

STATES OF JERSEY



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

**Lodged au Greffe on 15th February 2011
by the Deputy of St. Martin**

STATES GREFFE

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For the word “that” substitute the words “and lodge a proposition asking the States to establish”; for the word “any” substitute the words “the following”; delete the words “would not be appropriate”; and after the words “in the Island” insert the following questions –

- “1. How have the Island’s children’s homes been run in recent decades?
2. What procedures were in place to recruit staff and how was the performance of staff monitored? Should other steps have been taken to monitor performance?
3. 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?
4. How did those in authority at political and officer level deal with problems that were brought to their attention?
5. What processes were in place to assess the performance of the homes and what action was taken as a result of any problems that were identified?
6. 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?”

DEPUTY OF ST. MARTIN

REPORT

In late February 2008 the eyes of the world were focused on Jersey following the announcement that a large number of allegations had been received which suggested that there had been serious child abuse over a lengthy period at Haut de la Garenne. A very costly and extremely complex criminal investigation followed, which led to over 190 victims being identified and complaints of abuse having been carried out by about the same number of alleged offenders.

In almost a perverse way, although many of the media reports were grossly inaccurate and unfair, it did lead to even more alleged victims coming forward, which in turn led the media circulating allegations that Jersey had a “culture of secrecy” and “cover up.”

What became evident was the inability of senior politicians to manage the growing concerns emanating from the media. It was not surprising, therefore, that promises were made by the Council of Ministers to show the world that the Jersey Government was open and transparent. On 31st March 2008 it presented R.27/2008 which contained a public commitment to hold a full inquiry into any unanswered questions in due course.

The Report contained a series of likely questions which local residents and others from outside the Island had been asking. Those questions are on page 16 of R.8/2011 and are listed in my amendment. They either remain unanswered or have not been satisfactorily answered. R.27/2008 was seen by some as a public gesture and a commitment that those responsible for abusing children and those having oversight and responsibility for the management of the residential homes would be made to account for their actions. However, there were some people who saw R.27/2008 as a gesture of appeasement which was not worth the paper it was written on, because at the end of the investigations the Council of Ministers would find all sorts of reasons or excuses to avoid establishing a Committee of Inquiry to resolve the unanswered questions.

There can be no doubt that the investigation into the abuse allegations has been controversial and has caused distress to the victims, to those suspected of abuse and to those tasked with investigating the hundreds of allegations. This was particularly distressing during the early stages of the investigation when the world’s media took every opportunity to exaggerate or misinterpret information, some of which appears to have been as a result of tittle-tattle exchanged in public bars. However, many people have suffered as a result of the media reports, and the Council of Ministers’ decision to renege on its commitment without even taking the matter to the States just adds salt to the wounds and is just not acceptable.

Some 3 years on, and even if it has been decided that police investigations are concluded it cannot be said that the dust has settled, even though some people would like the matter put to bed. However, there are others who believe that to do so is more akin to pushing the problems under the bed. Whilst the public will hold diverse views, it should ultimately be for States members to decide the best course of action and not a small group of Ministers who believe they know best.

Senator Le Gresley is to be commended for lodging his proposition asking that the Council of Ministers reconsiders its decision. What has been evident these past 3 years is that the Council of Ministers has not demonstrated the leadership and transparency

one would have expected when dealing with the difficulties that have occurred during that period, therefore it is not surprising that they seek a quick solution.

Thanks to Senator Le Gresley's proposition there will be a States debate; however I am concerned that unless the debate is contained to something specific, it will be all too easy for the Council of Ministers to win the day by scare tactics regarding the cost, and unsubstantiated claims that all the issues which were unresolved in 2008 have now been resolved. Also it is claimed that some people will still be dissatisfied at the end of any inquiry.

On page 8 of its Report, the Council of Ministers states that it gave serious consideration as to whether an inquiry is required and justified in the following areas –

1. Historical childcare
2. Current childcare
3. The prosecution process
4. The police investigation.

Given that the previous Council of Ministers had identified 6 questions that would likely be asked by locals and others outside the Island, one would have thought that the present Council of Ministers would have used those questions as a template. However, I believe the reason it chose not to is because the questions remain unresolved, as I will make clear further into this report.

1. Historical childcare

The Council of Ministers is of the view that to look into the matter would be predominately backward-looking and would be unlikely to contribute to learning or provide public reassurance that current systems are effective. Also, given the time that has passed, the ability to uncover additional evidence or hold individuals or organisations to account is considered highly questionable. It also adds that the Police have investigated all the criminal allegations.

What the Council has ignored is that even though that issue is one of the 6 questions raised in 2008, no-one has investigated the management, particularly at Haut de la Garenne. Therefore the issue has not been resolved.

