

## CHAPTER 1

### Overview – Background and Reasons for this Inquiry

- 1.1 In July 2003, a report entitled “Hardship Experienced by Children and Young People in Jersey” was published.<sup>1</sup> The report included a poem written by a 14-year-old child. The poem could have been written for this Inquiry.

#### LISTEN<sup>2</sup>

We cry for help

Do you hear?

No, you don't

Because we are still here

We all have rights

So, people hear

We say it loud

We say it clear

Why do we have to live in fear?

Tell us now

How you feel

About these situations

Listen, they're real

We don't want to scream

We don't want to shout

We just want

To put our point out.

- 1.2 It is an undoubted fact that, over the decades since the Second World War, children in the care of the States of Jersey have suffered physical and sexual abuse. Appendix 2 provides brief summaries of the evidence of the people

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<sup>1</sup> Co-ordinating Committee of the Decade for the Eradication of Poverty: WD009384/5

<sup>2</sup> WD00984/13

who gave accounts of their experiences in the care system to the Inquiry in public sessions.

- 1.3 In making the formal apology on 6 December 2010, Jersey's Chief Minister acknowledged that the care system had failed those children in a serious way:

*“On behalf of the island’s Government I acknowledge that the care system that operated historically in the island of Jersey failed some children in the States residential care in a serious way. To all those who suffered abuse, whether confirmed by criminal conviction or not, the island’s Government offers its unreserved apology.”*

- 1.4 The Chief Minister's statement referred to historical abuse and what was to become this Inquiry was originally entitled “The Historic Child Abuse Inquiry”. The Panel changed the name to “The Independent Jersey Care Inquiry”. The reason for the change, apart from stressing our independence, was to avoid the perception that child abuse occurred only in the past. Experience tells us that child abuse is likely to be occurring now. We have to learn from the past and the present in order to inform the future – in this case, the future protection of the island's children.
- 1.5 We have conducted our work independently of the States of Jersey, independently of the Police and of the Judiciary, and independently of any other organisation or individual in Jersey. We are not partisan, and we favour no particular group or individual.
- 1.6 The problem of child abuse is, of course, not confined to Jersey. It has been recognised in most, if not all, jurisdictions. Policies have been changed, protocols introduced and other steps taken over the years, as informed thinking has addressed the problem. On the basis of the evidence before the Inquiry, Jersey has consistently lagged behind England, Wales and Scotland in its approach to child care. The steps that have been taken over the years have not resulted in significant change. Jersey has a long history of commissioning reports on its child care provision and then failing to implement recommendations, or implementing them selectively, and failing to address underlying problems.

- 1.7 Jersey was occupied by German forces from 1 July 1940 until 9 May 1945. The 9 May anniversary is enshrined in the island’s calendar as “Liberation Day”. The population of Jersey during the Occupation was approximately 40,000, with 12,000 people returning after the War. In addition to the influx to the island of returning children, a significant number of children were born out of wedlock during the Occupation. Following the island’s liberation, many of these illegitimate children were placed in the care of the States of Jersey, creating pressures on what the evidence available to the Inquiry suggests was an already over-stretched residential child care population. Another feature of the post-War period was the migration of itinerant French seasonal farmworkers who brought their families with them, placing their children in care on an informal and temporary basis and paying for their board and lodging.
- 1.8 In England and Scotland, a major review of children’s services was under way during the final year of the War. The 1946 Curtis Report in England and the Clyde Report in Scotland provided the framework for fresh legislation. The *Children Act 1948* introduced, in England and Wales, Children’s Departments and Children’s Committees, created a new role of Children’s Officer and introduced specialist child care officers. The Act placed greater emphasis on the social welfare of children.
- 1.9 By the 1950s, the UK<sup>3</sup> had recognised the detrimental effect of institutional care on the very young.<sup>4</sup>
- 1.10 The States of Jersey’s provision of care appears to have remained largely unchanged until 1957,<sup>5</sup> when the Home Office was noted to have “*expressed anxiety about the lack of a Children’s Committee in the island*”. In *Education in Jersey 1952–1970*,<sup>6</sup> the author John Le Marquand described the prevailing conditions in children’s homes in Jersey in the early 1950s as “Dickensian”: “*Boys and girls were uniformly dressed and deprived of many liberties*”

