

# STATES OF JERSEY



## **COMMITTEE OF INQUIRY: HISTORICAL CHILD ABUSE (P.118/2012) – AMENDMENT (P.118/2012 Amd.) – SECOND AMENDMENT (P.118/2012 Amd.(2)) – COMMENTS**

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**Presented to the States on 4th March 2013  
by the Council of Ministers**

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**STATES GREFFE**

## COMMENTS

The Council of Ministers does not support the Second Amendment proposed by Deputy M. Tadier of St. Brelade.

The Chief Minister and Senator F. du H. Le Gresley have held constructive discussions and dialogue with Deputy Tadier and other stakeholders, and Ministers have, as far as possible, accommodated their proposed amendments to P.118/2012. These have been reflected in the Council's own Amendments to the Proposition.

The Ministers are surprised that having sought consensual agreement on the Committee of Inquiry and its Terms of Reference, that this Second Amendment is being proposed. This Amendment seeks to remove possible examination of prosecution files by *an independent expert or experts in criminal law from outside Jersey*. Instead such examination of prosecution files *may be examined in a manner to be determined by the Committee*. In essence, this may result in prosecution files being examined by the Committee itself, or some other person(s) of its choosing.

Ministers are of the view that the Committee of Inquiry, comprising a lawyer and 2 lay persons, will not be best placed to provide proper evaluation of a prosecution decision without specialist expert guidance.

Furthermore, the Committee of Inquiry would be reviewing decisions having heard evidence under Terms of Reference number 7. This is a very different position from that of those who actually took the prosecution decisions. Prosecution decisions are taken on the basis of a review of all materials in a prosecution file submitted by the investigating authorities. Hence the decision taker cannot be, and is not, influenced by live evidence. As such, it would be impossible for the Committee of Inquiry to conduct a proper review of prosecution decisions once they had heard any evidence that may be given under Terms of Reference number 7.

**Accordingly, the Council of Ministers urges States members to reject this Amendment.**