

The Independent Jersey Care Inquiry (the “Inquiry”)

Inquiry Protocol: General Procedures

Introduction

1. The Independent Jersey Care Inquiry has been established by the Council of Ministers by proposition lodged au Greffe on 6 November 2012, under Standing Order 146, adopted by the States on 6 March 2013, to investigate historical abuse in Jersey. The Inquiry’s Terms of Reference are annexed to this protocol at Annex A, and a copy can also be found on the Inquiry’s website at www.jerseycareinquiry.org.
2. Standing Order 147 says that a committee of inquiry may regulate its own procedure for the conduct and management of its proceedings. The Inquiry is also subject to the States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 2007:
 - 2.1 This General Procedures Protocol is intended to provide general guidance as to the procedures that the Inquiry intends to follow;
 - 2.2 For the Inquiry to operate effectively and efficiently, it needs to operate flexibly. The procedures set out in this, and other protocols, may be subject to amendment by the Inquiry during the course of the Inquiry at its discretion. Where an amendment or clarification is made, an amended version of the relevant protocol will be made available on the Inquiry’s website; and
 - 2.3 This Protocol is not intended to cover every eventuality that may arise. Where procedural decisions need to be taken, they will be taken by the Inquiry as and when necessary.
3. This General Procedures Protocol is subject to, and must be read in conjunction with the States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 2007. The General Procedures Protocol addresses the following matters:
 - 3.1 The Inquiry’s general approach;
 - 3.2 The designation by the Inquiry of Interested Parties;
 - 3.3 Access to the Inquiry’s work;
 - 3.4 Support for witnesses; and

- 3.5 Contact details.
4. The General Procedures Protocol must also be read in conjunction with the following Inquiry Protocols:
- 4.1 Legal Representation. This protocol addresses the designation of Accredited Lawyers and the procedures relating to applications for legal fees and expenses.
- 4.2 Providing Evidence to the Inquiry. This protocol sets out how the Inquiry will treat information, the Inquiry's procedures for requesting documents and witness evidence, and witnesses expenses.
- 4.3 Oral Hearings. This protocol sets out how hearings will be scheduled and conducted so that witnesses know what to expect when giving evidence.
- 4.4 Protective Measures. This protocol sets out the procedures that have been put in place by the Inquiry to: protect the identities of witnesses by ordering anonymity; restrict the attendance at the Inquiry; restrict the disclosure or publication of any evidence or documents; restrict the disclosure or publication of the identity of any person; and put in place special measures to protect the well-being of witnesses. The protocol also sets out the privileges and immunities that will apply to persons appearing before or producing documents to the Inquiry. Finally, it sets out the Inquiry's approach to alerting individuals or organisations about evidence that could form the basis of criticisms of them.
- 4.5 Data Protection, Freedom of Information and Redaction. This protocol sets out how personal data will be used during the Inquiry and addresses the Inquiry's approach to freedom of information requests. This protocol also sets out the procedures for obscuring information from a document, known as redaction, and how to make an application for information to be redacted in such a way.
- 4.6 Media and Conduct in the Hearing Room. This protocol sets out how applications for media accreditation can be made and the Inquiry's expectations of conduct in the hearing room.

General

5. The Inquiry will conduct its business in an inquisitorial, and not an adversarial, manner. This means that the Inquiry will take on the role of actively investigating the facts and finding out the truth itself, rather than relying solely on other parties to present the facts to it.

6. The Inquiry will also be engaging with vulnerable individuals. As a result, the Inquiry expects all those engaged with its work, including Interested Parties and Accredited Lawyers (as defined in the Inquiry Protocol: Legal Representation), to adopt a co-operative and constructive approach. Good and efficient relationships with the Inquiry will be essential to ensuring its smooth operation.
7. In making any decision as to the procedure and conduct of the Inquiry, the Inquiry will act with fairness and with regard to the need to avoid any unnecessary cost.
8. The Inquiry is a public inquiry. The aim is for the Inquiry to be as open and as transparent as possible. In accordance with Standing Order 147(2), proceedings before the Inquiry shall be held in public unless the Inquiry, in the interests of justice or in the public interest, decides that all or any part of the proceedings shall be in private. The Inquiry may also decide that any part of the evidence shall be given in public, but without identifying the person giving the relevant evidence (i.e. giving evidence anonymously).