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<sup>3</sup> Unless otherwise specified, the “UK” refers to England and Wales. We have taken this approach for brevity, but note that Scotland and Northern Ireland often had different legislation, policies and approaches to child care

<sup>4</sup> See the Bullock Report: EE000136

<sup>5</sup> See EE000038/6: Tony Le Sueur statement, 28 July 2014

<sup>6</sup> Société Jersiaise Annual Bulletin 1999, pp.485–486 – see [https://www.theislandwiki.org/index.php/Education\\_in\\_Jersey\\_-\\_Part\\_3](https://www.theislandwiki.org/index.php/Education_in_Jersey_-_Part_3)

*normally found in the average home in the island.*” The incidence of children in public care in Jersey was twice as high as that in the UK. It was not until 1959 that the island’s first Children’s Officer, Patricia Thornton, was appointed. Her appointment followed a recommendation from the States’ Education Committee<sup>7</sup> in the wake of the concerns raised by the Home Office.

- 1.11 In 1960, Haut de la Garenne (HDLG) was formed as an amalgamation of the Jersey Home for Boys (JHFB) and the Jersey Home for Girls (JHFG). The home was a large institution, providing residential child care both as a children’s home and for children on remand.
- 1.12 In the early 1960s, Jersey established its first Family Group Homes (FGHs), with the intention of providing long-term residential child care in a non-institutional setting.<sup>8</sup> This mirrored the provision in England of cottage homes in the 1950s. The concept of the FGH was that an existing family would provide a home for children who would otherwise be in residential care. The Housemother was employed by the Education Department. Her husband was expected to undertake the role of father within the home but to maintain his employment outside the home. The specified number of children to live in each FGH was eight, plus the children of the Houseparents. As evidence placed before the Inquiry suggests, and as is set out in more detail further on in this Report, in our view the reality was that this arrangement was ill conceived and poorly implemented. It caused tensions, and recruitment of Houseparents became very difficult.
- 1.13 There were cases of sexual abuse within FGHs. In October 1989, Leslie Hughes, Housefather at Clos des Sables, was convicted of five counts of sexual assault against three girls in his care. This conviction did not lead to a wider investigation to ensure that safeguards were in place to protect children from abuse. In 1997, Alan and Jane Maguire were investigated by the States of Jersey Police following allegations of physical and sexual abuse during their time as Houseparents at Blanche Pierre FGH in the 1980s. Blanche Pierre FGH had closed in 1993.

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<sup>7</sup> See WD005364, Memorandum with Regard to Child Welfare, May 1958

<sup>8</sup> In total, five were set up: the first in 1960, and the rest in 1964, 1965, 1967 and 1970

- 1.14 In 1981, the UK's Department of Health and Social Services carried out a review of Jersey's care provision. The inspectors, David Lambert and Elizabeth Wilkinson, made 99 recommendations for improvement. Of those recommendations, 20 were directed to HDLG. The inspectors said that HDLG should be replaced by "*more suitable alternative forms of provision*".<sup>9</sup> Following their report, a working party recommended a phased closure of the home. The home was finally closed in 1986, after being wound down over the preceding years. The inspectors identified factors in the social structure of Jersey that resulted in a high level of need for social work intervention. The island had a high incidence of marital breakdown, alcoholism and heavy drinking, and psychiatric illness. Housing and accommodation problems contributed to family stress.<sup>10</sup>
- 1.15 The *Children Act 1989* overhauled child care law in England and Wales. While Jersey established a Child Protection Team in 1989, the island did not introduce legislation equivalent to the *Children Act 1989* until 2002: the *Children (Jersey) Law 2002*. It came into force in 2005 – 14 years after the *Children Act 1989*. Even then, Jersey did not adopt guidelines equivalent to those that accompanied the *Children Act*. The Jersey law echoes the principle that "the child's welfare must be paramount", but, in our view, the thrust of it does not contain the same emphasis on the requirement for a multi-disciplinary approach.
- 1.16 In 1977, Les Chênes opened and took on the remand role previously fulfilled by HDLG. It was, in effect, a hybrid Approved School/community school with education. In the UK, the *Children and Young Persons Act 1969* had abolished Approved Schools.
- 1.17 In 2001, Dr Kathie Bull was asked to prepare a report on Les Chênes, following an incident of violence towards a member of staff. In her comprehensive report, Dr Bull was critical of almost all aspects of Les

