



Corporate Services Scrutiny Panel

Review of the Interim Population Policy



Presented to the States on 23rd April 2014

S.R.2/2014

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1. EXECUTIVE SUMMARY

- 1.1 Within P.10/2014 the Council of Ministers is essentially proposing a continuation of what was agreed in the Strategic Plan 2009-2014 and accompanying Population Policy. However, the decision to bring an Interim Population Policy to the States Assembly for debate differs to what was previously agreed in the 2012 Strategic Plan as the 2012 Strategic Plan promised to hold a States debate on what our immigration and population objectives should be following a public consultation.
- 1.2 The Chief Minister has previously advised States Members that a future Policy for population could not be set in the absence of a comprehensive planning process given the wide effect migration has on the Islands economy, infrastructure and environment. As a result it will now be the responsibility of the next Assembly to set a future Policy for population as part of its long-term planning. In the meantime, with the Council of Ministers Proposition, the Housing and Work Advisory Group are seeking guidance from the States as to how the Control of Housing and Work (Jersey) Law 2012 should be administered over the next two years.
- 1.3 Two main reasons have been given by the Council of Ministers for proposing +325 as the annual planning assumption for net migration. First, we have been advised that it will give a direction that will secure stability in the size of Jersey's workforce and secondly, that it is the same planning assumption that has underpinned the long term policies approved by the Assembly. During the undertaking of this review however, the Panel found that the planning assumption of +325 has not been applied uniformly across all Departments. The Transport and Technical Services Department and the Education, Sport and Culture Department have been operating to a planning assumption of +500.
- 1.4 The 2009 Population Policy, which set a maximum inward migration limit of +325, was the last Population Policy to be agreed by the States Assembly. In February 2014 the Chief Minister advised the Assembly that the Interim Population Policy and proposed figure of +325 was consistent with the Population Policy that was currently in place. Despite this account, we have now been told by the Chief Minister that the 2009 Population Policy became invalid when the 2012 Strategic Plan was approved by the States. If what we have been told is correct then for the last two years there has been no total population or net migration limit in place.

- 1.5 P.10/2014 proposes that particular focus will be given to reviewing the licences of businesses that employ more migrant staff than their average competitors. As of June 2013 the Population Office has identified 725 businesses in Jersey which fall into this category. The Panel found that, although businesses in the same sector may appear comparable, in reality they could face different revenue streams, skill requirements and ownership structures.
- 1.6 The Panel found that delivery of the proposed Policy will depend upon the effectiveness of the Control of Housing and Work (Jersey) Law 2012 and its application. Due to a delay in the compilation of the data from the latest Manpower Survey, the publication of the 2013 Jersey Resident Population Report and Jersey's Labour Market 2013 Report has been postponed. Until the data is available the Population Office cannot assess the efficacy of the new Law and the Statistics Department cannot provide analysis. Furthermore, until the Chief Minister has undertaken a post implementation review of the Control of Housing and Work (Jersey) Law 2012, as promised in the 2012 Strategic Plan, it is unclear as to whether the Law has been successful in limiting migration.
- 1.7 The report accompanying the Proposition states that when determining licence allocation for 'Registered' and 'Licenced' staff, greater support will be given to migration that has high economic and social value. There is a risk however that the decisions made by the Population Office as to which businesses are of high economic value will have a detrimental effect on particular sectors of the economy. Each application for 'Registered' and 'Licenced' permissions should therefore be considered by the Population Office and the Housing and Work Advisory Group on its individual merits.
- 1.8 Despite the high levels of unemployment in Jersey, industry sectors are struggling to fulfil certain vacancies as a result of a significant skills gap within our local community. Economic growth is not simply a by-product of population growth and, in essence, a result of net migration. Increased productivity as well as having the right skills in Jersey is essential for aiding economic growth.
- 1.9 Unlike the 2009 Population Policy which set a maximum inward migration level, the Interim Population Policy makes no mention of a "maximum", "limit" or a "cap". The States are being asked to agree a planning assumption and not a limit to which population and migration would be controlled. The Panel was advised that under the right circumstances there would be justification for exceeding the number set out in the proposed Policy. It is

still unclear therefore whether the Interim Population Policy, if approved, would adequately address the concerns of Islanders and the business community.

- 1.10 Until the new Names and Addresses Register can be relied upon as a rolling measure of the population, the Population Office will have to rely on the data that is produced by the Statistics Unit annually. In the absence of real time information the Population Office cannot accurately monitor migration or effectively measure the performance of a Population Policy against targets and respond.
- 1.11 The Panel found that the Interim Population Policy would have no substantial impact on how population and migration was currently managed by the Population Office and Housing and Work Advisory Group. The Assistant Chief Minister advised the Panel that the Council of Ministers were simply asking for confirmation to continue to aim for a net migration level of +325 people per year. Rather than seeking confirmation for an Interim Population Policy the Council of Ministers should ensure that the new Law is applied and enforced effectively to achieve the objectives raised within P.10/2014.
- 1.12 All of the findings identified throughout this review have led to the Panel's recommendation that the Council of Ministers should not bring P.10/2014 to the States Assembly for debate. Furthermore, a Population Policy should not be brought to the States Assembly until such time that all relevant statistics are available from Jersey's Labour Market 2013 Report and Jersey's Resident Population 2013 Report; the post implementation review of the new Law has been undertaken; and public consultation on a long-term plan and vision for the Island has taken place, as agreed in the 2012 Strategic Plan.

