquiry. Ministers in turn asked Verita, an independent UK consultancy firm with recent experience of investigations in Jersey, to report on how such an Inquiry might be framed. The subsequent Terms of Reference agreed by the Assembly are appended to this Report (see Appendix 3). In adopting P.118/2012, the Assembly recognised that the Inquiry would be complex and need administrative support as outlined in the Verita Report. The estimated known and quantifiable costs of the Inquiry were put at some £2.04 million and were considered in detail in section 2.12–2.15 and Appendix 3 of the Verita report.

Andrew Williamson, a UK social work consultant and author of the independent review of children's services in Jersey in 2008, considered these to be a fair reflection of the costs involved. However, it was borne in mind that this estimate did not include the legal fees, which could be significant. These may be incurred under legal advice for the Panel, legal costs of interviewees and the legal costs for a review of the decisions on whether to prosecute. Verita had advised that the legal costs of similar Committees of Inquiry may account for some 70% of the total overall costs. The magnitude of legal costs depend on the size of the Inquiry and the number of witnesses and their requirement for legal representation, all of which made it difficult to quantify precisely the full costs at the outset. However, the best estimate of the total costs of a Committee of Inquiry, including legal costs, was considered likely to be in the region of some £6 million.

Costs would need to be met from year-end carry-forwards and the Contingency for Emerging Items. There were no permanent staffing implications for the States as a result of the Proposition, although a number of temporary staff were needed. The cost estimate did not include officer time in departments which have dealings with the Committee – for example, for liaising with the Inquiry team, recovering documents, working with the States' lawyers around disclosure and supporting those who are witnesses. This meant that temporary staff were needed, either to assist in discharging

the States' obligations towards the Inquiry or to backfill staff who were assisting. It was identified that this, in turn, could have further cost implications.

### **Financial position**

The decision taken by the States Assembly to adopt P.118/2012 was on the understanding that the total cost allocated from the Central Contingency would not significantly exceed £6 million and that the Inquiry would complete its work within 12 months. This position was set out in the Minister for Treasury and Resources' comments on the Proposition presented to the States on 4th March 2012 (P.118/2012 Com.(2) re-issue) and confirmed in the directions by the same, presented to the States on 20th November 2013 (R.145/2013). Copies of these comments and directions are appended (see **Appendix 4**).

In the early stages of the Inquiry, the Panel considered that the approved budget would be adequate for the Inquiry. The Greffier of the States wrote to the Panel on 4th April 2014, prior to the Inquiry's launch, stressing that the States Assembly had set a maximum amount that the Inquiry would cost the public purse and that it was essential that the amount was not exceeded. The Panel undertook to make regular monthly reports to the Accounting Officer on expenditure.

Following a series of subsequent discussions and exchanges of letters, a meeting was held between the Inquiry and the then Treasurer of the States on 17th June 2014 regarding the adequacy of the budget. The Council of Ministers, at its meeting of 30th July 2014, received a report from the then Treasurer, proposing additional funding over and above the original £6 million. The total amounts proposed were £6.3 million for the Inquiry and £2.65 million for States Departments' internal costs (total £9 million). The Council of Ministers agreed with the Treasurer's recommendation and instructed the Treasurer to inform the Inquiry accordingly. Ministerial Decisions have recently been signed to give effect to transfers of additional funding to States Departments<sup>17 18 19 20</sup>.

### **Costs to date**

Total costs from the Inquiry launch to the end of December 2014 are as follows –

Inquiry (inc. Panel, Counsel and Solicitors' fees – see <b>Appendix 5</b> )	£5.2 million
States Departments (inc. SOJP, LOD, CMD, HSSD, ESC and legal fees)	£1.8 million

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<sup>17</sup> MD-TR-2015-0004, 26th January 2015  
[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=3e0d24b02ef3eea65341f9487d4e22b7\\_MDs2013](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=3e0d24b02ef3eea65341f9487d4e22b7_MDs2013)

<sup>18</sup> MD-HA-2015-0012, 27th January 2015  
[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=7f4056870f5ff4e74ef58bb7d0b553da\\_MDs2013](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=7f4056870f5ff4e74ef58bb7d0b553da_MDs2013)

<sup>19</sup> MD-ESC-2015-0002, 27th January 2015  
[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=46b8a9f2d3ba150014a4fefef5a45a7e\\_MDs2013](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=46b8a9f2d3ba150014a4fefef5a45a7e_MDs2013)

<sup>20</sup> MD-C-2015-0010, 10th February 2015  
[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=fbd091f601e313e41f34f579ee41fc32\\_MDs2013](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=fbd091f601e313e41f34f579ee41fc32_MDs2013)

### **Interim Funding for the Inquiry**

In a letter to the Treasurer of the States dated 9th January 2015, the Greffier of the States, as Accounting Officer for the Inquiry's finances, made it clear that it would be unlawful for him to approve orders or pay invoices once the allocated budget had been spent. The Interim Treasurer was instructed by the Council of Ministers at their meeting of 28th January 2015 to write to relevant Accounting Officers in order to authorise interim expenditure of up to £2 million until 30th April 2015. This interim expenditure would be met from contingencies if no alternative additional funding source was identified, and would be prioritised over all other existing calls upon contingency funds. Unless additional interim funding had been agreed, it would have been necessary for the Inquiry to stop all work by the end of April until a decision on future funding could be taken by the States Assembly.

### **3. Forecasts of Future Expenditure**

In October 2014, the Inquiry revised its own forecast of total cost to £7.8 million. At a further meeting with the Treasury in November 2014, the Inquiry again revised its forecast total costs to £8.8 million. The increase in cost was explained as being driven by the predicted extension to the duration of the Inquiry (then proposed to conclude in November 2015), and the Inquiry team's anticipated increased legal costs to manage the very significant document redaction and review process. In December 2014, the Inquiry then informed the States Liaison Officer that their latest forecast was that the Inquiry should conclude in July 2016 and estimated that the Inquiry's own costs would be circa £11.3 million. A further forecast, dated 9th February 2015, now puts the Inquiry's own costs, including contingency and set-up costs, at £13.7 million, with the Inquiry due to conclude by October 2016. This updated forecast is attached (see **Appendix 6**).

The Minister for Treasury and Resources wrote to the Panel Chair to request that the Inquiry provide a written report in order to obtain a better understanding of the expenditure to date and the basis for the future forecast expenditure, and so to enable an informed decision (see **Appendix 7**). The Inquiry Chair's response is attached (see **Appendix 8**).

In relation to departments, it is estimated that, based on current predictions and the Inquiry solicitors' requirements for redaction and provision of significant numbers of historic documents, the extended duration of the Inquiry may possibly increase the costs for departments in responding to the Inquiry from £2.64 million to £6.5 million.

The total costs for the Inquiry are, therefore, likely to be circa £20.2 million. Indications are that approximately £3.3 million of this sum (of which approximately £1.3 million is within States Departments) will fall beyond the end of 2015 and would therefore need to be addressed by an expenditure approval in the Medium Term Financial Plan 2016–2019.

#### **4. Source of Additional Funding**

All avenues of funding are being considered by officers, including –

- Consolidated Fund – significant measures have been required to maintain a positive unallocated balance. There remains a risk that some of the proposed measures will not be achieved, which could result in insufficient funds at the end of 2015, which would give rise to further measures being required.
- Central Contingencies – there is currently a balance of £800,000 forecast at the end of 2015 after all existing commitments have been funded. Further funding pressures exceeding the forecast remaining balance by £1.5 million have already been identified. Existing commitments and estimates are under review.
- Criminal Offences Confiscation Fund – the remaining balance is being used to fund the Police Relocation Project (subsequent transfer of £6.4 million to Consolidated Fund and £3 million to Contingencies for the Inquiry). £2 million will be left in the Fund to cover the risk of exceptional Court and Case costs.
- Other Funds – available funds have already been identified to transfer into the Consolidated Fund as part of the Budget 2015 Measures.
- Unspent capital allocations – a total of £8.8 million has been identified in the Budget 2015 ‘Proposed Measures’ to be returned to the Consolidated Fund from projects which do not require the funding in the current year. This will be reallocated for the same projects over future years to realign approvals with the latest proposed timescales for the projects.

#### **Strategic Reserve Fund**

Use of the Strategic Reserve Fund requires a proposition brought by the Minister for Treasury and Resources under Article 4 of the Public Finances (Jersey) Law 2005. Such a proposition would need to seek approval to vary the policy on the use of the Strategic Reserve Fund, which was set in September 2014 as part of Budget 2015 (P.129/2014, as adopted as amended). The current policy is attached (see **Appendix 9**).

The investment return on the Reserve in 2014 exceeded the amount required for the General Hospital project by circa £14 million in 2014 – if the States Assembly were to be asked, and were to agree, then a sum up to this amount could be allocated whilst preserving the capital value of the Strategic Reserve as agreed by the States. The known additional expenditure required is currently £11.2 million (£20.2 million forecast, less £6 million approved by the States Assembly, less £3 million agreed by the Council of Ministers to be funded from Contingency/COCF). However, given the increases in costs to date, it may be prudent, if there is no other alternative, to request a transfer of the full potential sum of £14 million from the Strategic Reserve Fund, with drawdown of any amounts in excess of the current forecast requirement of £11.2 million to be agreed by the Minister for Treasury and Resources and the Greffier of the States and reported to the States Assembly. It should be noted that the current policy requires that the Capital Value of the Strategic Reserve Fund is maintained in



real terms, and so there may be implications for future financial decisions which arise from any use of the Fund which reduces the Capital Value.

#### **5. A procedural Terms of Reference for the Inquiry in order to control costs**

The Panel has reiterated, in discussions with the Interim Treasurer and the Greffier of the States, that it is keeping strictly to its extensive Terms of Reference and has resisted any attempts from external sources to go beyond them. The Inquiry Chair has stated that any variation to the Terms of Reference for the Inquiry would be a decision for the States Assembly.

In order to clarify a range of matters which have a direct bearing upon the costs of the Inquiry, it is proposed that a set of Procedural Terms of Reference are appended to the existing 15 terms of reference for the Inquiry, which would remain unaltered.

The Terms of Reference cover the period from 1945 to the current day, meaning that relevant new information is constantly being created, which also causes issues with current live civil and criminal proceedings. It is, therefore, proposed that the Procedural Terms of Reference clarify that the scope of the Inquiry as set out in the main Terms of Reference will be understood as covering the period 9th May 1945 to 3rd April 2014 to coincide with the launch date of the Inquiry. This would enable the Panel to consider the present day services without requiring new information to be considered during the course of the Inquiry itself.

A significant number of independent reviews and investigations have been conducted into the police investigation, decisions to prosecute as well as current children's services. The original terms of reference included under 12 "The Inquiry should make full use of all work conducted since 2007." It is proposed, therefore, that the Procedural Terms of Reference ask the Inquiry to make full use of all the various published and unpublished reviews, court cases, investigations, etc. ("the reports"), which have so far concluded so that the Inquiry are not required to re-investigate issues that have already been independently and robustly reviewed.