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<sup>9</sup> WD007382, p.78

<sup>10</sup> *Ibid*, p.17

Chênes.<sup>11</sup> She stated: “*The absence of qualified and experienced childcare professionals is not acceptable.*”

- 1.18 In August 2003, the police were called to Les Chênes following an incident that involved two residents. This episode was followed by the commissioning of a report from Madeleine Davies, Head of Staff Services.<sup>12</sup> The report was damning and highlighted “*inappropriate and legally dubious methods of managing pupils*”.

### **Operation Rectangle**

- 1.19 In September 2007, the States of Jersey Police launched Operation Rectangle. Initially, it was an investigation into historical child sexual abuse within the Jersey Sea Cadets before being expanded to include HDLG. The investigation became public in November 2007.
- 1.20 The investigation arose as a result of the concerns of officers within the States of Jersey Police. One officer, DC Derek Carter, worked on an investigation into a former Housefather at HDLG.<sup>13</sup> Another investigation involved a visitor to the Home.<sup>14</sup> DC Carter wondered whether there was a link between the two and whether unauthorised individuals had gained access to children at HDLG. When reviewing the files of HDLG residents, he noted that some of the names of those about whom complaints were made kept recurring. Other officers also brought to his attention further allegations of abuse at the Home. DC Carter discussed the issue with acting DI Hewlett and they agreed that they needed to investigate HDLG, otherwise “*the complaints would keep coming and never go away*”.<sup>15</sup>
- 1.21 In April 2006, DI Peter Hewlett submitted a report to the Chief Inspector of Crime Services, DCI André Bonjour. The report stated that “*rumours have been rife within the island for many years that Haut de la Garenne was notorious for the sexual, emotional and physical abuse allegedly handed out*

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<sup>11</sup> WD004270 – Review of Principles, Procedures and Practices at Les Chênes Residential School

<sup>12</sup> WD004276

<sup>13</sup> Thomas Hamon

<sup>14</sup> WN264

<sup>15</sup> Day 104/117

*to the residents*". The report envisaged that any investigation would initially concentrate on HDLG but would have the potential to involve other homes. It also noted the possibility that suspects might still be working with children.

- 1.22 The report did not lead to any immediate action. We heard conflicting evidence about why that was, which is discussed in Chapter 10 below. The alleged delay led to an investigation by South Yorkshire Police.
- 1.23 In July 2007, the issue was revived by DCO Lenny Harper. A meeting was held between him, acting DI Peter Hewlett and DC Derek Carter. A number of key cases had been initially investigated years before, but resurfaced in 2007. Graham Power, who was appointed the Chief Officer of the States of Jersey Police in 2000, told the Inquiry:

*"... the belief that there had been cases of child abuse which had not been properly addressed and the idea of 'cover-ups' to protect senior figures, had been a feature of island life for some years before I was appointed to the States of Jersey Police".<sup>16</sup>*