2. CHAIRMAN'S FORWARD

- 2.1 The Proposition that has been brought to the States by the Council of Ministers essentially proposes a continuation of what was agreed in the Strategic Plan 2009 and accompanying Population Policy. We were told that the Interim Population Policy would have no substantial impact on how the States currently manage population and migration. At the same time the Council of Ministers is proposing that issues surrounding population growth and migration will be examined in depth in the long-term plan framework "Preparing for our Future".
- 2.2 Given that this is the case, we question why the Council of Ministers are proposing to debate an Interim Population Policy, which is effectively a continuation, now when they propose to recommend that the next Assembly consider the long term plan in 2015.
- 2.3 At the same time there have been glitches in the application of the Control of Housing and Work Law and the promised review of the working of this Law is not available. Importantly, it has not been possible for the Statistics Unit to analyse the January 2014 Manpower Return and the Chief Statistician is not yet confident that the recent Manpower Survey is sufficiently complete, reliable or accurate and, as a result, has delayed the publication of Jersey's Resident Population 2013 Report.¹
- 2.4 It is clear that any policy related to population and migration is of great importance to business and, indeed, to the population as a whole. It has seemed to us that rather than divert important resources to holding a debate which is effectively a "steady as she goes" Proposition, it is better to devote those resources to getting the existing machinery working effectively and to engaging with the public before the debate of the long term plan.



Senator Sarah Ferguson
Chairman – Corporate Services Scrutiny Panel

¹ Press release, 16th March 2014

3. KEY FINDINGS AND RECOMMENDATIONS

Findings

- 3.1 Although a Population Policy has been agreed as part of the Strategic Plan 2009-2014, an Interim Population Policy is now being proposed by the Council of Ministers in advance of public consultation taking place on a long-term plan for the Island. (5.7)
- 3.2 The decision to propose an Interim Population Policy differed to what was agreed in the 2012 Strategic Plan – to hold a States debate on what our immigration and population objectives should be following a public consultation. (5.8)
- 3.3 With this Proposition, the Housing and Work Advisory Group are seeking guidance from the States as to how the Control of Housing and Work (Jersey) Law should be administered. (5.9)
- 3.4 Two main reasons have been given for proposing an annual planning assumption for net migration of +325 people per year: i) it would provide a direction of stability; ii) it is in line with States approved policies. (5.16)
- 3.5 The planning assumption of +325 has not been applied uniformly across all Departments. The Transport and Technical Services Department and the Education, Sport and Culture Department have been operating to a planning assumption of +500. (5.25)
- 3.6 According to the Chief Minister, the 2009 Population Policy became invalid when the 2012 Strategic Plan was approved by the States. (5.26)
- 3.7 Despite the 2009 Population Policy setting a maximum net migration limit of +325 people per year, Jersey experienced an average level of net migration of +575 over the period 2009-2012. (6.2)
- 3.8 The success of population and migration control will ultimately depend on how the Control of Housing and Work (Jersey) Law 2012 is managed in line with States decisions and whether those responsible ensure the Law is enforced. (6.6)

- 3.9 Particular focus will be given to reviewing the licences of businesses that employ more migrant staff than their average competitors. As of June 2013, the Population Office had identified 725 businesses in Jersey which fall into this category. (6.13)
- 3.10 Delivery of the proposed Policy will depend upon the effectiveness of the new control mechanism and its application. (6.16)
- 3.11 Due to a delay in the compilation of the data from the latest Manpower Survey, the publication of the 2013 Jersey Resident Population Report has been postponed. Until the data is available the Population Office cannot assess the efficacy of the new Law and the Statistics Department cannot provide an analysis. (6.23)
- 3.12 In the 2012 Strategic Plan the Chief Minister committed to undertake a post implementation review of the new Law within the first 12 months of its operation. It is proposed that the results of that review will be made available by July 2014. (6.24)
- 3.13 No consideration has been given to the short term implications on Jersey's resources of planning to a net migration target of +325 in comparison with a lower level of net migration. (6.28)
- 3.14 Over half of the respondents in a recent survey carried out by the Chamber of Commerce did not believe that the Policy was achievable. (6.32)
- 3.15 There is a risk that the decisions made by the Population Office as to which businesses are of high economic value will have a detrimental effect on particular sectors of the economy. (6.39)
- 3.16 Each application for 'Registered' and 'Licenced' permissions should be considered by the Population Office and the Housing and Work Advisory Group on its individual merits. (6.40)
- 3.17 Although businesses in the same sector may appear comparable, in reality they could face different revenue streams, skill requirements and ownership structures. (6.42)
- 3.18 The business community is yet to receive clarity from the Housing and Work Advisory Group as to how the proposed Policy would be applied in practice. (6.44)