The length of the Inquiry has a significant impact upon costs and, therefore, the Inquiry should operate within the revised budget limit and present their findings to the Assembly on a specified date. The original proposition (P.118/2012) asked the States Assembly –

*(g) to agree that the Committee of Inquiry should be requested to complete its work within 12 months of commencing the Inquiry.*

In order to provide some assurance to the Assembly, it is proposed that the Procedural Terms of Reference should include that the Inquiry operates within its agreed revised budget limit of £13.7 million and, as part of its commitment to full transparency of the work of the Inquiry, publish in parallel to departments, details of expenditure on its website on a monthly basis. The Inquiry would seek to ensure that its final report is presented to the Assembly by no later than 31st December 2016 (Note: the current financial forecast anticipates that the report should be presented by October 2016).

## **6. Implications**

### **(a) If further funding and procedural Terms of Reference are agreed to help address cost issues**

The Minister for Treasury and Resources may, under Standing Order 150, give directions as to the expenses that a committee of inquiry may incur as well as how such expenses are to be funded. Such directions were presented to the States Assembly on 20th November 2013 (see R.145/2013) and referred back to earlier comments lodged by the Minister for Treasury and Resources (P.118/2012 Com.(2) re-issue). These directions would need to be updated if additional funds were provided in order to specify the new limit and to indicate the source of funding. An indication will also be given as to the period during which this funding will be made available (e.g. up to December 2016).

Whilst some of the Inquiry costs are relatively fixed and predictable, such as accommodation, some costs, such as those relating to witness hearings, depend upon decisions taken by the independent Inquiry in order to fulfil its Terms of Reference. Given the breadth of those Terms of Reference, the period of time that they cover and the emergence of new evidence, fresh lines of necessary investigation are almost inevitable as the Inquiry continues its work. There can, therefore, be no guarantee that the funding required might not increase again in the future.

The drawdown of any amounts in excess of the current forecast requirement of £11.2 million, but within the limits set by the Assembly, would be agreed by the Minister for Treasury and Resources and the Greffier of the States and reported to the States Assembly. Should the overall forecast of funding required exceed the limits set by the Assembly, then any decision to provide further additional funding would need to return to the Assembly.

With regard to the Procedural Terms of Reference, the Chief Minister would consult with the Chair of the Panel on the publication of an updated Terms of Reference document to include the appended Procedural Terms of Reference as decided upon by the Assembly in order to assist in addressing cost issues.

### **(b) Impact upon Inquiry if further funding is not agreed**

Should the Assembly decide not to provide additional funding for the Inquiry, then the Greffier of the States, as Accounting Officer, will be unable to authorise any further expenditure by the Inquiry beyond the existing limit, and the Inquiry may be required to cease work by the end of April 2015.

Further discussion would need to take place with the Inquiry Chair and Panel as to how to bring the Inquiry to an orderly conclusion. This, in itself, is likely to require further additional funding of circa £1.2 million to manage arrangements until such time as the Inquiry could be wound down and a “report to date” completed in order to capture the evidence presented thus far and any initial conclusions. In doing so, the Inquiry could present the evidence from Phase 1(a) (background evidence and evidence from former residents of children’s homes and foster care). As expressed during former Senator F. du H. Le Gresley’s opening remarks to P.19/2011; this would: “allow those who had experienced abuse in the past to be heard, to know society supports them in speaking out and that their experiences are recognised.” It

would not, however, afford those who have had allegations made against them the opportunity to tell their side of the story or any consideration of the authority response to the historic investigation or decisions in relation to prosecution. In this regard, it would not enable the Inquiry to fulfil any of the terms of reference as adopted by the Assembly as appended to this report. Further consideration would need to be given as to how the evidence gathered to date could be used to assist the UK Goddard Inquiry into Child Sexual Abuse.

There is currently no identified source of funding for the estimated £1.2 million that would be necessary in order for the Inquiry to produce a “report to date” should the Inquiry Panel agree to undertake such a report. If the Assembly does not support this proposition’s request for additional funding, then such costs would need to displace other important earmarked calls upon contingency.

## **7. Conclusion**

The Committee of Inquiry is a function of the Assembly. The Council of Ministers has a duty in relation to the Medium Term Financial Plan to bring before the Assembly any such requests for significant additional funding for the Committee of Inquiry in the context of competing demands for public funding. The Chief Minister is, therefore, seeking a decision from States Members in order that the Council can understand the will of the Assembly in relation to funding for the Inquiry.

## **8. Financial and manpower implications**

The financial implications of this proposition are self-explanatory. Up to an additional £14 million would need to be made available to enable the Inquiry to conclude its work, and these funds would either be found by –

- re-allocating funding from existing Departmental revenue and capital expenditure budgets, refusing carry-forward requests, reallocating contingencies, or similar measures; or
- asking the States to amend the policy for the use of the Strategic Reserve Fund (often known as the ‘Rainy Day Fund’) so that funds can be used from that Fund for this purpose.

Part (b) of the proposition could only address that portion of the forecast additional expenditure (£7.9 million) that falls before the end of 2015. The remaining £3.3 million would need to be reflected in the Medium Term Financial Plan 2016–2019.

There are no new manpower implications arising.

**PROPOSITION**

**HISTORICAL CHILD ABUSE: REQUEST TO COUNCIL OF MINISTERS  
(P.19/2011)**

**As adopted by the States on 2nd March 2011 as amended**

THE STATES agreed to request the Chief Minister and the Council of Ministers to reconsider their decision and lodge a proposition asking the States to establish a Committee of Inquiry to investigate the following issues which remain unresolved in relation to historical abuse in the Island –

- (1) What measures were taken to address inappropriate behaviour from staff when it was discovered, and if those measures were insufficient, what other measures should have been taken?
- (2) How did those in authority at political and officer level deal with problems that were brought to their attention?
- (3) Were there any mechanisms in operation to allow children to report their concerns in safety and what action was taken if and when concerns were voiced?
- (4) Was a consistent and impartial approach taken when deciding on which cases to prosecute; and was the process free from political influence or interference at any level?

PROPOSITION

COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE (P.118/2012)

**THE STATES are asked to decide whether they are of opinion –**

- (a) to agree that a Committee of Inquiry should be established in accordance with Standing Order 146 to enquire into a definite matter of public importance, namely historical child abuse in Jersey; and that the Committee should be comprised of a senior legally qualified Chairman of significant standing from outside Jersey and 2 other members from outside the Island with suitable skills and experience;
- (b) to approve the Terms of Reference for the Committee of Inquiry (as set out in Appendix 1 to the Report of the Council of Ministers dated 5th November 2012);
- (c) to agree that the Chairman should be selected by a Panel comprising the Greffier of the States and 2 independent persons from the United Kingdom, with the selection process being overseen by the Jersey Appointments Commission;
- (d) to agree that the 2 members of the Committee should be selected by a Panel comprising the proposed Chairman, the Greffier of the States and 2 independent persons from the United Kingdom, with the selection process being overseen by the Jersey Appointments Commission;
- (e) to agree that the proposed Chairman should be requested to recommend any final changes to the Terms of Reference for the Committee of Inquiry referred to in paragraph (b) above for approval by the Assembly, and also to set out the proposed process for conducting the Inquiry having consulted with interested parties where necessary;
- (f) to request the Chief Minister to bring forward to the States the necessary proposition relating to the appointment of the Chairman and members and, if necessary, to the approval by the States of the final Terms of Reference if changes have been recommended by the proposed Chairman;
- (g) to agree that the Committee of Inquiry should be requested to complete its work within 12 months of commencing the Inquiry.

COUNCIL OF MINISTERS

## APPENDIX 3

### COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE (P.118/2012)

#### Terms of Reference, as amended

The Committee of Inquiry (“the Committee”) is asked to do the following –

1. Establish the type and nature of children’s homes and fostering services in Jersey in the period under review, that is the post-war period, with a particular focus on the period after 1960. Consider (in general terms) why children were placed and maintained in these services.
2. Determine the organisation (including recruitment and supervision of staff), management, governance and culture of children’s homes and any other establishments caring for children, run by the States and in other non-States run establishments providing for children, where abuse has been alleged, in the period under review and consider whether these aspects of these establishments were adequate.
3. Examine the political and other oversight of children’s homes and fostering services and other establishments run by the States with a particular focus on oversight by the various Education Committees between 1960 and 1995, by the various Health and Social Services Committees between 1996 and 2005, and by ministerial government from 2006 to the current day.
4. Examine the political and societal environment during the period under review and its effect on the oversight of children’s homes, fostering services and other establishments run by the States, on the reporting or non-reporting of abuse within or outside such organisations, on the response to those reports of abuse by all agencies and by the public, on the eventual police and any other investigations, and on the eventual outcomes.
5. Establish a chronology of significant changes in childcare practice and policy during the period under review, with reference to Jersey and the U.K. in order to identify the social and professional norms under which the services in Jersey operated throughout the period under review.
6. Take into account the independent investigations and reports conducted in response to the concerns raised in 2007, and any relevant information that has come to light during the development and progression of the Redress Scheme.
7. Consider the experiences of those witnesses who suffered abuse or believe that they suffered abuse, and hear from staff who worked in these services, together with any other relevant witnesses. It will be for the Committee to determine, by balancing the interests of justice and the public interest against the presumption of openness, whether, and to what extent, all or any of the evidence given to it should be given in private. The Committee, in accordance with Standing Order 147(2), will have the power to conduct hearings in private if the Chairman and members consider this to be appropriate.

8. Identify how and by what means concerns about abuse were raised and how, and to whom, they were reported. Establish whether systems existed to allow children and others to raise concerns and safeguard their wellbeing, whether these systems were adequate, and any failings they had.
9. Review the actions of the agencies of the government, the justice system and politicians during the period under review, in particular when concerns came to light about child abuse and establish what, if any, lessons are to be learned.
10. Consider how the Education and Health and Social Services Departments dealt with concerns about alleged abuse, what action they took, whether these actions were in line with the policies and procedures of the day, and whether those policies and procedures were adequate.
11. Establish whether, where abuse was suspected, it was reported to the appropriate bodies, including the States of Jersey Police; what action was taken by persons or entities including the police, and whether this was in line with policies and procedures of the day and whether those policies and procedures were adequate.
12. Determine whether the concerns in 2007 were sufficient to justify the States of Jersey Police setting in train 'Operation Rectangle'.
13. Establish the process by which files were submitted by the States of Jersey Police to the prosecuting authorities for consideration, and establish –
  - Whether those responsible for deciding on which cases to prosecute took a professional approach;
  - Whether the process was free from political or other interference at any level.

If, for these purposes, or as a result of evidence given under paragraph 7, in the opinion of the Chairman of the Committee, it would be of assistance that one or more of the prosecution files underpinning any prosecution decision may be examined in a manner to be determined by the Committee.