Interested Parties

Applications for Interested Party status

9. The Inquiry may designate an individual, institution or other organisation (including any States department or other public body) as an Interested Party at any time during the course of the Inquiry, provided they consent to being so designated.
10. In addition, any individual, institution or other organisation (including any States department or other public body) that considers it may have a relevant interest in matters to be considered by the Inquiry may apply to the Inquiry to be designated as an Interested Party.
11. Any individual, institution or other organisation (including any states department or other public body) who wishes to be designated as an Interested Party must make an application to the Inquiry.
12. In deciding whether to designate any individual, institution or other organisation (including any states department or other public body) as an Interested Party, the Inquiry will consider in particular:
 - 12.1 Whether the person, institution or organisation played, or may have played, a direct and significant role in relation to an issue or issues to which the Inquiry relates;

- 12.2 Whether the person, institution or organisation has a significant interest in an important aspect of the matters to which the Inquiry relates and will assist the Inquiry to fulfil its Terms of Reference;
 - 12.3 Whether the person, institution or organisation may be subject to significant criticism during the Inquiry's proceedings or in any interim report, or in the final report;
 - 12.4 Whether the person's, institution's or organisation's interests or contribution to the Inquiry requires the status of being an Interested Party; and
 - 12.5 Any other circumstances which the Inquiry considers relevant.
13. Applications for designation as an Interested Party must be made in writing to the Solicitors to the Inquiry, and must set out the grounds for the application.
 14. If the Inquiry considers that further information is required before it can make a decision, the Inquiry may require the applicant to provide such further information as it considers necessary. If the Inquiry thinks it necessary, the Inquiry may require an applicant to appear before it at a hearing to make an oral application for Interested Party status.

Confidentiality obligations of Interested Parties

15. A person (which includes an institution, organisation or body) who is designated as an Interested Party, and who agrees to such designation, automatically undertakes to be bound by the following confidentiality provisions in respect of the Inquiry's work:
 - 15.1 All material provided to the Interested Party by the Inquiry is confidential and, in consideration of the provision of that material, the Interested Party agrees to take all necessary steps to preserve that confidentiality. The material is provided solely for the purpose of assisting the Interested Party in assisting the Inquiry and for no other purpose.
 - 15.2 All Interested Parties undertake to the Inquiry not to disclose or pass on to any third party, other than to the Interested Parties' own legal representatives, any document, witness statement, or other material supplied to it by the Inquiry, or any of the information contained within that material, save with written permission of the Inquiry.
 - 15.3 All material supplied to an Interested Party by the Inquiry must be stored in a secure place in order to prevent access to it by any person not authorised by the Inquiry.

- 15.4 All material and information supplied to an Interested Party by the Inquiry must be used solely for the purpose of the Inquiry and, at the direction of the Inquiry, any and all material, and any copies, must be returned to the Inquiry or destroyed at the Inquiry's request.
16. The above confidentiality obligations will continue even when the Inquiry's work has finished and/or when a person ceases to be an Interested Party.
17. Where an Interested Party is an organisation, institution, or other body, every individual who forms part of that Interested Party, will be subject to the above confidentiality provisions. An Interested Party, must, on request from the Inquiry, provide a list of all individuals who have access to the Inquiry material and therefore are bound by the confidentiality obligations.
18. Any solicitor or advocate who is awarded Accredited Lawyer status (in accordance with the procedures in the Inquiry Protocol: Legal Representation), is also automatically bound by the confidentiality provisions set out above.

The role of an Interested Party

19. A person who is designated by the Inquiry as an Interested Party and/or their Accredited Lawyer will:
- 19.1 Be provided with access to a dedicated area of the Inquiry's Document Management System for Interested Parties in order to view evidence, as set out below;
- 19.2 Be entitled to be legally represented in accordance with the Inquiry Protocol: Legal Representation;
- 19.3 Be entitled to formally appear at any public hearings;
- 19.4 Be entitled to submit questions to Inquiry Counsel for consideration by them, via the Solicitors to the Inquiry, that the Interested Party would want a witness appearing before the Inquiry to be asked;
- 19.5 Be entitled to seek permission from the Inquiry to make an opening and/or closing statement to the Inquiry, in accordance with the Inquiry Protocol: Oral Hearings; and
- 19.6 Be entitled to be present to read the Inquiry's finalised report two hours before its publication.

Access to the Inquiry's work

20. As set out above, the Inquiry's intention is that it will be as open and transparent as possible, and in accordance with Standing Order 147(2), proceedings before

the Inquiry will usually be held in public. The Inquiry therefore intends to manage the disclosure of information regarding its work as follows:

Access to Interested Parties and Accredited Lawyers

- 20.1 Interested Parties and their Accredited Lawyers will be able to view documents uploaded on to a dedicated area of the Inquiry's Document Management System ("DMS") for Interested Parties as the Inquiry will direct.
- 20.2 Usernames to access the DMS will be limited in number for each Interested Party and Accredited Lawyers.
- 20.3 Those documents defined as category 1 or category 2 documents in the Inquiry Protocol: Data Protection, Freedom of Information and Redaction, will be suitably redacted and then made available for viewing on the dedicated area of the DMS. Those witness statements given privately will not be available on the DMS.
- 20.4 The purpose of such access is to enable an Interested Party and/or its Accredited Lawyer:
 - 20.4.1 To read the relevant evidence in advance of oral evidence; and
 - 20.4.2 To present requests to Inquiry Counsel to consider for specific questions to be asked of witnesses, in accordance with the procedure set out in the Inquiry Protocol: Oral Hearings.