- 3.19 Despite the high levels of unemployment, industry sectors are struggling to fulfil certain vacancies as a result of a significant skills gap within our local community. (6.50)
- 3.20 Increased productivity as well as having the right skills in Jersey is essential for aiding economic growth. (6.51)
- 3.21 There is a concern among local businesses that the proposed Policy would convey the perception that Jersey is 'closed for business'. (6.54)
- 3.22 Unlike the 2009 Population Policy which set a maximum inward migration level, the Interim Population Policy makes no mention of a "maximum", "limit" or a "cap". (See 7.4)
- 3.23 A planning assumption cannot be enforced. (7.5)
- 3.24 The Council of Ministers consider that under the right circumstances there will be justification for exceeding the number set out in the proposed Policy. (7.10)
- 3.25 It is still unclear whether asking for the States to agree a planning assumption for net migration of +325 people per year will adequately address the concerns of Islanders and the business community. (7.11)
- 3.26 The Chief Statistician is not yet confident that the recent Manpower Survey data is sufficiently complete, reliable or accurate and, as a result, has delayed the publication of Jersey's Resident Population 2013 Report. (7.16)
- 3.27 In the absence of real-time information, the Population Office cannot accurately monitor migration or effectively measure the performance of a Population Policy. (7.17)
- 3.28 The Council of Ministers is proposing that issues surrounding population growth and migration will be examined in depth in the long-term plan framework "Preparing for our Future". (7.22)
- 3.29 The Interim Population Policy would have no substantial impact on how the States currently manage population and migration. (7.23)

3.30 The Panel was advised that in bringing the Proposition to the States for approval, the Council of Ministers was simply asking for a ***“nod to say continue to aim for that number and we will do that”***. (7.24)

Recommendations

3.31 The Council of Ministers should not bring P.10/2014 to the States Assembly for debate. (7.25)

3.32 A Population Policy should not be brought to the States Assembly for debate until:

- All relevant statistics are available from Jersey’s Labour Market 2013 Report and Jersey’s Resident Population 2013 Report;
- The post implementation review of the new Law has been undertaken; and
- Public consultation on a long-term plan and vision for the Island has taken place, as agreed in the 2012 Strategic Plan. (7.26)

4. INTRODUCTION

- 4.1 In December 2011, the results of the 2011 Census were published, revealing that 97,857 people were resident in Jersey at the time of the Census (March 2011). This led to some high-profile media coverage given that the most recent estimate of the population produced by the Statistics Unit (for the end of 2009) was 92,500.
- 4.2 The Panel undertook a review of the 2011 Census and considered the implications of the results for the 2009 Population Policy (S.R.1/2012). The Panel found that the 2011 Census called into question the Population Policy that had been agreed as part of the Strategic Plan 2009 – 2014. That Population Policy aimed to maintain the level of the working age population; to ensure that the Island's population did not go beyond 100,000; and to limit inward migration over a five-year period to a maximum of 150 heads of household per annum (equivalent to +325 people). Subsequently, the 2012 Strategic Plan, among other things, promised to update the population model and bring realistic population and migration targets to the Assembly by July 2013.
- 4.3 Previously Inward migration was 'controlled' through the *Housing (Jersey) Law 1949* and the *Regulation of Undertakings and Development (Jersey) Law 1973*. However, on the 1st July 2013, the *Control of Housing and Work (Jersey) Law 2012* and the *Register of Names and Addresses (Jersey) Law 2012* were implemented. The people of Jersey were promised that the new Legislation would introduce a new mechanism by which migration could be monitored and controlled (as stated in the Strategic Plan 2012).
- 4.4 Before the Legislation was implemented, the Corporate Services Sub-Panel undertook a review of the draft Regulations and Orders (S.R.2/1013). Within this review the Sub-Panel was told by the Chief Minister that the new legislation would give the States the tools to manage whatever Population Policy arose out of the wide debate, which was due to take place later that year (the Ministerial Responses from both of the previous reports can be found in Appendix 2).
- 4.5 Rather than hold a debate on a long-term Population Policy however, the Council of Ministers decided to bring forward an Interim Population Policy to cover the period 2014-2015. This decision was made on the assumption that the new Council of Ministers would develop, in consultation, its own population policies as part of its long term strategic decision making. It is envisaged that the long-term plan would be brought to the States and considered by the Assembly in 2015 and implemented at the beginning of 2016.

4.6 On 30th January 2014, the Council of Ministers brought a Proposition (P.10/2014) to the States which proposed a planning assumption for net migration of +325 people per year for the next two years. The Corporate Services Panel agreed to undertake a review of the Policy with particular focus on the rationale behind the proposals; the application of the Control of Housing and Work (Jersey) Law 2012; and the implications of setting a net migration target of +325 for the Island (our Terms of Reference can be found in Appendix 1). P.10/2014 is due to be debated in the States on 29th April 2014.