14. Set out what lessons can be learned for the current system of residential and foster care services in Jersey and for third-party providers of services for children and young people in the Island.
15. Report on any other issues arising during the Inquiry considered to be relevant to the past safety of children in residential or foster care and other establishments run by the States, and whether these issues affect the safety of children in the future.

**COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE (P.118/2012) –  
COMMENTS**

Presented to the States on 4th March 2013 by the Minister for Treasury and Resources

**P.118/2012 Com.(2) (re-issue)**

**COMMENTS**

The Minister for Treasury and Resources has particular responsibilities under Standing Order 150 “Committee of inquiry: remuneration and expenses”. These are set out below, along with his comments on the financial and manpower implications contained in P.118/2012.

**1. Responsibilities under Standing Order 150 “Committee of inquiry: remuneration and expenses**

Standing Order 150 states –

**Committee of inquiry: remuneration and expenses**

The Minister for Treasury and Resources may give directions as to –

- (a) the remuneration (if any) of a member of a committee of inquiry;
- (b) the expenses that a committee of inquiry may incur; and
- (c) how such remuneration and expenses are to be funded.

The following comments are intended to inform States members of the steps that will be taken under this Standing Order. Should the States approve the Proposition, the Minister for Treasury and Resources will at the appropriate time issue formal directions.

**2. Financial and manpower implications**

Estimated Cost

An initial estimated cost of £6 million was identified by the Chief Minister’s Department. This was produced with some assistance from Verita, who have previous experience of similar Inquiries. Further validation work has since been undertaken by the States Greffe and States Treasury.

The detailed estimates are attached at the Appendix.

In summary, the estimates include provision for the following areas of potential expenditure –

- Pre-Inquiry costs relating to recruitment of Chairman and Panel



- Remuneration for Panel members (plus travel, accommodation and subsistence)
- Management and administrative support to Panel and Inquiry
- Legal and specialist support to the Panel and Inquiry
- Accommodation (including fit out, furniture, equipment and rental)
- ICT systems (including Document Management and storage, Recording, Transcription) with associated IT support
- Transcription costs
- Document research (including Document Officer and support from Jersey Archive)
- Legal support costs to witnesses, individuals named and relevant organisations
- Communications
- Contingency.

By their very nature estimates have to be based on assumptions, and this is the case here. The main assumption is that the actual Inquiry itself will be for one year. Other key assumptions relate to the number of witnesses, named individuals and organisations to be interviewed. Allied to this is the level of legal support (and costs) that will be required to support those individuals and organisations.

These estimates will be reviewed when the Chairman and Panel are appointed and their approach to the conduct of the Inquiry confirmed. The £6 million estimate includes a contingency provision of £1 million recognising that there will inevitably be changes/developments as the process develops.

However it is considered essential that there is a clear indication given at the outset on both the likely timescale for the Inquiry and the Budget available.

Risks clearly exist for increased costs, should the timescale of the Inquiry be extended for whatever reason. This needs to be recognised and managed appropriately.

The financial and manpower implications also identify that the £6 million cost estimate does not include officer time in departments which have dealings with the Committee of Inquiry and which may lead to “backfill” costs. At this stage the expectation is that Departments affected will be required to meet such costs from within their existing budgets.

### Funding the £6 million

Should the States approve P.118/2012, it is recommended that up to £6 million be allocated from the Central Contingency that Members approved in the Medium Term Financial Plan. Such an allocation would be required to follow the approved and published procedures for the Central Contingencies (R.10/2012).

### Management of the £6 million Budget

The £6 million would be allocated to the States Greffe as part of the States Assembly head of expenditure. The Accounting Officer would be the Greffier of the States and financial management support would be provided through the existing States Treasury arrangements.

Management of the Budget would be required to comply with all aspects of the Public Finances (Jersey) Law 2005 and all relevant Financial Directions.

If approved, the Inquiry would operate over 2 financial years – 2013 and 2014.

It is expected that expenditure will be contained within the £6 million allocated. Ongoing forecasting will need to be undertaken as part of the regular budgetary controls procedures.

The Minister for Treasury and Resources intends, after having received formal advice in the usual way from the Treasurer of the States, to issue directions under Standing Order 150 to the Committee of Inquiry. The Directions will cover budgetary limits, financial procedures and reporting.

### **Re-issue Note**

These comments are re-issued because the second page of the Appendix was inadvertently omitted from the original publication.

**COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE –  
DIRECTIONS OF THE MINISTER FOR TREASURY AND RESOURCES**

Presented to the States on 20th November 2013  
by the Minister for Treasury and Resources

**R.145/2013**

**REPORT**

The Minister for Treasury and Resources may, under Standing Order 150, give directions as to –

- (a) the remuneration (if any) of a member of a committee of inquiry;
- (b) the expenses that a committee of inquiry may incur; and
- (c) how such remuneration and expenses are to be funded.

The Minister for Treasury and Resources, on 4th March 2013, presented to the States his comments on P.118/2012. These identified an estimated cost of £6 million for the Inquiry into Historical Child Abuse, which was to be funded from the Central Contingency.

Now that the Chairman and Panel have been appointed and their approach to the conduct of the Inquiry has been confirmed, the Minister for Treasury and Resources confirms that the sum to be made available for the Inquiry and the source of that funding are as set out in those comments on P.118/2012.

Independent Jersey Care Inquiry												
ACTUAL COSTS												
End December	Pre-hearing January-June	Phase (a) Victims narrative										Total
		Actual costs	July	August	September	October	November	December	Actual	Actual	Actual	
City rental & service charges	£45,404.42	£0.00	£50,428.27	£9,382.90	£0.00	£50,596.12	£0.00	£155,821.71				
Running costs												
Total	£12,589.99	£4,435.42	£5,750.91	£4,605.73	£4,147.88	£3,636.19	£3,395.69	£44,561.81				
IT & website support	£875.00	£2,424.00	£2,300.00	£1,630.83	£30.00	£191.00	£510.17	£7,761.00				
Penalty/fees and expenses	£203,696.30	£73,185.00	£37,630.00	£72,920.00	£71,150.00	£84,710.00	£42,350.00	£565,641.30				
Hotel/travel/subsistence	£832,244.70	£391,677.02	£345,240.75	£448,235.08	£511,786.59	£499,648.19	£368,060.01	£3,396,862.34				
Total	£79,679.22	£50,397.01	£79,306.52	£76,995.49	£57,674.78	£112,972.76	£30,353.97	£550,376.75				
Witness and Hearing costs												
Total	£29,396.97	£29,393.50	£35,365.28	£55,387.50	£73,660.18	£45,973.04	£34,395.52	£303,561.99				
Legal services for witnesses	£0.00	£2,790.00	£0.00	£0.00	£0.00	£0.00	£0.00	£2,790.00				
Expert witnesses; fees	£12,870.00	£1,400.00	£0.00	£0.00	£0.00	£1,600.00	£0.00	£15,870.00				
Totals	£1,012,860.30	£482,516.95	£518,391.73	£596,247.53	£647,299.43	£714,617.30	£505,705.36	£4,477,638.60				
04/02/2015 12:33												
Note: December costs includes estimates only for Eversheds; disbursements, fees, travel and subsistence												
States Greffe: staff costs												£59,193.94
Set up costs												£688,047.40
Promises alterations	£30,406.11											
IT & website	£81,313.66											
Rental & service charges	£52,858.80											
Utilities and telephone	£12,110.69											
Administration & office costs	£1,358.14											
Total	£688,047.40											£5,224,879.94

Forecast	Phase 1a Victims			Phase 1b*					Phase 2 Authorities response				Phase 3 Policy and Practice			Phase 4 report	
	January	February	March	April	May	June	July	August	September	October	November	January 16- Oct 15	Total	Contingency			
City rental & service charges (in advance)	£0.00	£50,896.12	£0.00	£0.00	£50,896.12	£0.00	£0.00	£50,896.12	£0.00	£0.00	£50,896.12	£0.00	£203,584.48	£51,000.00			
Flamingo costs	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£0.00	£11,000.00	£289,000.00			
IT & website support	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£5,100.00	£0.00	£82,100.00	£17,000.00			
Inquiry team fees and expenses	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£1,000.00	£12,000.00	£10,000.00			
Restoration of premises	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£73,000.00	£300,000.00	£1,070,000.00	£70,000.00			
Total	£457,000.00	£457,000.00	£457,000.00	£457,000.00	£457,000.00	£457,000.00	£457,000.00	£286,000.00	£357,000.00	£257,000.00	£257,000.00	£595,000.00	£4,681,000.00	£252,000.00			
Hotel/travel/subsistence	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£43,000.00	£46,000.00	£519,000.00	£53,000.00			
Witness and Hearing costs	£70,200.00	£70,200.00	£70,200.00	£66,200.00	£66,200.00	£66,200.00	£66,200.00	£66,200.00	£81,200.00	£81,200.00	£81,200.00	£0.00	£784,600.00	£57,000.00			
Legal services for witnesses	£0.00	£0.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£100,000.00	£1,000,000.00	£300,000.00			
Jersey Archive/ document services	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£55,000.00	£55,000.00	£5,000.00			
Publishing report	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	£20,000.00	£20,000.00	£5,000.00			
Totals	£576,300.00	£627,196.12	£676,300.00	£672,300.00	£725,196.12	£672,300.00	£672,300.00	£551,596.12	£567,300.00	£487,300.00	£538,196.12	£753,000.00	£7,537,284.48	£950,000.00			
Note	Phase 1b: evidence from alleged abusers, those working in children's homes, those who are alleged to corroborate allegations of abuse, foster parents and those working in Children's Services																
	Overall forecast spend with contingency																
	Total expenditure 2014																
	Expenditure 2014 + Forecast 2015/16																
														£8,487,284.48			
														£5,224,879.94			
														£13,712,164.42			



**Minister for Treasury and Resources**

P O Box 353, Cyril Le Marquand House, The Parade  
St Helier, Jersey, JE4 8UL  
Tel: +44 (0)1534 445502

Mrs Frances Oldham  
Chair  
Jersey Care Inquiry  
P.O. Box 551  
St Helier  
JE4 8XN

2<sup>nd</sup> February 2015

Dear Mrs Oldham,

**Report on Jersey Care Inquiry Expenditure**

Further to the Council of Ministers meeting on Wednesday 28<sup>th</sup> January and your meeting with the Chief Officer for External Relations and Constitutional Affairs and the Interim Treasurer of the States on Friday 30<sup>th</sup> January, I am writing to request that you provide me with a written report by mid-day on Monday 9<sup>th</sup> February. This report should set out as clearly as possible for the benefit of States Members:

- a detailed analysis of costs incurred to date, to include as a minimum the following headings:
  - set up costs;
  - venue hire;
  - running costs;
  - professional fees;
  - other fees;
  - IT and website support;
  - expert witness costs; and
  - travel and accommodation;
- a full explanation of the processes adopted by the Inquiry in carrying out its work;
- a description of the work that has been carried out so far;
- a description of the remaining work to be undertaken in order to fulfil the Terms of Reference;
- an explanation in as much detail as possible of the currently estimated costs for completing the work and the estimated timescales for each stage of work;
- your assessment of the principal reasons why the costs of the Inquiry appear likely to exceed the original allocated budget of £6 million agreed by the States.

