

STATES OF JERSEY



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

Lodged au Greffe on 23rd February 2011
by Deputy M. Tadier of St. Brelade

STATES GREFFE

HISTORICAL CHILD ABUSE: REQUEST TO COUNCIL OF MINISTERS
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After point 6, insert the following point –

- “7. 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?”.

DEPUTY M. TADIER OF ST. BRELADE

REPORT

In its Report (R.8/2011), in which the Council of Ministers has set out its reasons for not pursuing a Committee of Inquiry, it talks of the Prosecution Process and states –

“The Council is in no doubt that fair and impartial justice has been delivered.”

Whilst this may be the case for the Council of Ministers, and possibly many or all States members, it is not true of the majority of those who directly or indirectly were let down by the States in the past. Indeed, their opinion, for the most part, is that there most certainly *is* doubt that fair and impartial justice has been delivered. Whether or not this position is *actually* correct is another matter, but it stands to reason that those who were at the receiving end of States’ inability to ensure that they were protected when they most needed protecting are unlikely to trust that same State when it comes to matters of deciding which prosecutions to pursue.

R.8/2011 then goes on to say –

“In July 2009, the then Attorney General also made a statement to the States Assembly in relation to cases where he had directed that there should be no further action.”

This is true, and indeed the Attorney General did also say that giving such detail about the decision making process was unusual, but he did so given the great public interest and scrutiny of the Historic Abuse Inquiry cases.

Whilst this statement will have been reassuring to States members and many others, it is ultimately *unverifiable* in nature and from the perspective of those who remain distrustful of the ‘system’ will ultimately be seen as ‘trust us – we know best.’ Indeed, in its recent newsletter the Jersey Care Leavers Association restated its position that it felt they had *‘been denied justice time and time again and been ignored by the States of Jersey,’* and that cases had been *‘dropped at the 11th hour when there was ample evidence to prosecute.’*

Deputy Hill himself states in the report to his amendment –

“The Assembly may wish to consider whether Ministers have done enough to restore and strengthen the confidence of ordinary Islanders in our system of justice, and whether the assurances so far given will be seen by the public at large as convincing and credible.”

He goes on to say –

“If significant numbers of people, whether justified or otherwise, do not have confidence in the impartiality and integrity of the justice system, then that lack of confidence is in itself a significant problem.”

There have also been allegations as far back as the notorious radio exchange between former Senators F.H. Walker and S. Syvret when the suggestion was mooted that Jersey might be tempted to prioritise its reputation and business interests above those of the victims themselves. Whilst even the mere suggestion of this is offensive to most

of us, it is still something which needs to be looked at *if* any Committee of Inquiry is to be meaningful and comprehensive.

Finally, the Deputy of St. Martin is quite correct in his report to draw attention to the fact that the independence of the Law Officers in taking prosecution decisions is paramount, and this amendment does not seek to question that, but affirm it. This amendment seeks to include within the terms of reference of any eventual Committee of Inquiry to establish that at all times during the process of decision-making, political interference of any kind was not attempted.

To conclude, the decision whether or not to have a Committee of Inquiry is ultimately for States members. However, if we are to have one – which I hope we do – it is necessary that it be comprehensive and meaningful and so must include an examination of the prosecution processes, amongst other things.

Financial and manpower implications

There are no additional financial or manpower implications arising from this amendment.