

STATES OF JERSEY



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

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

STATES GREFFE

COMMENTS

The Council of Ministers welcomes Senator Le Gresley's proposition as an opportunity for a significant debate on the need for a Committee of Inquiry and the depth of support for such an Inquiry. The Council of Ministers has carefully reviewed this question and is of the view that in the light of the actual outcome of the Police Investigation and the subsequent reviews, a formal Committee of Inquiry of the magnitude originally envisaged would not be justified.

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 our 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. Whilst there is no legal reason under Jersey Law for a Committee of Inquiry to proceed at the same time as these civil claims, it would be preferable, if a Committee of Inquiry were to be commissioned, for it to take place after civil claims had been addressed, to avoid the perception of conflict or prejudice. However, once the civil claims 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 an independent report would provide a clear and transparent account of the historical failings, without the complexity, trauma and cost which would inevitably accompany a Committee of Inquiry.

When the previous Council of Ministers published their report proposing that a Committee of Inquiry would be appropriate, it did not have the benefit of the information that is available to us today. Their report was in response to the claims and concerns at that time, which have now been proven to be largely unfounded. At that time, the public and the previous Council of Ministers was being told that the partial remains of a child had been found; that cellars containing punishment rooms had been discovered; that historically there had been a corrupt cover-up; and there was a frenzy of reporting which suggested that many children in care were likely to have been killed. In short, it was being suggested that Jersey had been the home to the worst child abuse atrocities in the British Isles. Not surprisingly, there was a sense of collective grief and a necessary desire to know how our society and the States could have failed to be aware of and stop such crimes. The current Council of Ministers, States' Members and the general public, now know that these claims were false, and have been shown to be false.

During its lengthy deliberations into the need for a Committee of Inquiry, the Council of Ministers has considered the weight of the recommendations and evidence contained in the reports and reviews that have been commissioned, and has drawn the conclusion that an Inquiry would not be appropriate. The Council is sympathetic to the fact that some people will have questions to ask, but believes that there are other ways to resolve these matters which may be better than a formal Committee of Inquiry.

There is also a risk of raising false expectations and of prolonging the pain of those who have suffered and continue to suffer.

The Council of Ministers will accept the proposition of Senator Le Gresley to reconsider its decision in order to review further the possible ways of addressing these matters, and will produce a report to the States within 3 months, recommending a suitable way forward.

ADDENDUM FOR INFORMATION

There have been independent reviews of current children's services and the police response to historical child abuse in Jersey. The results of these reviews have been the basis behind the improvements in children's services and police processes that have already been instigated and continue to be developed. The circumstances that now prevail in Jersey are totally different from those in 2008. The Council of Ministers firmly believes that the focus should now be towards the future, particularly helping those who have suffered from historical child abuse by providing an appropriate range of therapeutic services.

As described in its report (R.8/2011), the Council of Ministers takes a very strong view that our efforts should be concentrated on the continued support and development of appropriate care pathways to those who have suffered child abuse. The Council sees little benefit in looking backwards, perhaps 50 years, to historical standards of childcare which would not be acceptable today. Indeed, standards in many facets of life, including medicine, teaching and other social services, have changed beyond recognition, and will continue to change and improve into the future. Regimes that historically existed in all walks of life, not just in Jersey, will inevitably be found wanting compared to today's standards. Child care and child protection services are no different. Committees of Inquiry into these services in other jurisdictions have recognised this problem, and the difficulty of assessing standards in the context of the prevailing social conditions of the time. Indeed, that problem would be amplified as standards have changed gradually during the period, and there would be a need to set and judge standards at each comparative point in time.

A Committee of Inquiry would also be faced with the problem of access to witnesses and relevant people who have either moved away or died during the period in question. The correlation and verification of evidence will also be extremely difficult given the passage of time. In simple terms, a Committee of Inquiry will face some intractable problems, not least being the corroboration of evidence by witnesses of events occurring many years ago. There is no international evidence that any public inquiry has ever met the expectations of those that may have suffered.

The Council of Ministers has not considered cost as the deciding factor as to whether a Committee of Inquiry should be commissioned or not. It is, however, an issue to be considered, particularly within the current financial climate and the continued and growing demands on the States' revenue. Senator Le Gresley's proposition is silent on the question of funding.

The Council of Ministers has always held that the support of those that may have been abused is of paramount importance. The Council, with the help of Mr. Andrew Williamson, have put in place an independent gateway by which victims of historical child abuse can avail themselves of the appropriate services to help them achieve this goal. With the support of those who may have been abused as a firm focus, the Council is mindful of the Historical Abuse Systemic Review between 1950 and 1995 currently being undertaken by the Scottish Government, which provides a consolidated report and a validation forum (Time to be Heard) and supports the concept of an independent collation of all the evidence after legal proceedings have been completed. The Council of Ministers will be considering this option, which avoids the adversarial legal process that a Committee of Inquiry can impose on those already traumatised by their experiences.

Finally, the Minister for Health and Social Services also presents some comments on behalf of the Children's Policy Group (CPG).

The purpose of the CPG is to provide political leadership across services that benefit or protect Jersey's children and young people. The Ministers act jointly to uphold the aspirations of the UN Convention on the Rights of the Child, in particular the principle that "the best interests of the child shall be the primary consideration".

The CPG does not believe that a Committee of Inquiry would be in the best interests of today's children and therefore recommends that this proposition should be rejected.

We know that terrible harm was done to children in the past and that those children, who are now adults, have to live with the consequences and memories on a daily basis. We understand that there is a real desire amongst some, although not all, to have their stories heard and to find out how and why terrible things were allowed to happen to them.

A Committee of Inquiry would provide an opportunity for those who wanted to be heard, but it would not provide definitive answers. Time has clouded the evidence, dispersed the witnesses and immeasurably changed our understanding of what is right and wrong.

There is no doubt that the States of Jersey historically failed some of the children in its care. Mechanisms to prevent abuse and deal with its reporting and management were either not in place, were ignored or simply did not work. Even if it were possible, through a Committee of Inquiry, to accurately identify where those procedures and mechanisms failed, it would not change the outcome for today's children.

Those mechanisms are now in place. The Jersey Child Protection Committee and Board of Visitors have been established. The Social Work Inspection Agency is reviewing services. Standards, as well as social norms have changed substantially. Judgements in a Committee of Inquiry would have to be made on the accepted standards of the day.

A Committee of Inquiry by its very nature would look back, but it would not change the past. It would not focus resources to support children who the States of Jersey may have failed in its care. It would also not help to shape or improve current and future services, as this work has already been done.