4.7 Under the Control of Housing and Work (Jersey) Law 2012 the old categories of Island residence were simplified into four new categories. For ease of reference, we have included these in the table below:

Residential Status	Definition	Housing	Work
Entitled	Someone who has lived in Jersey for 10 years (more details below)	Can buy, sell or lease an property	Can work anywhere and doesn't need a licence to be employed
Licensed	Someone who is an 'essential employee'	Can buy, sell or lease any property in their own name if they keep their 'licensed' status	Employer needs a licence to employ a 'licensed' person
Entitled to work	Someone who has lived in Jersey for five consecutive years before the date the card is issued, or is married to someone who is 'entitled', 'licensed', or 'entitled to work'	Can buy property jointly with an 'entitled' spouse / civil partner. Can lease 'registered' (previously 'unqualified') property as a main place of residence.	Can work anywhere and doesn't need a licence to be employed
Registered	Someone who does not qualify under the other categories	Can lease 'registered' property as a main place of residence	Employer needs a licence to employ a 'registered' person

5. THE PROPOSALS

The Proposition – P.10/2014

5.1 The Proposition that was brought to the States by the Council of Ministers essentially proposes a continuation of what was agreed in the Strategic Plan 2009 and accompanying Population Policy. The Chief Minister has termed the Interim Population Policy a ‘policy of stability’ as it “*upholds the planning assumptions underlying the existing long-term policies and maintains the size of Jersey’s workforce as our population ages*”².

5.2 The Council of Ministers are proposing an Interim Population Policy for 2014-2015 that:

- Maintains a planning assumption of +325 migrants per year on average for the period 2014-2015;
- Enables migration which adds the greatest economic and social value, and only where local talent is not available;
- Supports the ‘Back to Work programme’ and other initiatives to encourage employment and improvements in skills for Islanders;
- Uses the Control of Housing and Work (Jersey) Law 2012 to increase the employment of ‘entitled’ and ‘entitled to work’ staff, particularly in businesses that employ more migrants than their competitors.

5.3 In comparison, the Population Policy agreed by the States in 2009 promised to:

- Maintain the level of the working age population in the island.
- Ensure the total population did not exceed 100,000
- Ensure population levels did not increase continuously in the longer term
- Protect the countryside and green fields
- Maintain inward migration within a range between 150 and 200 heads of household per annum in the long term.
- In the short term, allow maximum inward migration at a rolling five year average of no more than 150 heads of household per annum (an overall increase of c.325 people per annum). This would be reviewed and reset every three years.

² Hansard, 4th February 2014

Rationale behind the Proposals

5.4 Last year the Chief Minister announced that an Interim Population Policy with a lifetime of two years would be brought to the States for debate in 2014. This decision differed to what was agreed in the 2012 Strategic Plan - to hold a States debate on what our immigration and population objectives should be following a public consultation³. The Chief Minister advised States Members, however, that a future Policy for population could not be set in the absence of a comprehensive planning process given the wide effect migration has on the Islands economy, infrastructure and environment. As a result, it will now be the responsibility of the next Assembly to set a future Policy for population as part of its long term planning.

5.5 In the meantime, the Chief Minister's Department has published a long term planning framework – "Preparing for Our Future" – in which States Members have been briefed on. It is envisaged that the framework will help future ministers conduct a wide ranging debate on population and the kind of Jersey we want. When the framework has been developed, a public consultation about the future of the Island will then be carried out to help shape the permanent policy. In order to allow a suitable period of time to consult with the public and to develop a long term policy, the Council of Ministers is proposing an Interim Population Policy for the next two years. In this respect the Chief Minister advised the Assembly:

*"We need to almost lift up our heads, develop a long-term policy, look at the balance that we need to deliver between environment, the economy and the community, look at the Jersey we want to see in 20 or 30 years' time and then from that, do the piece of work that needs to take place over the next 2 years. It would be nice if we could have done it sooner but it is important that we get that proper strategic long-term direction in place first."*⁴

5.6 Whilst we accept the need to consider population and immigration with reference to the environment, community and economy rather than as isolated issues, we do question why the Council of Ministers are proposing an Interim Population Policy now if the next Assembly will be considering a long term plan in 2015. At a public hearing with the Assistant Chief Minister we were advised that the Housing and Work Advisory Group were in need of guidance from the States as to how the new Control of Housing and Work (Jersey) Law should be administered. Similarly, we were told that local businesses were

³ Strategic Plan 2012, p9

⁴ Hansard, 4th February 2014

seeking clarity from the advisory group about how the Law would be operated going forward. If the Advisory Group is only now looking for confirmation from States Members then it begs the question of how the Law has been administered since it was introduced in July 2013. In this regard, the Assistant Chief Minister informed us that “*what is in the Interim Population Policy currently is the way we are operating the new law*”⁵.