2. Current childcare

The Council of Ministers believes that this aspect has been fully covered by the Williamson report. Given that the procedures are now in place for independent inspections of services by the Scottish Social Work Inspection Agency, the first of which commenced recently. For this reason, the Council firmly believes there would be little benefit in undertaking a Committee of Inquiry in this area.

Mr. Williamson was engaged in 2007 to address concerns raised in the Kathy Bull Review of 2003 which were highlighted in the existing provisions and services. Neither reviewer addressed the issues at Haut de la Garenne. Nor did they review the procedures to recruit or monitor staff performance as envisaged in one of the 6 issues recorded in R.27/2008. Also, the current childcare was not considered to be an issue in R.27/2008 and, as such, it was not included as one of the issues of concern.

3. The prosecution process

The Council of Ministers believes that criticism that Island's prosecution service has delivered anything but fair and impartial justice is unjust and has no firm basis. Unfortunately it has not stated how it came to that view. Also, the Council of Ministers claims that the role of the Attorney General is covered within the independent Carswell Report which was presented in December 2010. Whilst the role of both H.M. Attorney General and H.M. Solicitor General were subject to the Carswell Review, the Review was about their general role and not specifically in relation to the historical abuse investigations.

Members may also wish to consider whether the Ministerial perspective in relation to the role of the Law Officers is too narrow, in that it primarily relates to the number and appropriateness of prosecutions. In a healthy society, perceptions of the system of justice can be as important as reality. 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. 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.

Running alongside this consideration is the issue of the performance of the Law Officers' Department as a high-cost public sector organisation, and the effectiveness of its management systems in dealing with high profile and politically sensitive issues. It is understood that guidelines for the effective management of historical abuse cases by prosecution authorities are to be found in other jurisdictions. Ministers have provided no assurances that such guidelines as are relevant were applied in Jersey's historical abuse investigation or even whether any audit or review of management performance against these guidelines has taken place. While members will wish to respect the independence of the Law Officers in taking prosecution decisions, that is a separate matter from considering whether a major public sector organisation is effectively managed and whether any issues of management performance contributed in any way to the creation of some of the negative perceptions associated with historical abuse investigation. Over recent years Ministers have quite properly strengthened and expanded the systems of external inspection of the managerial efficiency, best practice, and value for money, delivered by areas of the public sector, and have arranged for inspection reports to be made publicly available. It is understood that in the U.K. the prosecution authorities are subject to periodic inspections of their working practices and performance. Ministers have provided no assurance that they intend to introduce similar measures in Jersey, or of their assessment of the role of any such arrangements in addressing recognised issues of negative perception. Against this background, members may think that Ministers' proposals to effectively close the debate without further enquiry are premature.

4. The police investigation

The police investigation was not one of the 6 issues listed in R.27/2008, yet it has been considered by the Council of Ministers. Whilst I appreciate there are differing views relating to the investigation at Haut de La Garenne, I believe it is incorrect to claim that "the Wiltshire Police investigation would appear to fulfil the requirements for

public scrutiny and future improvement. In addition, the current proposals for a Police Authority seek to address concerns about the governance of the police.”

The Metropolitan Police reviewed the Haut de la Garenne investigation in less than 4 months but its findings have never been made available. The task of the Wiltshire Police was to review the Chief Officer of the States of Jersey Police’s role for discipline purposes. It took 12 months and cost in excess of £730,000, of which over £280,000 was spent on travel, accommodation, meals and entertainment. Despite the report being available in November 2009, no disciplinary action was taken and all allegations were withdrawn just before the suspended Police Chief retired. Overall, the suspension cost the taxpayer in excess of £1 million, yet it has gone unnoticed by the same Council of Ministers which is citing cost as one of the reasons for rejecting a Committee of Inquiry.

It is also claimed that the current proposals for a Police Authority will address the concerns about governance of the police. However, that fact should not be used as an excuse for any shortcomings from those who had political responsibility during the time when the abuse was being carried out or during the historical abuse investigation, yet that fact has been ignored.

Resource implications

It is not disputed that public inquiries are inevitably costly, and this was recognised in R.27/2008 when the Council of Ministers stated there would be significant cost to such an undertaking. The costs will vary widely, depending on the scope of any such exercise; and forecasting such costs in advance of establishing the detailed scope and terms of reference is particularly difficult. However, the potential cost did not deter the Council of Ministers proposing a Committee of Inquiry.

Given the feeble excuses for rejecting the appointment of a Committee of Inquiry, it comes as no surprise that the Council of Ministers should cite the cost of the Commission to Inquire into Child Abuse in Ireland which cost hundreds of millions of pounds. Jersey should cut its cloth accordingly and there should be no need for the Inquiry costs to run out of control.

Amendments

As one can see from the report above, the Council of Ministers’ reasons for opposing a Committee of Inquiry are feeble and flawed. However, I believe it is important that my amendments to Senator Le Gresley’s proposition are separated so that Members can decide whether they are satisfied that the individual questions posed in 2008 have been resolved, and vote accordingly.