The financial information within your report will be reflected within a report to be presented to the States Assembly by the Council of Ministers on or around Monday 9<sup>th</sup> February 2015. Your report in its entirety will be presented to the Council of Ministers on Wednesday 11<sup>th</sup> February for their consideration. In order to seek approval for the increasing Inquiry costs it will probably be necessary to lodge a report and proposition leading to a debate in the States Assembly.

Thank you for your assistance in this matter. If you have any questions during the preparation of your report please contact Richard Bell on 440215 in the first instance.

Yours sincerely



**Senator Alan Maclean**  
Minister for Treasury and Resources

direct dial: +44 (0)1534 440672  
email: [a.macleam@gov.je](mailto:a.macleam@gov.je)  
[www.gov.je](http://www.gov.je)

## Independent Jersey Care Inquiry

Senator A J H Maclean  
Treasury and Resources Department  
P O Box 353  
Cyril Le Marquand House  
St Heller  
Jersey JE4 8UL

9 February 2015

Dear Senator Maclean

### Report on Independent Jersey Care Inquiry Expenditure

Thank you for your letter of 2 February 2015 seeking information as to the ongoing work and costs of the Independent Jersey Care Inquiry. I have responded to your questions in the attached appendices, which I hope will be of assistance to States Members in considering the way forward.

I understand the financial pressures the Council of Ministers is having to address across budgets. It is clear to the Panel however that there are extremely serious matters regarding the history of care for children in Jersey which must be fully explored and addressed if the victims and indeed the whole island is to move on from what has been a very negative experience over recent years. Importantly we must make a judgement whether current services for children are fit for purpose and provide protection from the failures of care in the past. We can only do that if we are able to complete our Inquiry in full.

The scope of the Inquiry in terms of witnesses and documentation far exceeds the assumptions in the budget. In May 2014 I raised concerns about the potential cost of the Inquiry.

To date we have heard evidence of the experiences of 150 people who were within the care system from the 1940s. Whilst there have been accounts of positive experiences, most of what we have heard has related to painful and damaging experiences. The first phase of the Inquiry has been slow and painstaking, not least because of the difficulty many of the victims have had to wrestle with emotionally in terms of firstly giving a statement and then deciding whether to give evidence in public. Given the history of these matters in the island our first challenge has been to gain the trust and confidence of victims. The fact that in recent weeks more than 20 new witnesses have come forward is, I believe, a good indicator that we have made significant progress in that regard. Many witnesses have been prepared to give evidence in public of the most intimate forms of abuse and in doing so have demonstrated enormous emotional courage.

Freephone from Jersey/UK:  
0800 735 0100  
International callers:  
+44 (0)1534 828798  
[info@jerseycareinquiry.org](mailto:info@jerseycareinquiry.org)  
[www.jerseycareinquiry.org](http://www.jerseycareinquiry.org)  
PO Box 551, St Heller, Jersey, JE4 8UN

Witness Support Team (based in N Ireland)  
Freephone from Jersey/UK:  
0800 735 0008  
International callers:  
+44 (0) 1534 828794  
[support@jerseycareinquiry.org](mailto:support@jerseycareinquiry.org)



## Independent Jersey Care Inquiry

The feedback we have had from them as to how they have been treated by the Inquiry has been universally positive. Indeed, I understand that some have made this known to the Chief Minister. If we do not now fully address the question of why their care was so often lacking in the system over many decades we will be letting down not only the victims, but the people of Jersey.

That is one side of the story. Equally important is that we now move to the stage which provides the opportunity for those working within the services to tell their side of the story. We will also give those accused of abuse the opportunity to respond.

The Inquiry is also asked to consider whether decisions to prosecute were "free from political or other interference at any level". As I stated in my address on 3 April 2014, "we will formulate our own view as the Inquiry evolves and when we have accumulated sufficient evidence. Only then will the Panel be in a position to make findings as to whether the process was in fact free from political or other interference at any level". We are about to embark upon those hearings. It should not be thought that those parts of the Inquiry are severable. We cannot evaluate and/or make recommendations in relation to any one part without considering the whole.

We have constantly kept under review the running costs of this Inquiry. Public inquiries are, as you will be aware, inevitably expensive if matters are to be fully addressed. This is even more so the case given the very extensive Terms of Reference set for us by the States Assembly. Indeed, we have resisted pressure to add to the Terms of Reference. The nature of this Inquiry is such that the publicity it has been given and the confidence we have engendered in victims has led to them coming forward in greater numbers than envisaged at the outset.

We remain fully committed to examining how costs can be contained whilst not compromising our duty to act independently and to give you a full report in accordance with our Terms of Reference. Our purpose is to establish the truth; the truth about what happened to children in residential and foster homes, how mistreatment of children remained hidden for so long and what was done when concerns were raised.

Yours sincerely



**Frances Oldham QC**  
Chair

Encs

Appendix 1

Category	Expenditure to 31.12.14	Notes	Decisions
Set-up Costs	£688,047	<p>Set-up was primarily a function of States Greffe who are better placed to provide an accounting.</p> <p>Set-up costs cover the appointment of Panel, recruitment of legal and document management service providers, interim office accommodation and procurement and refurbishment of premises.</p> <p>Unanticipated delays and costs were incurred because the first chair appointed became seriously ill, and later died. A second search was instigated in Autumn 2013. Premises had already been secured by States Greffe for the Inquiry and the delays in recruiting a new chair and panel members resulted in the rent-free period of the premises expiring before the Panel was appointed.</p> <p>Panel participated in discussions around the refurbishment of the premises particularly around the need for security of documentation, protecting privacy of witnesses and need for transparency of process (e.g. open to public, facilities for documentation to be shown in hearing). Premises required complex security/privacy arrangements and very substantial IT related wiring installation. Adaptations were required by building owner to minimise impact of inquiry on other tenants in building.</p>	<p>States Greffe procured premises prior to appointment of Panel and undertook procurement of services and supplies, using a consultant they had appointed.</p> <p>Chair authorised overtime work for contractors on adaptation of premises to ensure hearings would commence in July.</p> <p>Chair asked that equipment and furnishings be recycled from States offices where possible or procured second-hand.</p>

Venue Hire	£155,821	<p>Suppliers and rates for refurbishment and its oversight were determined by States Greffe.</p> <p>See above notes. Premises accommodate public hearing space, privacy measures for witnesses, media room, interview rooms, interested party rooms, stenographers and office space for legal team and Panel. Until the inquiry office was available, temporary office accommodation was rented by States Greffe to allow initial work of the inquiry, including interviewing witnesses to get underway. Commercial premises were used to ensure a neutral venue without any adverse connotations for witnesses coming forward.</p> <p>When the hearings phase of the inquiry concludes, the premises could be considered for use for other tribunals/courts.</p>	States Greffe identified premises and negotiated rates with landlord.
Running Costs	44,561	<p>The premises have been operational 12-14 hours Mon-Thurs and 8-10 hours Fridays since April 2014. Since January 2015 some legal staff have worked from Eversheds Birmingham premises.</p> <p>On hearing days as a result of experience of challenging and distressed behaviour additional security is provided on the premises.</p> <p>Reception and other staff have been provided from off-island on the advice of the States to avoid conflict of interest.</p>	<p>Arrangements for services etc relating to these costs were made by States Greffe.</p> <p>Relocation of work which can be done remotely to Birmingham made by Panel to free up workspace and reduce travel costs.</p>
Professional Fees	£3,396,892	<p>All professional fee invoices are submitted to States Greffe for sign-off and processing.</p> <p>Solicitors to Inquiry: Eversheds</p>	<p>Rates for Panel set by States Greffe</p> <p>Rates for counsel agreed between Chair and States Greffe</p> <p>Rates for junior counsel set by Panel.</p>

It was anticipated that legal costs would be the area of greatest expenditure. The Panel set rates for legal services provided to the Inquiry or paid for by the Inquiry under its protocols at 2008 UK Treasury Rates. Interested parties whose costs are not met by the Inquiry are not bound to these rates.

The Panel accepted early on that legal services had to come from outside Jersey to avoid any potential conflict of interest and to promote confidence in the independence of the process. Additionally, the Panel was advised that the fee rates set would not be accepted in Jersey.

In the initial scoping exercise undertaken by Verita it was envisaged that a significant cost would be incurred providing legal representation for victim witnesses. Because of the approach the Inquiry has undertaken, no witness to date has required representation and much of the work it has anticipated would be undertaken by legal representatives (e.g. compilation of statements) has been undertaken by the solicitors to the Inquiry. Some of the budget allocated to "Interested party costs" should more properly be ascribed to the Inquiry legal team who have in effect covered this task.

The solicitors to the Inquiry are the first point of contact for potential witnesses. Some witnesses need a number of meetings before they can fully articulate their story. Documents are sourced and statements prepared. This process can take a few

Rates for legal team servicing Inquiry set by Panel at 2008 UK Treasury Rates. Panel interviewed a long-list of potential legal teams, then a short list, invited detailed submissions on approach and costs before making a recommendation to States Greffe who negotiated travel and subsistence arrangements.

Panel identified two sources of media support and recruited team which had sound track record working with issues arising from child abuse.

Rates for media team set at UK NUJ rates and for student at university intern rates.

Panel identified two potential suppliers of document management system and made recommendations to States Greffe following interviews and discussions on costs with potential suppliers.

meetings. Live witnesses require more preparation and hearing time than those whose evidence is read in to the record.

Documents to be used in the presentation of evidence are loaded on to the system and redacted of identifiable material. Documents are also catalogued. To date over 160,000 pages of documentation has been received, of which 60% has been fully processed.

The legal team have had contact from 266 potential witnesses so far. This number far exceeds the anticipated response to the Inquiry. A further 183 witnesses have been identified. Not all potential witnesses wish or need to give live evidence. Some will make statements to be adopted into the record some may choose not to go forward and give live evidence. The Inquiry seeks continually to achieve a balance between ensuring any adults, previously in the child care system in Jersey who wish to tell their story have the opportunity to do so and gathering the evidence that is most relevant to fulfilling its terms of reference.

#### **Panel and Counsel**

Counsel to Inquiry determine the nature of evidence to be presented to meet the Terms of Reference, in consultation with the Panel. This determines the workload for the Solicitors to the Inquiry. Counsel scrutinise and select documents for presentation to the Panel and take witnesses



through their evidence. The workload of Panel is determined by the volume of evidence presented and the number of witnesses heard. The Panel works continually on evidence analysis and evaluation when hearings are not taking place.

