

Review of Terms of Reference
for
Committee of Inquiry
into
Historical Child Abuse

by Andrew Williamson

I was asked by the Chief Minister to review both the terms of reference and the recommendations of the Verita report to the Council of Ministers into historical child abuse in the States of Jersey. The report was published in November 2011 and subsequently considered by the Council of Ministers.

The Verita report recommended that the Council of Ministers should commission a Committee of Enquiry into historical child abuse and listed a number of specific recommendations in relation to the composition of the members of the Enquiry Panel; the various aspects of children's services that should be investigated and that the timescale for the enquiry should be from 1960 to the present day. It was further recommended the Enquiry should consider the experiences of the witnesses who suffered abuse or believe they suffered abuse and also the views of staff who worked in the service during this period.

There are also recommendations for the Enquiry to review the actions taken by the Government of the States of Jersey when the various allegations of abuse within the care system were made and finally consider the action the States of Jersey has taken in response to the various reports commissioned over recent years.

Whilst this significant piece of work was being undertaken much work was going on both within the Health and Social Services Department and other departments involved with Children's safeguarding to ensure all recommendations from recent enquiries and inspections were implemented.

In preparation for writing this report I have carried out a number of enquiries, held meetings with various representative groups for children in, or have been in the care system in Jersey, and also other interested individuals or organisations who responded to the advertisement placed in the Jersey Evening Post in June of this year. I have also reviewed relevant reports and visited the Jersey Archives to confirm the existence of the relevant records.

One of the most significant developments since the publication of the Verita Report in 2011 has been the implementation of the Historic Abuse Redress Scheme in March 2012. The scheme is designed to deal with applications for compensation for sexual or unlawful physical abuse suffered by individuals between May 1945 and the 31st December 1994 when in the States of Jersey full time residential care. This programme was launched with a full apology by the States of Jersey to all those who had been abused and significant efforts have been made to publicise the Redress Scheme to ensure that all those who are entitled to claim for compensation do so within the 6 month timescale which concludes on the 30th September 2012. Financial provision has been made by the States to ensure independent legal advice is provided to all claimants and financial compensation has been provided for.

To date, a significant number of applications (nearly 100 by the end of June) to be considered for the Redress Scheme have been received. The Scheme is well publicised and has received media coverage. At the time of writing this report there are still three months remaining, for those who feel they have a claim to do so. I have looked at the way the Redress Scheme is being managed, the States response to claimants, and the support offered and I am impressed by the apparent non-judgemental way in which it operates. It is worth re-emphasising that the Redress Scheme is available for all former residents of Jersey's Children's Homes from 1945 to 1994.

It should also be noted that as part of the recent review of the Children's Services, in addition to the Redress Scheme and formal apology by the States of Jersey to all children who were abused whilst in their care, the States have financially invested in the Children's Service to ensure high standards of care are provided and that there is external scrutiny to ensure that these are maintained. External scrutiny exists both in the establishment of the Jersey Child Protection Committee and the reviews of the service by Independent Inspection Agencies. To further illustrate this point I understand that that as a follow up to its recent comprehensive review of the Children's Services provided across the Island the Scottish Inspection Agency has been invited to make a return visit in the near future to ensure all recommendations made as a result of the last inspection have been implemented.

Another significant development in the Children's Service is that since the completion of the Verita Report all of the Children's Homes, apart from Brig Y Don, that were in operation during the period of allegations of abuse have closed and smaller more 'family friendly' homes have been opened, together with a significant investment in the development of the fostering service. Brig Y Don has been completely refurbished and the management of this Home, together with all the recently opened Homes have introduced more open and transparent approaches to managing the Homes and involving the young people who are resident. A good illustration of these developments is the introduction of the Statement of Purpose and Function for the Home which is a document explaining the complaints and suggestions process.

To summarise in relation to the service provided for children in Jersey, many safeguards have been implemented to try to ensure a high quality of service is provided by trained, qualified staff who have all been vetted to ensure none possess a criminal record etc. It is crucial that this vigorous approach to ensuring high standards is maintained. The Improvement Plan which is updated on a quarterly basis and provided to the members of the Children's Policy Group provides regular information to the Ministerial Group of the achievements and areas requiring improvement. The availability of such information provides a valid benchmark for the delivery of quality services.

With regard to the various enquiries at the former Children's Home, Haut la Garenne, the police enquiry, Operation Rectangle, resulted in convictions against seven former members of staff working at Haut la Garenne and no further prosecutions are proposed.

There is however a strongly held view amongst some of the people who made contact with me during this review that a further examination of the decision whether or not to prosecute should be undertaken. Given that the Redress Scheme is currently progressing it may be appropriate for the States of Jersey to commission an independent, legal review of the decisions to prosecute or take no further action. This could be carried out by an independent non island based lawyer and will involve the reviews of factual evidence. It must be acknowledged that the police have undertaken a review of how they carried out the original enquiry into abuse suffered and general management of Haut La Garenne Children's Home.

Given the significant investment in the Children's Service and the Redress Scheme currently in operation a number of the original concerns have been or are being addressed. Nevertheless from the interviews I have undertaken and the information I have received there remains a strongly held view that there must be an independent enquiry to examine whether the Children's Services for a long period of time challenged or examined the quality

of the services provided and the overall standards of care. If this didn't happen was it a deliberate act and was there a conspiracy within the senior management and political representatives to ignore or deny the issues?

Whilst such an enquiry will inevitably be complex there is a strong determination to learn from the past to ensure that such practices, if they did exist, do not happen again. I would therefore recommend that, in order to avoid conflict with the Redress Scheme and various ongoing police matters the terms of reference for an enquiry are restricted to the issues of managerial and political accountability between 1960 to 1994 (the same period as the Redress Scheme). This should be chaired by a lawyer and I would recommend a person who is not a resident of the island. Further that a review could be carried out of the decisions to prosecute or not following the various police enquiries as a result of the Haut La Garenne investigation. This could also be undertaken by a lawyer who would review the paperwork which was considered at the time to determine whether there was sufficient evidence to proceed with a prosecution. Finally the States of Jersey may want to consider establishing a Truth and Reconciliation enquiry following the closure of all the claims made under the Redress Scheme. This could be undertaken by a national children's charitable organisation and could provide ongoing support and consistency to those who are making claims in the Scheme but have made it very clear to me that they would not be prepared to give evidence to a formal public enquiry. They would however appreciate the opportunity to talk about their experiences in a more confidential basis if accepted. This should not commence until the work of the Redress Scheme is concluded to avoid any possibility of adversely affecting the legal processes as the Redress Scheme draws to a conclusion.

Conclusions

To conclude therefore I would make three recommendations to the States of Jersey:-

1. To convene an independent Committee of Inquiry to look at the decisions taken by both political and senior management of the Children's Services in Jersey during the period 1960 to 1994 with particular reference to the standards of care provided to children in the care system.
2. To commission a review of the decisions taken whether or not to prosecute individuals identified during the police enquiry concerning the various allegations that culminated in the enquiry into Haut la Garenne. This can be undertaken by a lawyer, not resident in Jersey, and should be a review of the legal evidence available at that time.
3. Following the closure of the Redress Scheme in May 2013 the States of Jersey may wish to consider commissioning a Truth and Reconciliation Service to assist those individuals who made claims to talk about their experiences and receive support on a confidential basis. This would also enable those people who claim they've suffered abuse whilst in residential care but do not feel able to give evidence to a full public enquiry to talk about their experiences on a confidential basis.

Andrew Williamson