Access to the public

- 20.5 The following information will be published on the Inquiry's public website as soon as reasonably practicable after the conclusion of any evidence given to the Inquiry in its public proceedings:
 - 20.5.1 A transcript of each day's oral hearings heard in public;
 - 20.5.2 Witness statements (and any exhibits and/or documents referred to in the witness statements) of those witnesses who have given oral evidence publicly, subject to publication restrictions (see the Inquiry Protocol: Protective Measures and the Inquiry Protocol: Data Protection, Freedom of Information and Redaction); and
 - 20.5.3 Documentary material displayed in the oral hearings.

- 20.6 Rulings of the Inquiry Panel, press notices and other information about the Inquiry will be published on the Inquiry's website, as and when the Inquiry considers it appropriate to do so.

Support for witnesses

21. A witness support service will be available for those who are involved with the Inquiry's work. The service will be delivered by a provider who is separate to the Inquiry.
22. The service is free and confidential and relevant contact details for witnesses will be published on the Inquiry's website.

Contact details for the Inquiry

23. The Inquiry's designated postal address is:

Independent Jersey Care Inquiry
PO Box 551
St Helier
Jersey
JE4 8XN

24. The Inquiry's designated email address is info@jerseycareinquiry.org
25. The contact email for press enquiries is press@jerseycareinquiry.org
26. The Inquiry's public website address is www.jerseycareinquiry.org
27. The Inquiry's contact telephone numbers are:
- Freephone from Jersey/UK: 0800 735 0100
International callers: +44 (0)1534 828798

Annex A

Terms of Reference, as approved by the States of Jersey on 6th March 2013

The Committee of Inquiry (“the Committee”) is asked to do the following –

1. Establish the type and nature of children’s homes and fostering services in Jersey in the period under review, that is the post-war period, with a particular focus on the period after 1960. Consider (in general terms) why children were placed and maintained in these services.
2. Determine the organisation (including recruitment and supervision of staff), management, governance and culture of children’s homes and any other establishments caring for children, run by the States and in other non-States run establishments providing for children, where abuse has been alleged, in the period under review and consider whether these aspects of these establishments were adequate.
3. Examine the political and other oversight of children’s homes and fostering services and other establishments run by the States with a particular focus on oversight by the various Education Committees between 1960 and 1995, by the various Health and Social Services Committees between 1996 and 2005, and by ministerial government from 2006 to the current day.
4. Examine the political and societal environment during the period under review and its effect on the oversight of children’s homes, fostering services and other establishments run by the States, on the reporting or non-reporting of abuse within or outside such organisations, on the response to those reports of abuse by all agencies and by the public, on the eventual police and any other investigations, and on the eventual outcomes.
5. Establish a chronology of significant changes in childcare practice and policy during the period under review, with reference to Jersey and the UK in order to identify the social and professional norms under which the services in Jersey operated throughout the period under review.
6. Take into account the independent investigations and reports conducted in response to the concerns raised in 2007, and any relevant information that has come to light during the development and progression of the Redress Scheme.
7. Consider the experiences of those witnesses who suffered abuse or believe that they suffered abuse, and hear from staff who worked in these services, together with any other relevant witnesses. It will be for the Committee to determine, by balancing the interests of justice and the public interest against the presumption of openness, whether, and to what extent, all or any of the evidence given to it should be given in private. The Committee, in accordance with Standing Order 147(2), will have the power to conduct hearings in private if the Chairman and members consider this to be appropriate.
8. Identify how and by what means concerns about abuse were raised and how, and to whom, they were reported. Establish whether systems existed to allow children and others to raise concerns and safeguard their wellbeing, whether these systems were adequate, and any failings they had.
9. Review the actions of the agencies of the government, the justice system and politicians during the period under review, in particular when concerns came to light about child abuse and establish what, if any, lessons are to be learned.

10. Consider how the Education and Health and Social Services Departments dealt with concerns about alleged abuse, what action they took, whether these actions were in line with the policies and procedures of the day, and whether those policies and procedures were adequate.
11. Establish whether, where abuse was suspected, it was reported to the appropriate bodies, including the States of Jersey Police; what action was taken by persons or entities including the police, and whether this was in line with policies and procedures of the day and whether those policies and procedures were adequate.
12. Determine whether the concerns in 2007 were sufficient to justify the States of Jersey Police setting in train 'Operation Rectangle'.
13. Establish the process by which files were submitted by the States of Jersey Police to the prosecuting authorities for consideration, and establish –
 - Whether those responsible for deciding on which cases to prosecute took a professional approach;
 - Whether the process was free from political or other interference at any level.

If, for these purposes, or as a result of evidence given under paragraph 7, in the opinion of the Chairman of the Committee, it would be of assistance that one or more of the prosecution files underpinning any prosecution decision may be examined in a manner to be determined by the Committee.

14. Set out what lessons can be learned for the current system of residential and foster care services in Jersey and for third party providers of services for children and young people in the Island.
15. Report on any other issues arising during the Inquiry considered to be relevant to the past safety of children in residential or foster care and other establishments run by the States, and whether these issues affect the safety of children in the future.