KEY FINDING

5.7 Although a Population Policy has been agreed as part of the Strategic Plan 2009-2014, an Interim Population Policy is now being proposed by the Council of Ministers in advance of public consultation taking place on a long-term plan for the Island.

KEY FINDING

5.8 The decision to propose an Interim Population Policy differed to what was agreed in the 2012 Strategic Plan – to hold a States debate on what our immigration and population objectives should be following a public consultation.

KEY FINDING

5.9 With this Proposition, the Housing and Work Advisory Group are seeking guidance from the States as to how the Control of Housing and Work (Jersey) Law 2012 should be administered.

Why is a planning assumption for net migration of +325 people per year being proposed?

5.10 Two main reasons have been given by the Council of Ministers for proposing +325 as the annual planning assumption for net migration:

- a) It will give a direction that will secure stability in the size of Jersey’s workforce to help support our ageing population;
- b) It is the same planning assumption figure that has underpinned the long term policies approved by the Assembly.

⁵ Assistant Chief Minister, Transcript, p3

5.11 We will begin by addressing the issue of Jersey's ageing population. The changing composition of our population has long been identified as a concern that needs to be considered when planning for Jersey's future. The Strategic Plan 2009 stated that "*with the background of an ageing population it is crucial that the working population of the Island is able to sustain the economy, provide employment for future generations and fund essential services*"⁶.

5.12 Whilst it has been recognised by the Council of Ministers that Jersey's ageing population is already a considerable challenge, it is also felt that the Island's situation would worsen if our working age population was to dramatically decline. Data produced by the States of Jersey independent Statistics Unit, based on projections, show that if we were to have nil net migration our working age population would reduce by 7,500, or 11%; our over 65 population would still double; and our over 85 population would nearly triple by 2035 (see table below). On the other end of the spectrum, if we were to import more workers to maintain a consistent ratio of working age people to people over 65 our population would reach 165,000 by 2035 and our population density would increase by 67%⁷. Both of these scenarios are deemed unacceptable by the Council of Ministers.

Composition of our population under different net migration scenarios (nearest 1000):

	Aged 0-15		Age 16-64		Age 65 - 84		Age 85+		Total	
	2010	2035	2010	2035	2010	2035	2010	2035	2010	2035
Nil	16,000	15,000	67,000	59,000	12,000	23,000	2,000	5,000	97,000	102,000
+325	16,000	17,000	67,000	66,000	12,000	23,000	2,000	5,000	97,000	111,000
+500	16,000	18,000	67,000	69,000	12,000	23,000	2,000	5,000	97,000	116,000

5.13 It is not only these figures that concern the Council of Ministers. Within the report attached to the proposition it has been suggested that a reduction in our workforce would likely lead to a significant reduction in our economic output. On the other hand however it has been acknowledged that economic value depends heavily on productivity and therefore an increase in our productivity would generate more economic output from our workforce.4.14 The Assistant Chief Minister advised the Panel that, when considering the

⁶ Strategic Plan 2009-2014

⁷ Jersey Population Statistics 2013 Release

detail of the Interim Population Policy, the Council of Ministers had examined a number of possible net migration scenarios. We were further advised that during these discussions *“it had become very obvious that +325 was a policy of stability because it maintains the workforce population”*⁸. When considering the effect of the ageing population and the demands that it places on our society it is very important that we examine dependency ratios. If, as proposed, the Island assumed a planning assumption for net migration of +325 people per year by 2035 the total population size has been projected at 111,000 (rounded to the nearest 1000) with a dependency ratio of 68%. In comparison, if the Island was to assume a planning assumption for net migration of +200 the population size would equal 107,200 in 2035 and would have a dependency ratio of 70%.

- 5.14 In addition to the proposed net migration of +325 people per year, it must be acknowledged that every year the Island experiences natural growth (excess of births over deaths). In 2012 for example, natural growth accounted for a population increase of 400 people⁹. The table on the previous page does take account of the natural growth that is likely to occur under the different net migration scenarios. The level of natural growth projected to occur each year is dependent on the level of actual migration that occurs. Greater levels of net inward migration results in more births and affects the numbers of deaths in later years.
- 5.15 If the Council of Ministers wishes to maintain the working age population to support our ageing population, as the proposition suggests, then it could be argued that a reduced net migration level would produce similar results in terms of dependency ratios but with a smaller impact on Jersey's future total population size. It must be noted that these issues have also been raised within Deputy Southern's amendment to P.10/2014 lodged in the States on 18th February 2014.

KEY FINDING

5.16 Two main reasons have been given for proposing an annual planning assumption for net migration of +325 people per year: (i) it would provide a direction of stability; (ii) it is in line with States approved polices.