As time has gone on and issues have become better defined, the nature and level of documentation required can be more accurately identified and sourced. As the Inquiry has progressed, however, confidence and trust in its processes have grown leading to a steady increase in witnesses (21 in the past week alone) who were on the care system and want to share their experiences. Two additional junior counsel have been appointed to support the work of Counsel to the Inquiry in the light of the very large quantity of material which requires consideration.

#### **Media Team: Tartan Communications**

The media team consists of two journalists who work part time on a rota basis, responding to daily queries from media in Jersey, UK and beyond. A student journalist assists from time to time. The team manages the inquiry website and social media. It was initially envisaged that the need for media support would be much less once the Inquiry had been underway for a few weeks but this has not been the case. The media team were recruited at UK NUJ rates, the student at an intern rate. Additional support was provided initially by the consultant recruited by States Greffe at rates they had agreed. Once the Inquiry was well under

<p>Hearing Costs: Document Management System and Witness costs</p>	<p>£303,561</p>	<p>way this level of support was not necessary.</p> <p><b>Opus 2</b></p> <p>The Panel early identified the need for a document management system which allowed all the Inquiry's documentation to be held securely, to be shared, with a different level of access, with interested parties and to be displayed in the hearing room. The system had to be able to index and catalogue documents and allow rapid and complex searches across tens of thousands of documents.</p> <p>The Panel also recognised the importance, in a climate of distrust, of its proceedings being accessible to a wide audience as they took place, and of a record of its proceedings to be available for all stakeholders. A simultaneous transcription service was therefore sought. Additionally, some evidence because of its nature would make identifiable people who wished to have their privacy protected, or might jeopardise the confidentiality of individual's medical history or those of their families if it were in the public domain. A system was required which allowed the secure management of evidence heard in private session.</p> <p>The Inquiry made its requirements known to two leading providers of such services and recommended Opus 2 on a range of criteria including ease of use, flexibility and price. A significant discount was negotiated by the Panel for the system.</p> <p>The volume of documentation received so far is</p>
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		<p>around twice what was estimated. As the processing of each document incurs an additional cost, the expenditure on the system has exceeded the original budget. Some further discounts have been negotiated in recognition of the volume of processing being purchased.</p> <p>At the end of the inquiry the documentation could be archived and the system and its licences to operate and access could be considered for alternative use.</p> <p>The inquiry bears the cost of providing licences to access the system to stakeholders/interested parties.</p> <p>Stenographers and Opus 2 onsite technical support staff are provided to the inquiry through this contract.</p>	
Legal Fees for Witnesses	£2790	<p>As outlined above it was anticipated originally that witnesses would be separately represented. In the event, because of the approach the inquiry has adopted whereby all questions are put through counsel, witnesses have been supported by the inquiry legal team, thus minimal costs have been incurred under this heading so far. It is anticipated separate legal representation for more witnesses (e.g. former staff) will be required in the next phase.</p>	
IT and Website Support	£7761	<p>IT services from local companies were arranged by States Greffe before Panel was appointed. When the initial contract expired the Panel renegotiated it. Two inquiry admin staff were given training in</p>	<p>States Greffe arranged contract and agreed rates for one year. Panel renegotiated rates and set alternative low-cost support arrangements in place</p>



Expert Witness Costs	£15,870	<p>the system and most of IT support is now done in house with back up from a low-cost support service from Microsoft, reducing anticipated costs by around £30K.</p> <p>Local suppliers have provided services such as digital maps of key locations, MS Office software.</p> <p>Design services were secured by States Greffe and work on logos etc. undertaken, prior to the appointment of the Panel. This work was not subsequently used.</p>	<p>When needed these have been sourced locally from recommendations of the States Greffe.</p> <p>States Greffe appointed graphic designer and negotiated rates.</p>
Travel and Accommodation	£550,379	<p>The inquiry opened in July with evidence from four experts who set out the legal, policy and practice context of child care services in Jersey since 1945 and described parallel developments in England and their influences on Jersey. States employees provided input as part of their course of employment. The UK expert asked for fees to be donated to an educational trust undertaking research into child care. A daily rate at the lower end of academic fee rates in UK was agreed. The Panel are giving active consideration as to how further expert witness evidence can be received in the final phase of the inquiry without the need for personal appearance.</p>	<p>Fee rates arranged by Panel.</p>
		<p>The Panel were advised to ensure no conflicts of interest arose by recruiting its team off island to maintain confidence in the independence of the process. This approach has attendant significant</p>	<p>States Greffe set arrangements for travel and rates for accommodation and subsistence for different providers coming from UK.</p>

	<p><b>travel costs.</b></p> <p>Travel is arranged through the States travel provider at discounted rates. Accommodation costs are capped at the States daily rate. No subsistence (meals, taxis etc.) is paid to Panel Counsel and other service providers arranged by the Panel. The States Greffe agreed a different arrangement with Eversheds allowing subsistence to be claimed along with accommodation costs up to the daily SoI rate.</p> <p>In December 2014 part of the legal team was relocated back to the main Eversheds UK office to work remotely in order to reduce travel costs. Travel costs are paid within UK for those relocated Eversheds staff whose normal base is other than the main office.</p> <p>Travel within the UK and a small amount of travel in Europe by the legal team has been necessary to interview witnesses, some of whom have been reluctant to return to Jersey because of associations related to their early experiences. Where witnesses have travelled to Jersey or to venues in UK to give evidence by video-link, their travel and subsistence expenses have been paid at SoI rates.</p>	
Chair agreed travel costs within UK for Eversheds		

## Independent Jersey Care Inquiry

### Appendix 2

#### **“A description of the work that has been carried out so far”**

1. The Inquiry began its work in earnest in March 2014, when the appointment of the Panel (at the end of 2013) and the “Legal Team” – Counsel and Solicitors to the Inquiry (in early 2014) was complete.

2. The first task for the Inquiry was to set up working premises. This was a considerable undertaking. Premises had been identified and acquired by the States of Jersey (the “States”) in an existing office block on Seaton Place but the premises required complete renovation before it was suitable for the Inquiry. The premises had to be adapted to accommodate working offices for the Panel and the Legal Team, a hearing room, meeting rooms for use by those afforded Interested Party status and rooms for the Inquiry Team to meet with witnesses.

3. The office environment had to be suitable for the Inquiry to go about its work, with the required security, access and storage space to facilitate the Inquiry to hear from witnesses who are afforded protective measures, suitable facilities to meet with witnesses who wish to engage with the Inquiry, appropriate IT equipment and systems and appropriate storage for documentation provided to it.

4. Whilst the premises at Seaton Place were being adapted to meet the Inquiry’s needs, the Inquiry set up a temporary office to allow it to begin its work. The Inquiry moved to its offices at Seaton Place in June 2014.

5. The Chair officially opened the Inquiry on 3<sup>rd</sup> April 2014 at a public session in St Paul’s Centre. At that hearing it was announced that the Inquiry would issue summonses to the States and the States of Jersey Police (“SoJP”) for all documentation relevant to its Terms of Reference (“ToR”). Prior to this hearing the Inquiry had already been liaising with those who the Inquiry believed held relevant documentation, such as the States, the SoJP and the Law Officer’s Department.

6. The Inquiry has been in regular contact with document providers in relation to the provision of documentation since February/March 2014. The ToR to which the Inquiry is working are wide and the amount of potentially relevant material is vast. The process of the provision of documentation to the Inquiry has been slow. This is for a variety of legal reasons, such as data protection and legal privilege, and for practical reasons, such as the resource required by the providers to locate, process and provide the documentation.

7. The provision of relevant documentation is ongoing. This is in terms of both the Inquiry’s general requests at the outset of its work for material that is relevant to the

ToR, but also the numerous requests made by the Inquiry for specific disclosure. The Inquiry and the document providers continue to work together in relation to the provision of relevant material. The quantity is huge given the breadth of the ToR, in substance and timeframe. At the current time the Inquiry is aware that there is further documentation to be provided by the States and the SoJP. The Inquiry is yet to receive substantial disclosure from the Law Officer's Department, although the Inquiry team hope that this will be disclosed imminently. The Inquiry remains in contact with all providers to work through any legal and practical reasons for the delay in the provision of documentation.

8. To date the Inquiry has received 181,606 pages of documentary evidence. Approximately 103,000 pages are from the States of Jersey and approximately 27,000 are from the States of Jersey Police. The Inquiry has also received documentation from the JCLA and from individual witnesses. It is anticipated by the Law Officer's Department that it will disclose a minimum of 71,000 pages to the Inquiry. The Solicitors to the Inquiry have regular meetings with the providers of documentation to manage the provision of that documentation and the associated redaction process.

9. The collation, review and analysis of documentary evidence is only one strand of the Inquiry's work. The Inquiry considers that the provision of evidence from witnesses is absolutely crucial to its work and the Panel and Legal Team are grateful to all of those who have taken the difficult step of engaging with the Inquiry to give their evidence to date.

10. The Inquiry began by asking anyone with relevant evidence to get in touch with the Legal Team but there has, inevitable given the way in which the Inquiry has gone about its work in designated phases, been a focus on those who have come forward to share their experiences of their time in care. Of 3,558 potential witnesses identified to date, the Inquiry has contacted, or intends to contact, in the region of 600 witnesses.

11. To date the Solicitors to the Inquiry have interviewed approximately 140 witnesses and produced approximately 100 witness statements (some witnesses have been interviewed on more than one occasion). The interview process includes identifying relevant documentation from the vast amount of documentation that has been provided to the Inquiry, in accordance with its Protocols. This documentation is then exhibited to witness statements.

12. The Inquiry started its work with no documentation or list of possible witnesses. The first stages of the Inquiry's work was to seek to address these two key issues. The Inquiry made a number of calls for witnesses to come forward and a number of witnesses did engage with the inquiry at that early stage. Unfortunately, due to the need for the Inquiry to begin its work, many of these witnesses were seen without

the benefit of relevant documentation, some of which was subsequently provided. This has resulted in the need, on a number of occasions, to re-interview witnesses to allow them the opportunity to comment on the documentation provided.

13. The Inquiry is determined to conduct as much of its work in the public domain as possible. It is of course right that certain witnesses be afforded protection and a number of witnesses have sought, and have been granted, protective measures.

14. The Inquiry's hearings began on 22 July 2014 with opening submissions from Counsel to the Inquiry and submissions from Interested Parties. Since that time, 29 witnesses have given oral evidence, some of them on an anonymous basis and some in private session. In addition, the Inquiry has heard a significant volume of evidence which had been read into the record by Counsel to the Inquiry. Some of that evidence has been given to the Inquiry by witnesses who have engaged directly with the Inquiry and who have provided statements, but Counsel have also read in evidence which has previously been provided to the SoJP and/or other documentation, such as social services files, for a number of individuals who were in care. In total, evidence on behalf of 117 individuals has been read on to the record as of February 2015.