1. How have the Island’s children’s homes been run in recent decades?

Despite the Council of Ministers’ claims to the contrary, there have not been any investigations into the running of all the residential homes. The Bull and Williamson reviews did not concern themselves with the way Haut de la Garenne was run, as it had been closed almost 2 decades earlier. The largest number of complaints/allegations came from former Haut de la Garenne residents. Their concerns have not been addressed, therefore that issue remains unresolved.

2. What procedures were in place to recruit staff and how was the performance of staff monitored? Should other steps have been taken to monitor performance?

Whilst it could be argued that the Bull and Williamson reviews did include some aspects into the running of some residential homes, they did not include Haut de la Garenne, nor did it look at recruitment or the monitoring of staff performance. Given the large number of complaints and the convictions of some staff, it is apparent that very little attention was given to the monitoring of staff. Therefore that issue remains unresolved.

3. 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?

The States Police concerned itself with allegations of abuse, not whether any procedures were in place to address the reporting of inappropriate behaviour. To the best of my knowledge I am not aware of any review being undertaken to investigate the issues above. Therefore that too remains unresolved.

4. How did those in authority at political and officer level deal with problems that were brought to their attention?

The issue of political and officer oversight is a key factor. Who was told what and what was done about it is an issue that must not be allowed to go unchallenged. It is inconceivable that so much abuse should have been occurring over such a lengthy period, yet no-one has been asked to account for it. The Council of Ministers are being totally irresponsible by failing to address the issue. The media has alleged that Jersey has a “culture of secrecy” and “cover up.” If we want to provide evidence to substantiate that claim, then we can do no better than to try to claim that this matter has been resolved when it plainly has not.

5. What processes were in place to assess the performance of the homes and what action was taken as a result of any problems that were identified?

This is another matter which has been ignored by the Council of Ministers. Following the Williamson Review, procedures are NOW in place, but it is apparent that there were little or no processes in place during the period when it appears that abuse was rife, particularly at Haut de la Garenne. However, again it appears that issue has not been investigated therefore it is unresolved.

6. 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?

This is another issue which was not considered by the Council of Ministers. It does comment on a number of key findings from inquiries into residential homes in the U.K., but conveniently avoids commenting on key findings from inquiries held in Jersey. The obvious reason being that no-one has conducted any review in Jersey. Neither is it intended to do so. It will be for Members to decide whether they are content to leave the issue unresolved.

The historical abuse enquiry was never about child murders, but about the systematic abuse of vulnerable children while in the care of the States of Jersey and how this was ever allowed to happen. We cannot move forward until the States recognises and accepts what happened in the past and is seen to be open and transparent in getting to the truth. It is all very well for the Chief Minister to admit that Jersey failed some children and to offer an apology. However, those abused want justice, not just from those who abused them, but from those in position of authority who either allowed it to happen or were so incompetent as not to notice what was happening to vulnerable children in their care. Many survivors were treated appallingly and their lives shattered for ever, that fact is acknowledged by the Council of Ministers.

However, to claim that an Inquiry is unwarranted because the circumstances have changed since 2008, because no evidence has come to light that murder took place and there have been fewer prosecutions than were envisaged, or to claim that no matter the outcome some people will never be satisfied, is grossly unfair and undignified. Whilst there have been well over 190 people who have reported cases of abuse, there are many others who are too frightened or ashamed to come forward to report cases of abuse inflicted on them. As can be seen, despite the large numbers of people abused and the large number of abusers identified, only a handful of people have been successfully prosecuted. However, no-one holding any position of authority has been taken to task. How can that be and how can we stand by and do nothing?

For the past 3 years there has been a growing unrest within the public of Jersey about the way the whole affair has been handled. To do nothing is not an option. A commitment was made almost 3 years ago and we should be duty-bound to maintain that commitment. Many of the survivors are never going to let the matter rest until a full and independent Committee of Inquiry is held, and that is the least we can do for them.

Financial and manpower implications

It should be noted that the previous Council of Ministers did not produce any financial or manpower details; however a commitment was made irrespective of the cost. Members will recall the public assurances given that all necessary resources would be made available to enable a full investigation to be carried out relating to the historical child abuse enquiry. Therefore a sum of money must have been set aside. If it was not, then what does it say about the Council of Ministers' intentions?

Funding is not the proposer's problem as nothing new is being proposed. The money set aside by the Council of Ministers in 2008 must still be available because of the commitment made. No doubt the Chief Minister will inform Members what sum of money was set aside.

However, as a figure must be provided as per Standing Order 21(2), I estimate that the cost will be no greater than the provision made by the Chief Minister when the commitment to hold an inquiry was made, and in any event will be less than £500,000.