⁸ Assistant Chief Minister, Transcript, p10

⁹ Jersey's Resident Population 2012

5.17 Since the Proposition was lodged on 30th January 2014, the Chief Minister has advised both the public and States Assembly that the Interim Population Policy upholds the planning assumptions underlying existing long-term policies¹⁰. It was assumed that each States Department had continued to use +325 as an annual inward migration figure for all their planning projections since this figure was agreed in the 2009 Strategic Plan and accompanying Population Policy. For example, in response to a written question by Deputy M.R. Higgins in October 2013, the Chief Minister advised that *“the planning assumption for net immigration has remained +325.”*¹¹

5.18 During the undertaking of this review, however, we learnt that the planning assumption of +325 was not being applied uniformly across all departments. We were advised by the Assistant Chief Minister that the Transport and Technical Services Department (TTS) and Education, Sport and Culture Department (ESC) had been using a planning assumption for net migration of 500 people per year. In view of the information we were provided by the Population Office, the Liquid Waste Policy has been based on a connected population of 118,000 at 2035, which equates to a +500 net migration. In contrast, recent work undertaken by the Health and Social Services (including the future hospital), Social Security Department (Long Term Care) and Environment Department (Energy Plan) has been based on a planning assumption of +325 or +350 as agreed in the Island Plan and previously the 2009 Strategic Plan and Population Policy.

5.19 When we enquired why not all Departments were planning to the same net migration level, the Director of Corporate Policy advised:

*“It partly comes down to the nature of their businesses, i.e. infrastructure and the requirement to perhaps build some capacity, and it partly comes down to the discussion we had before around what is the States policy on net migration. My view is it is outlined in the 2012 Strategic Plan, which does not put a figure and therefore different departments will plan on what basis they think is reasonable. Most are planning on a continuation, in effect of the 2009 Strategic Plan number of 325. T.T.S. and E.S.C have taken a slightly different view, as I say, partly because of the nature of their services and partly because that reflects the actual experience of migration.”*¹²

¹⁰ Hansard, 4th February 2014

¹¹ Written question to the Chief Minister by Deputy M.R. Higgins, 22nd October 2013

¹² Director of Corporate Policy, Transcript, p8

5.20 In February this year the Chief Minister told the Assembly that a net migration level of +325 was consistent with the Population Policy that was currently in place. For example, he stated:

“It is quite clear, as I said, that is what the current policy is and in the period that we need to develop the long-term plan, it seems to me absolutely reasonable that we maintain our workforce level and that seems quite straightforward and appropriate.”¹³

5.21 Despite this account, when we recently sought clarification from the Chief Minister about whether the 2009 Population Policy still applied, he responded:

“The 2009 Strategic Plan, which outlined a target for net migration of +325, was approved in June 2009 and superseded by the 2012 Strategic Plan when it was approved in May 2012.”¹⁴

5.22 To recall, the 2012 Strategic Plan promised to *“update the population model using the new Census information and bring realistic targets for population and immigration limits to the Assembly by July 2013 and in the meantime:*

- *Use legislation to support the engagement and training of locally qualified people. In particular, we will only grant permissions for additional non-locally qualified staff in limited cases over the next 12 months. We will also actively manage licence capacity in concert with ‘back to work’ initiatives to support employers and locally qualified employees and endeavour to reduce the number of non-locally qualified licences in the economy.*
- *Continue to issue 1(1)(j) consents only where high economic or social value is compellingly demonstrated, where local staff are not available and which safeguard or create employment.*
- *Introduce a new Control of Housing and Work (Jersey) Law and Register of Names and Addresses Law (Jersey) to significantly improve the effectiveness of our migration controls, including a new Population Register.”¹⁵*
- *Review our migration controls and report to the States on our findings, including recommendations, within 12 months of the introduction of the new legislation.”¹⁶*

¹³ Hansard, 4th February 2014

¹⁴ Chief Minister, Written Answers

¹⁵ 2012 Strategic Plan

5.23 It was our understanding that the 2009 Population Policy was in force until such time that it was replaced by another Population Policy. We did not envisage at the time of the Strategic Plan 2012 debate that what was agreed in respect of managing population growth and migration would replace the agreed Policy. For instance, since 2012 there have been many discussions in the media and in the States Assembly regarding the agreed total population limit of 100,000 and the maximum inward migration figure of +325 people per year. The Panel consider it unacceptable that a Population Policy, which has been in place since 2009, can be dismissed so readily by the Council of Ministers despite the concerns expressed in the 2012 Social Survey in which more than three-quarters (77%) of Islanders who responded were ‘fairly or very’ concerned about immigration¹⁷.

5.24 In response to learning that both TTS and ESC had based plans on the most recent migration trends of net +500, we questioned what the implications would be for these Departments if the Council of Ministers Proposition was agreed by the States. The Director of Corporate Policy advised that all Departments “*should comply with the States Policy as approved if the States approve the Interim Population Policy*”¹⁸. The Assistant Chief Minister did not believe that a revision to the Department’s planning assumptions would have any substantial impact on agreed policies. For example, he advised the Panel:

*“No doubt the Ministers for each of those departments will perhaps make some statement, but to me it is just they have been planning for 500. I think they could quite easily change it back to 325 once the States have decided. I do not see that being an issue.”*¹⁹

KEY FINDING

5.25 The planning assumption of +325 has not been applied uniformly across all Departments. The Transport and Technical Services Department and the Education and Culture Department have been operating to a planning assumption of +500.