15. It is common practice for an Inquiry to read documents into the record. Documents are only read into the record when a witness has either not engaged with the Inquiry or has requested that their documents are read out loud in the hearing room. The necessity for this is that these individuals have previously provided their evidence to either the SoJP or the States (as part of the historic Redress Scheme) and as such their evidence falls within the extensive ToR and it is important that their evidence is considered by the Panel when drafting their report. It is also important that such evidence is made public to ensure that the Inquiry's work is transparent. The reading in provides further information to that given by live witnesses providing oral evidence.

16. To date the work of the Inquiry has primarily, but not exclusively, been focussed on phase 1a of its work. It is anticipated that the oral hearings for phase 1a will draw to a close in early March 2015. That is not to say that the Inquiry is closing its doors should any additional witnesses with evidence relevant to this phase of the Inquiry's work wish to come forward. In fact the Inquiry has had an additional 21 witnesses come forward in relation to phase 1a since the Inquiry re-opened after the Christmas break. However, the Inquiry now needs to move forwards with its work so its focus will move on to phase 1b in March.

17. Whilst a small number of witnesses who have relevant evidence for phase 1b of the Inquiry's work have already been interviewed by the Solicitors to the Inquiry, the Inquiry Legal Team has identified over 150 witnesses who it believes may have particularly relevant evidence to provide to the Inquiry in this phase of its work. In

terms of documentation, some of the 181,606 pages of documentary evidence received to date will be directly relevant to phase 1b, although it is anticipated that further disclosure will be specifically requested by the Inquiry in the coming weeks.

**"A full explanation of the processes adopted by the Inquiry in carrying out its work"**

18. The processes adopted by the Inquiry to enable it to meet its ToR are wide and varied. At the outset of the Inquiry's work, the Panel and the Legal Team gave time and careful consideration as to how the Inquiry would conduct its business and a set of protocols were drafted by the Legal Team to give structure to how the Inquiry would go about its work. They were designed to control the Inquiry's workload and limit its costs wherever possible. For example, the protocols have been designed to avoid the need for the Maxwellisation process which is an extremely costly process and results in the delay of an inquiry's report, as is the case in relation to the Chilcot Inquiry. This process often adds at least 6 months to an inquiry's work, often at huge expense.

19. The Protocols cover a range of issues.

19.1 The Inquiry has Protocols for:

19.1.1 General Procedures;

19.1.2 Data Protection, FOI and Redaction;

19.1.3 Media and General Public;

19.1.4 Oral Hearings;

19.1.5 Protective Measures;

19.1.6 Providing Evidence.

19.2 All of the Inquiry's Protocols are publicly available on the Inquiry's website.

20. The workload which the Inquiry faces is substantial. As outlined, the tasks are varied, as well as the processes that sit behind those tasks. Tasks range from running the office at Seaton Place, to reviewing documentary evidence, preparing for and conducting witness interviews, preparing for and conducting oral hearings, correspondence with document providers and legal representatives and planning the next stage of the Inquiry's work. The Panel are assessing the evidence as the Inquiry progresses and this assessment will feed into the Inquiry report.

<sup>1</sup> Where individuals due to be criticised in an official report are sent details of the criticism in advance of the publication and are permitted to respond before publication.

21. The Inquiry is being run on the basis of a rolling evidential programme; the Inquiry's hearings started within a matter of months of the full appointment of the Legal Team and before any substantive disclosure was received. As soon as sufficient evidence was gathered to begin phase 1a, the Inquiry opened and hearings began. The Legal Team are often a matter of weeks in front of the evidence that is being heard at the Inquiry. This is again to ensure maximum efficiency – preparation for the next phase of evidence takes place whilst the current evidence is being presented to the Panel in the hearing room.

22. There are detailed processes and procedures for many of the Inquiry's tasks. The processes have been carefully considered and are based on the Legal Team's collective previous experience of public inquiry work. This Inquiry is dealing with a considerable amount of extremely sensitive and personal information and, on a daily basis, has to deal with a mixture of very vulnerable witnesses, a range of legal representatives and witnesses who may be subject to criticism as a consequence of the Inquiry's work.

23. The volume of documentation disclosed to the Inquiry and still to be disclosed is vast. In addition, the number of potentially relevant witnesses is significant. It is vital that the Panel is able to hear, in public to the extent possible, sufficient evidence to allow them to produce a report that meets the ToR. The Legal Team seeks to adopt an approach which is proportionate on a costs basis. This means, for example, that not every witness who may have relevant evidence to provide can be interviewed and not every witness that is interviewed can be called to give oral evidence or that their statement or documentation will be read on to the Inquiry's record. Consequently, at each stage of the Inquiry's work, the Legal Team have to consider the range of evidence that is potentially available and seek to present a sample of that witness evidence to the Panel. This has recently been done in relation to phase 1b, with the Legal Team presenting a proposal to the Panel to reduce both the volume of documentation and the number of witnesses that will be considered in phase 1b. It is the Panel who are making the final decisions as to the amount of evidence they wish to hear.

24. Sifting through the documentation in a similar, proportionate way is more challenging. The Legal Team's preference would be to review all of the material in detail. Unfortunately time and cost proportionality does not allow for that, so the Legal Team are considering the documentation that is associated with those witnesses who are deemed to be central to the Inquiry's work.

25. This proportionate approach is in no way dismissive of the significant number of witnesses who have relevant and often very personal experiences which are relevant to the Inquiry's work. However, the volume of witnesses and documentation

is such that a proportionate approach is required if the Inquiry is to complete its work and make recommendations in a timely manner.

26. The States have asked for a "full" explanation of the Inquiry's processes. The range and detail of the Inquiry's processes are significant. To provide an example of one of the processes that the Inquiry team has in place, one of key roles of the Solicitors to the Inquiry is to obtain witness evidence. To date the Inquiry has primarily been collating evidence in respect of those with accounts of abuse and spent time in the care of the States of Jersey. In order to prepare an individual's evidence for an oral hearing (during any phase) an outline of the process is:

26.1 Witness identification;

26.2 Witness contacted;

26.3 Witness invited for interview;

26.4 Interview preparation – to include review of relevant material disclosed to the Inquiry at that point in time;

26.5 Conduct witness interview;

26.6 Prepare witness statement;

26.7 Make any further specific disclosure requests of the States, SoJP etc if documentation is identified by the witness which the Inquiry has not received;

26.8 Correspond with witness to finalise statement, including further meeting if necessary;

26.9 Redact statement, exhibits and any other relevant documents, so that they can be made public if the witness is called to give oral evidence or is read on to the record;

26.10 Correspond with the document provider in respect of redactions;

26.11 Arrange upload of statement, exhibits and any other relevant documents to the document management system;

26.12 Correspond with witness to arrange for attendance at oral hearing;

26.13 Arrange travel (and accommodation) for witness to attend to provide oral evidence and arrange independent witness support if requested;

26.14 Meet witness when they attend to provide evidence and ensure they are comfortable throughout their time providing evidence;



26.15 Follow up with witnesses post attendance and again offer to arrange independent witness support.

27. Within each of the steps above there are a number of additional procedures. For example, the vital and hugely time consuming process of redaction of documentation. As the Inquiry has been constituted as a Public Inquiry, it is vital that as much of its work is conducted in the public domain as possible. However, the Inquiry has to constantly balance this against the protection of individuals where it is right to do so and with respect to any legal constraints that prevent the Inquiry from publishing material. The burden of redaction is a heavy one and is made more complex by the fact that the Inquiry is taking place within a small island community. The redaction process is completed within a set of rules and guidelines that have evolved as the work of the Inquiry has progressed. An outline of this process is:

27.1 Those documents which are deemed to be particularly important to the ToR are redacted in accordance with the Inquiry's protocols. Each redacted document is reviewed twice; once by a junior member of the team and once by a more senior member of the team. When the redactions are applied the documents are re-uploaded to the document management system and released to the relevant document provider to ensure that they are happy with the redactions. Correspondence passes between the parties and when the redactions are agreed the documents are released to the Interested Parties before the hearing. The redaction process is a complicated process but this is important to protect individuals' identity. The Inquiry Legal Team has worked with the document providers to attempt to reduce the process and Advocate Lacey proposed an amended process on 18 November 2014. The Inquiry agrees with this proposed process, but the States of Jersey Police and the Law Officer's Department have refused. As such, the Inquiry is currently continuing with the original process, but will be revisiting this with all Interested Parties over the coming weeks, before commencing phase 1b.

27.2 To date 3,761 documents have been redacted totalling 16,018 pages. When documentation has been redacted and used in the Inquiry's hearings, it is uploaded to the Inquiry's website so that the public have full access to that documentation.

28. Another example of the processes outlined above is in respect of obtaining a witness statement from a witness. This process is as follows:

28.1 Once a potential witness is identified the Inquiry sends a letter to the potential witness requesting, if they are happy to do so, that they contact the Inquiry in order to arrange a meeting;

28.2 Some witnesses will call into the Inquiry premises to discuss the process before confirming if they are willing to attend;

28.3 Once a witness has confirmed that they are willing to attend a meeting to provide a witness statement to the Inquiry a mutually convenient meeting is arranged;

28.4 Each meeting is attended by two representatives from Eversheds; a lead interviewer and a note taker to thereafter produce the statement. Before the interview the lead interviewer will review all of the documents identified as being of relevance to that witness (to the extent that they have been disclosed);

28.5 At the interview, the lead interviewer will discuss the witness's experiences with them, including an analysis of relevant documentation. The note taker takes a detailed note of the meeting. The meetings can take anything from an hour to a couple of days in order to obtain all of the relevant information, depending on how much information the witness has and the vulnerability of the witness;

28.6 Once the interview is concluded the note taker will draft the witness statement. The statement is reviewed and approved by the lead reviewer and then sent to the witness for approval. Quite often the witness will remember additional details that they wish to include in their statement after the event and further conversations, sometimes further meetings, are had in order to finalise the statement;

28.7 When the statement is finalised and signed the statement and exhibits then need to be uploaded to the document management system and redacted in accordance with the Inquiry's protocols and the process is as detailed above.

29. To date the Inquiry has taken approximately 100 witness statements.

## IN THE INDEPENDENT JERSEY CARE INQUIRY

### NOTE ON REMAINING EVIDENCE

#### APPENDIX 3

##### **Introduction**

- 1) As set out in the Opening to the Inquiry on 3 April 2014, the Panel has elected to hear evidence in a series of Phases, which may be summarised as follows:
  - a) Phase 1(a) – background evidence and evidence from former residents of children’s homes and foster homes;
  - b) Phase 1(b) – evidence from alleged abusers, those working in children’s homes, those who are alleged to corroborate allegations of abuse, foster parents and those working in Children’s Services;
  - c) Phase 2 – evidence regarding the decisions made by the Law Officers’ Department in respect of the prosecution of individuals arising out of allegations of abuse of children, as well as evidence regarding potential political or other interference with those decisions;
  - d) Phase 3 – evidence regarding recommendations for the future of Children’s Services in Jersey.