- 1.24 Other witnesses to the Inquiry highlighted additional factors that they said contributed to the establishment of Operation Rectangle: investigations into the Jersey Sea Cadets and Victoria College; a Serious Case Review in 2007; and the public perception, referred to by Graham Power, that sexual abuse had been covered up to protect senior figures.
- 1.25 Operation Rectangle commenced. As anticipated, it did expand to cover children in care at various institutions as well as those in foster care. Extensive excavation was undertaken at HDLG, and the investigation attracted worldwide, and sometimes lurid, publicity. The investigation identified 553 alleged offences against children; eight prosecutions followed, with convictions for 145 offences.
- 1.26 During Operation Rectangle, the Council of Ministers presented a report to the States of Jersey on 3 March 2008, stating that: *"the only way to ensure that there is total transparency is for a full public inquiry to be held in due course"*. The Council said that, following the conclusion of Operation Rectangle, it would be:

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<sup>16</sup> WS000536, paragraph 136

*“essential to ensure that the terms of reference are far-reaching so that every concern expressed and every allegation made can be fully investigated. Whilst it may be too late to right the wrongs of the past it will be important for the people of Jersey that all relevant issues are brought out into the open so that the truth of what may have happened in recent decades can be established”.*

1.27 Operation Rectangle formally closed in 2010. In February 2011, the Council of Ministers reviewed their previous commitment to hold a public inquiry. They concluded that the context within which they had made that commitment had *“changed beyond recognition”*. The Council of Ministers reversed their decision to hold a public inquiry.

1.28 The decision was controversial and was debated by the States Assembly. On 2 March 2011, the States of Jersey voted by 31 votes to 11 to establish a Committee of Inquiry. The Council of Ministers agreed to *“reconsider a possible alternative way forward”*.

1.29 The Council of Ministers commissioned a scoping report from Verita, which they received in November 2011.

1.30 On 6 November 2012, the Council of Ministers lodged a proposition in the States Assembly, stating:

*“The united view of this Council of Ministers is that a Committee of Inquiry is the right and proper way in which to proceed. It provides a clear acknowledgement that things have gone wrong in the past, and that now is the time to learn lessons from past failings in childcare provision. Ministers believe that by establishing a thorough, trusted and independent process of inquiry, the experience of all witnesses will be accorded their rightful importance and play a part in ensuring that Jersey has the correct framework to protect all islanders especially its most vulnerable.”*

1.31 On 6 March 2013, all 38 members of the States Assembly then present voted in favour of the 15 Terms of Reference that formed the basis of this Inquiry.

1.32 While the debate regarding the establishment of a Committee of Inquiry was ongoing, the Council of Ministers announced, on 29 March 2012, the setting up of a compensation scheme for victims of historic abuse: the “Historic Abuse Redress Scheme”. In order to qualify for compensation, applicants had to show that they were in the States of Jersey’s full-time residential care



system “at any time between 9 May 1945 and 31 December 1994 and that they had been subjected to sexual and or unlawful physical abuse”.

- 1.33 When the Inquiry began hearing evidence in July 2014, the Scheme had received 132 applications. Of those, 125 claims ended with settlement agreements, three were withdrawn and four were rejected by the Scheme lawyer.
- 1.34 As part of the Inquiry’s investigations, and following the issue of a summons, all applications to the Redress Scheme were disclosed to us.
- 1.35 While the Historic Redress Scheme brought some recompense to some people, it is not the whole answer. The need for this Inquiry is exemplified by two of the submissions made at the outset of our work.
- 1.36 The Jersey Care Leavers’ Association said, in their opening remarks:

*“Belated justice arrived in the Redress Scheme ... But it is only part of the story and many did not seek compensation ... For many there is still the sense of betrayal and of justice denied ... This is a running sore that needs to be addressed.”<sup>17</sup>*

- 1.37 The States of Jersey Police, in their opening remarks, said:

*“Institutions and agencies in Jersey that may have missed past opportunities to stop abuse must now do all that they can to make procedures for safeguarding children and vulnerable adults as robust and rigorous as possible.”<sup>18</sup>*

- 1.38 Throughout this Inquiry, the Panel has been constantly mindful of the responsibility it holds to the victims and survivors of abuse, and to those institutions and agencies now committed to providing and promoting robust and rigorous safeguarding for children and vulnerable adults in the island.

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<sup>17</sup> Day 1/131

<sup>18</sup> Day 2/16