KEY FINDING

5.26 According to the Chief Minister, the 2009 Population Policy became invalid when the 2012 Strategic Plan was approved by the States.

¹⁶ 2012 Strategic Plan

¹⁷ Jersey Annual Social Survey 2012

¹⁸ Director of Corporate Policy, Transcript, p9

¹⁹ Assistant Chief Minister, Transcript, p9

6. APPLYING THE NEW LAW

Past failings

6.1 In the 2009-2014 Strategic Plan the States agreed to “*allow maximum inward migration at a rolling five year average of no more than 150 heads of households per annum (325 people per annum)*”. Despite this, during the period 2009-2012 the Island experienced an average net migration level of +575; 500 in 2009, 700 in 2010, 600 in 2011 and 500 in 2012. Furthermore, another one of the aims of the Strategic Plan was to ensure that the total population did not exceed 100,000. On 18th February 2014, the Chief Minister advised the States that Jersey’s population had in fact reached 99,000 by the end of 2012 and it was therefore very likely that we had now exceeded the limit that was set in 2009.²⁰

KEY FINDING

6.2 Despite the 2009 Population Policy setting a maximum net migration limit of +325 people per year, Jersey experienced an average level of net migration of +575 over the period 2009-2012.

6.3 Unfortunately the failure to adhere to agreed population policies is not a recent but historic problem. If the Council of Ministers has, to this day, been unsuccessful in meeting targets and limits set by past plans and policies and agreed by the States then what has changed to satisfy the Council of Ministers that this same target can now be met?

6.4 In July 2013 the Control of Housing and Work (Jersey) Law 2012 was introduced as Jersey’s new control mechanism for managing population and migration. The new legislation replaced the old Housing (Jersey) Law 1949 and the Undertakings and Development (Jersey) Law 1973 in which immigration had been managed over the past decades. The public and States Members alike were advised that past failures to control net migration levels were a result of outdated laws that were difficult to enforce. According to the Chief Minister, the new Law would allow for greater control and enhanced compliance of future population and immigration levels, than the previous mechanisms, and would give the States the tools to manage whatever future population Policy is agreed by the States Assembly.

²⁰ Written Question to Chief Minister by Deputy Southern, 18th February 2014

6.5 Early last year a Corporate Services Sub-Panel reviewed the Control of Housing and Work (Jersey) Law. Whilst the Sub-Panel found that the new Law would provide the States with greater powers than the then current legislation, it concluded that the success of population and migration control was ultimately dependent on how the Law was managed in line with States decisions and whether those responsible would ensure the Law was enforced. We will discuss issues surrounding the delivery of the Policy within the next chapter.

KEY FINDING

6.6 The Success of population and migration will depend on how the Control of Housing and Work (Jersey) Law 2012 is managed in line with States decisions and whether those responsible ensure the Law is enforced.

How will the law be applied to achieve the proposals?

6.7 The report that accompanies the Proposition outlines three key controls planned to secure a planning assumption for net migration of +325 people per year on average for the period 2014-2015. These are:

- *“Businesses that have more permissions for migrant workers than an average competitor should be focused upon, supporting them to recruit more “entitled”/ “entitled to work” staff.*
- *New businesses should predominately employ “entitled”/ “entitled to work” people.*
- *Unused permissions for migrants should be removed.”*

Furthermore, the report states that *“in making these decisions we should support migration that has a high economic and social value, and ensure we do not undermine competitive pressures.”*²¹

6.8 It could be argued that in terms of controlling access to work, the Interim Population Policy is not proposing much that has not already been considered in previous Strategic Plans and Policies. For example, the Strategic Plan 2005-2010 stated that in order to promote economic growth and creation of jobs for local people, growth in inward migration would

²¹ P.10/2014 , p10

only be supported where it creates wealth to fund the Island's public services or to support industries which employ local people²².

- 6.9 Similarly, the Strategic Plan 2012 promised to only issue 1(1)(J) consents ("Licenced" permissions under the new Law) where high economic or social value was compellingly demonstrated, where local staff were not available and would safeguard or create employment. Furthermore, the 2012 Strategic Plan aimed to actively manage licence capacity in concert with 'back to work' initiatives to support employers and locally qualified employees and endeavour to reduce the number of non-locally qualified licences in the economy²³. The ability of the States to now review and vary licence allocation at any time through the Control of Housing and Work (Jersey) Law 2012 should provide greater controls to achieve the aims of this Policy more effectively, provided it is managed properly.
- 6.10 The Director of Corporate Policy advised the Panel that greater focus was being given to reviewing the licences of businesses that employ more migrant staff than their competitors. These businesses may either have unused licences for "Registered" staff removed or they may have conditions placed upon them to say that their next recruits must be local. In order to decide which avenue to take, we were told that each business would be considered on an individual basis by the Housing and Work Advisory Group (HWAG).²⁴ In contrast, we were advised that *"where an employer is a very good local employer and more of their workforce are local than their competitors, those licences will not get "pulled in."*²⁵ At a Public Hearing, the Assistant Chief Minister also told the Panel that HWAG would be more sympathetic to new businesses who applied for 'Registered' licences if they could provide job opportunities for local people.
- 6.11 During the process of this review, we were provided with statistics from the Population Office which had been captured from the latest manpower return process in June 2013. The data identified; the number of 'Registered' licences held by businesses in each sector; the number of businesses within each sector that held more 'Registered' licences than their average competitor and; the number of jobs that would become available if every business employed the average number of 'Registered' staff. The collated data showed that, out of all sectors, hotels employed the highest number of 'Registered' staff.