##### **Summary**

- 2) Phase 1a hearings will finish in the first week of March 2015.
- 3) Following appropriate preparation, Phase 1b hearings will commence, lasting approximately 8 weeks.
- 4) After a further period of preparation for Phase 2, hearings of approximately 8 weeks’ duration will take place to consider the evidence relevant to that Phase.
- 5) Following preparation for Phase 3, hearings lasting approximately 3 weeks will take place to consider that evidence.
- 6) The hearing of evidence is likely to be complete by the end of 2015.

##### **Present position**

- 7) The substantive hearings of Phase 1(a) began on 22 July 2014. Since then, there have been 50 hearing days, with the Panel hearing evidence from 29 live witnesses. The evidence of a further 117 witnesses has been read into the record by Counsel to the Inquiry.
- 8) In very brief summary, the Panel has heard evidence about the following:
  - a) The constitutional background of Jersey (Dr Philip Johnson);
  - b) The children’s homes in operation in Jersey from 1945 to date (Tony Le Sueur);
  - c) A background to the operation of children’s services in the UK in the period under review (Professor Roger Bullock);
  - d) An overview of the legislative position in relation to the treatment of children in Jersey from 1945 to date (Richard Whitehead);

- e) Detailed evidence relating to the following homes:
  - i) Sacre Coeur;
  - ii) The Jersey Home for Boys;
  - iii) The Jersey Home for Girls;
  - iv) Clos des Sables;
  - v) Blanche Pierre/Le Squez;
  - vi) Haut de la Garenne ("HDLG") (largely from 1959 to 1969).
- f) Evidence relating to the provision of foster care in the island.

**Further Phase 1a evidence**

- 9) The evidence of a significant number of further witnesses in Phase 1a is to be heard in the period from 10 February to 5 March 2015. This witness evidence will cover the following:
  - a) HDLG, in the period from 1970 to its closure in 1986;
  - b) La Preference;
  - c) Les Chenes;
  - d) Brig y Don;
  - e) Heathfield;
  - f) Further Family Group Homes;
  - g) Foster care.
- 10) The evidence in Phase 1a goes to the following Terms of Reference 1, 4, 7 and 8.

**Phase 1b**

- 11) Following Phase 1a, Eversheds (the solicitors to the Inquiry) will start preparing the evidence for Phase 1b of the Inquiry. Preparation for this part of the Inquiry's hearings includes:
  - a) Reading and analysing over 75,000 pages of documentation disclosed to the Inquiry, all of which is thought to be of relevance to Phase 1b;
  - b) Identification of the key witnesses from a list of over 1,500 witnesses, whose names have been brought to the Inquiry's attention in the evidence heard and/or read to date. This evidence is crucial to the Panel's understanding of Terms of Reference: 2, 3, 4, 5, 7, 8, 10 and 11.
  - c) Contacting those witnesses and seeking to secure their attendance, by the use of summons if necessary.
  - d) Preparing the relevant documentation in relation to those witnesses who will attend to give evidence, including the identification by the legal team of documents relevant to any particular witness, with those documents being redacted and distributed to the Interested Parties;
  - e) Interviewing the above witnesses and producing statements and exhibits for use at the hearings;
  - f) Preparation of questions to the witnesses by Counsel to the Inquiry;
  - g) Other work by Counsel to the Inquiry, including:
    - i) Consideration of the disclosed documentation, as set out above;
    - ii) Preparation of opening statements for Phase 1b;

**Rules for the future operation of the Strategic reserve fund**

**1. SUMMARY AND OBJECTIVE**

1.1 The Minister for Treasury and Resources in his response to the Fiscal Policy Panel 2013 Report proposed before the 2015 Budget “to set out a strengthened definition of capital within the Strategic Reserve ...” and “... provide greater clarity for States members before further funds are withdrawn to invest in our new hospital.” (R.149/2013)

1.2 Therefore it is proposed that a Financial Direction be issued under Article 34 of the Public Finances (Jersey) Law 2005 (hereafter referred to as “the Law”) and applies to all States-funded bodies as defined in the Law.

1.3 The purpose of this report is to set out the mandatory requirements in relation to the Strategic Reserve Fund. Specifically it includes –

- The purpose of the Strategic Reserve Fund
- The powers and limitations placed on the Fund by the Law
- Those empowered to carry out actions on behalf of the Fund
- Strategic Reserve Fund investment structure
- The use of the Strategic Reserve Fund.

**1.4 Who should I contact if I have a question/need further guidance?**

Further information and guidance can be obtained from your departmental finance team in the first instance, then if necessary finance may need to contact:

**2. SPECIFIC REQUIREMENTS**

**2.1 The purpose of the Strategic Reserve Fund**

*Introduction*

2.1.1 The Strategic Reserve Fund (“the Fund”) was established by the States in 1986 with an initial capital injection of £10 million to provide the Island with some level of insulation from external shocks.

2.1.2 The Fund was enshrined in law as a permanent reserve on the enactment of the Public Finances (Jersey) Law 2005. Article 4(3) of the Public Finances (Jersey) Law 2005 requires that the Strategic Reserve Fund cannot be used for any other purpose than specifically recommended by the Minister for Treasury and Resources and approved by the States (see section 2.2.2).

2.1.3 The States’ Economic Growth Plan sets out the importance that macroeconomic stability has in creating the conditions for economic growth and low inflation. One key requirement for economic growth is the need to

provide a stable economy for businesses and consumers to make decisions in. The credit-rating agency Standard and Poor's awarded the States of Jersey a long-term credit rating of AA+ with a stable outlook in 2014.

### P.133/2006

- 2.1.4 The policy for the use of the Strategic Reserve Fund was approved by the States in P.133/2006<sup>21</sup>, which states that "...the capital value is only to be used in exceptional circumstances to insulate the Island's economy from severe structural decline such as the sudden collapse of a major industry or from major natural disaster".
- 2.1.5 An example of severe structural decline would be the financial services industry becoming uncompetitive and leaving Jersey. P.133/2006 states that "for the Island to deal with that and to try to smooth the process, £450 million is only a few years' worth of insulation against the loss of tax revenue." P.133/2006 further states that a "...suitable long-term aspiration is to grow the Strategic Reserve ... to a minimum level of around £600 million."
- 2.1.6 P.133/2006 policy for the Strategic Reserve Fund further says that the States may decide to sell assets currently outside the Strategic Reserve Fund, e.g. privatisation, and add the revenue received to the Fund. The income stream from the assets (e.g. past dividends) may have funded States' expenditure. The Minister for Treasury and Resources could use this as an opportunity to invest the income-stream back into the Strategic Reserve Fund, or transfer the return (preferably in real terms) into the Consolidated Fund. Under P.133/2006, this is the only payment possible from the Strategic Reserve Fund to the Consolidated Fund (outside of conditions being met for the use of the Strategic Reserve Fund).

### P.84/2009

- 2.1.7 The States subsequently approved P.84/2009<sup>22</sup>, in which they agreed to vary the policy approved in 2006 –

"...to enable the Strategic Reserve Fund to also be used, if necessary, for the purposes of providing funding for the Bank Depositors Compensation Scheme to be established under the Banking Business (Depositors Compensation) (Jersey) Regulations 200-; and to agree that monies from the Strategic Reserve Fund, up to a maximum combined<sup>23</sup> total not exceeding £100 million, should be made available if required to meet the States' contribution to the Bank Depositors Compensation Scheme and/or to meet any temporary cash flow funding requirements of the Scheme".

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<sup>21</sup> P.133/2006 'Establishment of a Stabilisation Fund and Policy for Strategic Reserve', adopted by the States on 5th December 2006.

<sup>22</sup> P.84/2009 'Strategic Reserve Fund: use for Bank Depositors' Compensation Scheme', adopted by the States on 6th November 2009.

<sup>23</sup> P.84/2009 capped the total cost of the proposed Scheme at £100 million, regardless of the number of banks operating within the Island which may fail.

- 2.1.8 Under P.84/2009, if the Fund makes a loan to the Bank Depositors Compensation Scheme "... it is envisaged that the loan will be repaid with interest and terms and conditions agreed by the Minister for Treasury and Resources".

### **P.122/2013**

- 2.1.9 A fourth use of the Fund was approved by the States under P.122/2013<sup>24</sup>, which agreed that –

“... the Fund could be used ... in order to enable the creation of new hospital services as part of the proposals agreed by the States on 23rd October 2012 in adopting the proposition ‘Health and Social Services: A New Way Forward’ (P.82/2012) – to agree, as an exception to the approved policy for the use of the Fund, that the Fund may be used for the planning and creation of new hospital services in the Island, and to approve the transfer of an initial sum of £10.2 million from the Strategic Reserve Fund to the Consolidated Fund in 2014 so as to provide for these purposes, in accordance with the provisions of Articles 4(3) and 10(3)(f) of the Public Finances (Jersey) Law 2005”.

- 2.1.10 The States have approved the cost of the new hospital services of an estimated £297 million will be financed from the investment returns of the Fund.

## **2.2 The powers and limitations placed on the Fund by the Law**

- 2.2.1 Under Article 4(1) of the Law, the Strategic Reserve Fund “... shall not be used to defray directly expenditure of the States”.

- 2.2.2 In accordance with Article 4(2) and (3) of the Law, transfers to or from the Fund must be approved by the States through a proposition lodged by the Minister for Treasury and Resources.

## **2.3 Those empowered to carry out actions on behalf of the Fund**

- 2.3.1 The Accounting Officer of the Strategic Reserve Fund is the Treasurer of the States, who is personally accountable for the proper financial management of the Fund in accordance with Article 38(A)(2) of the Public Finances (Jersey) Law 2005.

- 2.3.2 Under Article 56C of the Law, the Fiscal Policy Panel (FPP) is required to prepare and publish an annual report upon the state of the economy in Jersey and the States’ finances. Article 56C(2) of the Law states that the matters commented upon in the report must include –

- (a) the strength of the economy in Jersey;
- (b) the outlook for the economy in Jersey and, generally, world economies and financial markets;

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<sup>24</sup> P.122/2013 ‘Draft Budget Statement 2014’, adopted by the States, as amended, on 5th December 2013.

- (c) the economic cycle in Jersey;
- (d) the medium and long-term sustainability of the States' finances, having regard to the foregoing matters; and
- (e) transfers to or from, the Strategic Reserve Fund and Stabilisation Fund, having regard to the foregoing matters.

2.3.3 The Comptroller and Auditor General (C&AG) has a duty under the Law (Article 46(2)(a)) to provide the States with independent assurance that money withdrawn from the Fund has been used for the purpose for which it was authorised to be withdrawn.

