

## Jersey's child abuse victims cannot sue their abusers

DATE: 17<sup>th</sup> SEPTEMBER 2008

Following criticism of Jersey's response to child abuse allegations by ex-police chief Lenny Harper, it has emerged that lawyers acting for abuse victims are also concerned at lack of resolution of the civil claims.

Time limitations on bringing civil cases before the courts mean that historic child abuse dating back to the 1970s and 80s is 'timed out'. It means that survivors of abuse are prevented from pursuing civil action against their abusers.

Tracey Emmott is a specialist child abuse lawyer and partner with Luton-based solicitors Pictons. She acts for a number of victims of Haut de las Garenne and other children's homes on the island and has requested Jersey's attorney general, William Bailhache, to address the impasse. She suggests two ways of doing so.

Her first request is for a moratorium on time limits, which would stop further time running against victims in such cases. At the moment, any civil action is precluded because it should be brought to the courts within three years of the offences, or by a victim's 21<sup>st</sup> birthday if the abuse occurred in childhood.

Since the alleged abuse at Haut de la Garenne mostly took place almost 30 years ago most victims are well past their 21<sup>st</sup> birthdays.

Tracey Emmott's other suggestion is to set up a redress board, which would be set up specifically to hear allegations of child abuse. It would have legal powers, but would hear civil claims outside the rest of the courts structure. Similar schemes have been used in Ireland and Canada in the past when they too faced major child abuse allegations.

Mr Bailhache has not dismissed either idea but instead has referred the matter to Jersey's governing council of ministers, who it is believed are taking legal advice on the best course open to them.

Tracey Emmott is collating evidence on behalf of her clients, but the normal procedures which she would pursue in such cases are not open to her, because her clients are currently time barred from pursuing their claims through the Jersey courts. 'I work in child abuse law every day' she explains. 'Almost by definition such cases arise many years after the offences were committed, so I'm used to the difficulties posed by collating evidence which may be years old and in bringing that evidence successfully to the courts'. 'But Jersey law won't at the moment allow us to do so. There is nothing particularly unusual about that because there are time limitations in all areas of law. These claims have to be brought under personal injury legislation and it's proper that for most aspects of such law there should be time limitations'.

'In that respect Jersey's laws are no different to those of any other county, including mainland Britain. However, when those laws were laid down they didn't countenance historic child abuse cases. It leaves us with a problem though. As the law stands at present, whatever abuse may have taken place at Haut de la Garenne and other children's homes on the island, the survivors cannot bring it before the courts to look for justice'.

'If as we believe, Jersey's ministers are seeking further legal advice, they will presumably recognize the problems we face and undertake to set up measures to overcome them'.

'It would be appropriate for criminal proceedings to take place before any civil action comes before either the courts or a redress board. But at the moment we have no idea when any criminal charges might be brought to trial, and clearly we now need to know what steps will be in place to accommodate civil claims once the probably lengthy criminal process is concluded'.

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