

# STATES OF JERSEY



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

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**Presented to the States on 28th February 2011  
by the Council of Ministers**

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**STATES GREFFE**

## COMMENTS

The Council of Ministers has published a comment on the original proposition and recommends that, although worthy of debate, a formal Committee of Inquiry is not the best way forward. Whilst the amendment proposed by the Deputy has the possible benefit of being more precise than the original proposition as to the terms of a Committee of Inquiry, the Council considers that a more precisely defined Inquiry would be too prescriptive, and would inhibit proper consideration of the broader options of the main proposition.

The current Council of Ministers has been very cognisant of the fact that their predecessors proposed that there should be a Committee of Inquiry. In normal circumstances, that alone should be sufficient to justify an Inquiry. However, the current Council is now aware that the previous Council and the Public had been seriously misled as to the size, scale and nature of the problems that were being uncovered at that time. Therefore it is the Council's view that it is only right and proper to consider the issue in the light of actual experience, rather than just set up an Inquiry, even if it will serve no real purpose.

The Council does recognise that the issue of historical child abuse is of such significance that it must be brought to a formal closure. However, there are still an unknown number of civil claims that need to be dealt with, and these may shed further light onto the problems in the past. Once these have been finalised, it would be appropriate to commission a report which presents an authoritative picture of the events and failings, based on the evidence uncovered in the course of the investigation, prosecutions and civil claims. Creation and publication of such a report would provide a clear and transparent account of the historical failings without the trauma, complexity and cost which would inevitably accompany a Committee of Inquiry.

The amendment starts with the question, "1. How have the Island's children's homes been run in recent decades?" The subsequent sections 2 to 6 are then a series of more specific questions clarifying the basic question. These questions cover the period from the end of the war until the closure of Haut de la Garenne in 1989, a period of some 40 years. During that period there will have been numerous Committees, many managers, a very large number of staff, and numerous different care and oversight regimes. The final Police report identified 140 people who have been identified as possible victims. It is not known how many people will seek to lodge civil claims.

These facts alone show the scale and complexity of a Committee of Inquiry. The Council has reviewed how other jurisdictions have undertaken Inquiries into other incidences of abuse. They have shown that a Committee of Inquiry would require significant legal and other support; that due to the nature of the allegations, witnesses, people making allegations and those accused also require legal advice and support. Experience elsewhere shows that what may seem a relatively straightforward Inquiry will almost inevitably become a legalistic, long drawn-out process with which most people feel frustrated and dissatisfied. There is little evidence if any internationally of any public inquiry meeting the expectations of victims. The proposed amendment would require the Inquiry to look at events over a 40 year period, carefully reviewing experiences and processes as they have changed. Many of the people who were involved are unlikely to be available, and those who are will be unlikely to be able to provide evidential support for their memories.

The Council believes that the trauma, complexity and long drawn-out timescale which will inevitably accompany a Committee of Inquiry are sufficient justification for opposing the amendment.

The Council of Ministers has already made it clear that if a Committee of Inquiry were to serve a useful purpose, then cost should not be a reason for not undertaking an Inquiry. However, it is important that if a Committee were to be set up, then there should be a clear and realistic understanding of the costs involved. In their report (R.8/2011), the Council has set out a reasoned justification for the likely cost based on experience elsewhere. The estimate has been calculated based on the resources that have been found to be necessary, scaled down to the likely size of a Jersey Inquiry. They are therefore the best and most realistic estimates that the Council has been able to determine. In the report, the Council sets out the basis for the estimate. The estimate is that an Inquiry with a reduced scope could cost in the order of £3 million to £5 million, with something of broader scope costing anything between £5 million and £10 million. The Deputy's amendment would produce a broad-ranging Inquiry going back over many years, and is therefore likely to cost more than £5 million. It is therefore impossible to understand how the Deputy could estimate that the cost will be less than £500,000. Any decision based on this estimate will be fundamentally flawed.

The Council of Ministers therefore recommends that this amendment be rejected, but accepts the proposition of Senator Le Gresley to reconsider a possible alternative way forward.