2.3.4 The Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 (hereafter referred to as "the Regulations") (Chapter 2 – Investment of money owned or controlled by the States) requires the Minister for Treasury and Resources to develop and keep under review an Investment Strategy for money to which Article 6 of the Law applies (Regulation 3), which includes the Strategic Reserve Fund. The Investment Strategy must be presented by the Minister to the States (Regulation 4). Once presented, this empowers the Minister and the Treasurer of the States to carry out the required transactions necessary to invest the money of the Strategic Reserve Fund in accordance with the Investment Strategy.

2.3.5 The Treasurer must ensure compliance with the Investment Strategy (Regulation 5) and is responsible for appointing investment managers and other qualified persons (Regulation 6).

## **2.4 Strategic Reserve Fund investment structure**

2.4.1 In line with the Investment Strategy set by the Minister for Treasury (see section 2.3.4) and Resources<sup>25</sup> in order to meet the purpose of the Fund, the entire investment portfolio of the Strategic Reserve Fund is invested through the Common Investment Fund<sup>26</sup>.

2.4.2 The financial implications of P.84/2009 include the need for the Strategic Reserve Fund to hold £100 million in readily marketable assets if the Fund is to provide a source of funding to support the Banking Business (Depositors Compensation) (Jersey) Regulations 2009. This is within the scope of the current Investment Strategy.

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<sup>25</sup> R.139/2013 'States Investment Strategies', presented to the States on 11th November 2013.

<sup>26</sup> R.139/2013 'States Investment Strategies', presented to the States on 11th November 2013.



## 2.5 The use of the Strategic Reserve Fund

### *Definitions*

2.5.1 For the purpose of interpreting this report, the following definitions apply –

- **Initial Capital Invested:** the cumulative net capital invested in the Strategic Reserve Fund from inception (1986) to 31 December 2012 (£117,175,224). (Capital In – Capital Out = Net Capital Investment).
- **Investment Returns:** the actual or forecast cumulative investment returns on initial capital settled into the Strategic Reserve Fund. Investment returns are achieved based on the current Investment Strategy in operation at that time.
- **Total Fund Value:** the initial capital invested plus investment returns, i.e. the Net Asset Value (NAV).
- **Initial Capital Invested in real terms:** the initial capital invested increased by annual Jersey RPI(Y) increases, using 31st December 2012 Fund value as a base (£651 million).
- **Real Investment Returns:** the difference between the total Fund Value and the Initial Capital Invested in real terms.

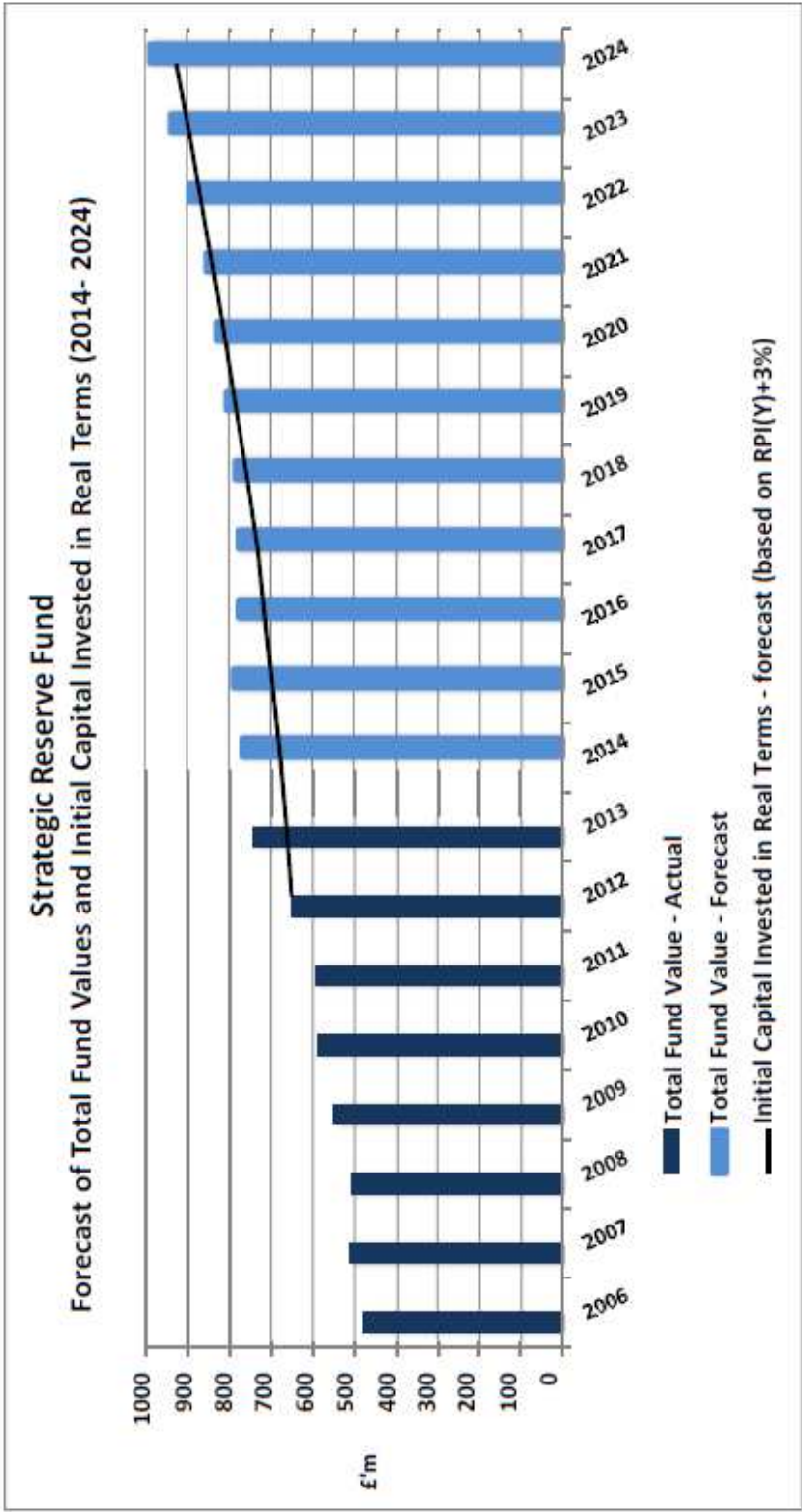
The Strategic Reserve Fund balance of £651 million is defined as the Capital Value of the Strategic Reserve Fund. The Capital Value of the Strategic Reserve Fund will be maintained in real terms using the Jersey RPI(Y) for the Inflationary factor.

### *Use of Real Investment Returns for the New Hospital Services*

2.5.2 Any future Real Investment Returns of the Strategic Reserve Fund from 1st January 2013 onwards will be used to fund the costs of the new hospital services. The States have agreed to the draw-down of up to £297 million from the Strategic Reserve Fund for this purpose.

2.5.3 For calculation purposes, all Real Investment Returns will be accumulated from 1st January 2013 going forward, for future years. The Total Fund Value as at 31st December 2012 of £651 million will be used as the start position for the calculation of forecast Real Investment Returns for future years. The Real Investment Returns will then be available to be drawn down to meet the total costs of the project up to £297 million. Cash-flows will be drawn down in line with the project cash-flow requirements.

2.5.4 The following chart and supporting information forecasts the Real Investment Returns for years 2014 to 2024. This includes the latest assumptions available for future forecast Investment Returns (based on RPI(Y) +3%) and RPI(Y) as at June 2014.



	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
<b>£'million</b>	<b>Actuals</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>	<b>F'cast</b>
Total Fund Value Actual/Forecast – opening	651.0	743.1	771.3	791.9	779.5	779.8	787.8	809.2	832.0	856.2	898.3	943.2
Estimated Growth @ 3% p.a above RPI(Y)	92.1	38.4	43.3	43.5	41.7	49.3	50.3	51.7	53.1	55.2	58	60.9
Net Growth – Hospital Allocation (2013 onwards)		-10.2	-22.7	-55.9	-41.4	-41.3	-28.9	-28.9	-28.9	-13.1	-13.1	-12.6
<b>Total Fund Value Actual/Forecast – closing</b>	<b>743.1</b>	<b>771.3</b>	<b>791.9</b>	<b>779.5</b>	<b>779.8</b>	<b>787.8</b>	<b>809.2</b>	<b>832.0</b>	<b>856.2</b>	<b>898.3</b>	<b>943.2</b>	<b>991.5</b>
Inflation – RPI(Y)	-13.0	-14.5	-18.0	-18.1	-17.3	-24.9	-26.0	-26.9	-27.8	-29.1	-30.1	-31.2
Net Growth after inflation	79.1	23.9	25.3	25.4	24.4	24.4	24.3	24.8	25.3	26.1	27.9	29.7
<i>Net Growth Cumulative</i>	<i>79.1</i>	<i>103.0</i>	<i>128.3</i>	<i>153.7</i>	<i>178.1</i>	<i>202.5</i>	<i>226.8</i>	<i>251.6</i>	<i>276.9</i>	<i>303.0</i>	<i>330.9</i>	<i>360.6</i>
Net Cumulative Growth – Hospital Allocation	0.0	-10.2	-32.9	-88.8	-130.2	-171.5	-200.4	-229.3	-258.2	-271.3	-284.4	-297.0
<b>Cumulative Net Growth left not allocated to Hospital</b>	<b>79.1</b>	<b>92.8</b>	<b>95.4</b>	<b>64.9</b>	<b>47.9</b>	<b>31.0</b>	<b>26.4</b>	<b>22.3</b>	<b>18.7</b>	<b>31.7</b>	<b>46.5</b>	<b>63.6</b>
Forecast Investment Return assumptions (p.a)	14.1%	5.2%	5.7%	5.7%	5.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%	6.5%
Forecast RPI(Y) assumptions (p.a)	2.0%	2.2%	2.7%	2.7%	2.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%	3.5%

2.5.5 The Forecasts above are estimates based on the actual forecast information available as of today, therefore actual results are likely to vary from the above.

- 2.5.6 The Treasury Department is responsible for tracking the actual level of Investment Returns available for draw-down from the Fund. They will prepare a schedule on a quarterly basis which shows the actual amount of returns available for use.
- 2.5.7 A Treasurer's Decision is required to transfer funds from the Strategic Reserve Fund to the Consolidated Fund as and when monies are required to be withdrawn from the Fund.

### **3. GOVERNANCE**

#### **Legal Responsibilities**

- 3.1 Details of those empowered under the Public Finances (Jersey) Law 2005 and the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005 to carry out actions on behalf of the Strategic Reserve Fund are covered in section 2.3 of this report.

#### **Scheme of Delegation**

- 3.2 Where the Minister and/or Treasurer delegate their financial authority, a Scheme of Delegation must be documented. The Scheme must detail what authority has been delegated to whom and any limits placed on that delegation.

#### **Required/Assumed knowledge of this report**

- 3.3 Accounting Officers: All  
Finance Directors: All  
Treasury Officers  
Directors.