

Civil action on behalf of Jersey child abuse victims impeded by time limitations

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While Jersey's law officers are under fire for delaying criminal proceedings in the child abuse scandal on the island, lawyers acting for the survivors of abuse reveal that civil remedy is also being impeded.

Tracey Emmott a child abuse lawyer and partner with Pictons, solicitors in Luton, represents 12 clients who claim to have been abused at Haut de la Garrenne and other children's homes in Jersey.

She has been compiling evidence in support of her clients' possible civil claims against the States of Jersey. But the claims face difficulties proceeding further because of Jersey's current law on time of limits for bringing such claims.

Jersey's civil courts generally require cases to be commenced within three years of the injury, or if the injury happened in childhood, before the victim's 21st birthday. But the relevant law did not envisage dealing with historic child abuse claims.

Most victims of child abuse in Jersey are likely to be denied justice in civil courts because more than three years has lapsed since their abuse or they are over 21.

This problem arose in Ireland and Canada when similar contentious issues were addressed. There, redress boards were introduced especially to provide justice to those affected.

Tracey Emmott feels that a specific compensation scheme such as a redress board would also provide a possible way forward in the Jersey cases, but the island's law officers have so far given no indication that they might see this as a solution.

In the meantime therefore, evidence is being compiled on behalf of the abuse survivors. But Tracey Emmott is concerned that there should be movement on behalf of Jersey's law officers in order to facilitate justice for her clients.

'I've discussed the position at length with colleagues in Jersey and with English counsel,' she explains. 'At the out set we envisaged these difficulties, but now that we are actually in the process of putting the claims together the situation seems to have reached an impasse, I hope temporary, until Jersey introduces changes to the law.' 'This kind of situation was never envisaged when laws involving personal injury were drawn up. In that respect Jersey is no different from any other legal system.' 'Claims for personal injury have to be lodged within what is considered a reasonable time, typically three years. But of course by its very nature child abuse usually remains hidden for many years afterwards.'

'In England and Wales the law on time limits changed earlier this year in a House of Lords' landmark decision in *A v Hoare*, otherwise known as the 'Lotto rapist' case. The law lords held that a court could exercise discretion when determining whether a claim brought after the cut off date should be allowed to go ahead.' 'This decision effectively swept away the absolute bar on claims for historic sexual abuse. But it could take a long time if ever for this to filter through to the Jersey legal system.'

'In both Ireland and Canada when similar situations arose, the decision was taken to set up a compensation scheme specifically to provide recognition in the form of compensation for claims of child abuse, rather than clog up the court system. Jersey may choose another option, of course, and we're happy to explore all avenues.

'But it's clearly not in the island's interest for those with legitimate claims to be unable to achieve justice.'

[See Pictons' dedicated Jersey Children's Homes Abuse page here.](#)