²² Strategic Plan 2005-2010, p12

²³ Strategic Plan 2012

²⁴ Director of Corporate Policy, Transcript, p29

²⁵ Bailiwick Express, CONNECT, 24th February 2014

In fact just over 50% of all staff employed within this sector are 'Registered' (1,387 out of 2,690). Furthermore, out of a total of 77 hotels, 35 have more permissions for migrant staff than an average competitor. According to the Population Office's calculations, if the number of migrant staff working for these 35 hotels is reduced in line with their average competitors, then 185 jobs could potentially become available within this sector. However, the word 'potentially' has been used because the Population Office is only able to remove unused licences from businesses. The number of jobs created is therefore determined by the turnover of staff and consequently the number of unused licences a business creates. Furthermore, vacant positions within certain sectors may require skills that are not held by Jersey's local unemployed. It is possible, therefore, that in the short term reducing the number of 'Registered' licences held by businesses may not have a significant impact on the overall unemployment figures (this issue will be discussed in greater detail later on in this chapter).

6.12 If we want to understand the potential outcomes of the draft proposals then we need to consider the overall picture. We have been advised that, as of June 2013:

- A total of 6,160 'Registered' staff were employed in Jersey by businesses within all sectors, which equates to around 12% of our total workforce.²⁶
- Out of a total of 7,030 businesses, 725 businesses had more migrant staff than their average competitors.²⁷
- If the 'Registered' licences held by these 725 businesses were reduced in line with the average competitor then 1,813 jobs could potentially become available (albeit after the reasons we mentioned in paragraph 6.11).²⁸

KEY FINDING

6.13 Particular focus will be given to reviewing the licences of businesses that employ more migrant staff than their average 'competitors'. As of June 2013, the Population Office had identified 725 businesses in Jersey that fall into this category.

6.14 Reducing the number of 'Registered' licences by focusing on businesses that employ more migrant staff than average could have a significant impact on the makeup of Jersey's workforce. However, we have to be mindful of possible limitations and until we

²⁶ Jersey Labour Market at June 2013 Report

²⁷ Data provided by the Population Office

²⁸ Data provided by the Population Office

see it working in practice no one can say for certain how realistic the projected benefits are.

- 6.15 If the Council of Minister's proposed Interim Population Policy is agreed by the States, the success of its delivery will be mainly dependent on the success of the new Law and its ability as a tool to manage population. The Assistant Chief Minister and the Population Office are putting a lot of faith in the new Control of Housing and Work (Jersey) Law 2012 to deliver a Policy that has continually failed since the Policy was first introduced in 2009. The Chief Minister informed the States Assembly in February this year that "*we have now got some legislation in place that is going to help us deliver on that [target].*"²⁹ Nevertheless, are we able to say for certain that the new control mechanism for population and migration will be capable of delivering a target of +325 people per year?

KEY FINDING

6.16 Delivery of the proposed Policy would be dependent upon the effectiveness of the control mechanism and its application.

- 6.17 The new legislation was introduced in July 2013 and, at the time when the Proposition was lodged, had only been in place for 7 months. In a public hearing with the Assistant Chief Minister we enquired whether it was still too early to assume that the Law was capable of delivering the proposed Policy. In the same hearing the Senator seemed optimistic about what the population statistics for 2013 would show, he told the Panel that the Law needed to be in force for a full year in order to understand the seasonality of everything³⁰. With regard to how the Law has been applied since its implementation, the Assistant Chief Minister advised:

*"Now we have the legislation, we are being a lot firmer on licence applications and we are encouraging businesses to employ as many local people as they possibly can and if they want to employ someone who is not qualified they need to show us that these skills are not in the Island. They have really got to prove that those skills are not in the Island."*³¹

- 6.18 Interestingly, a recent survey, which was carried out by the Chamber of Commerce with its Members (in which 45% of Members responded), showed that only 22% of

²⁹ Hansard, 4th February 2014

³⁰ Assistant Chief Minister, Transcript, p19

³¹ Bailiwick Express, CONNECT, 24th February 2014

respondents had been refused a licence for their businesses within the last 12 months (see Appendix 3). However, further analysis had not yet been undertaken by the Chamber in order to clarify the exact reasons for this result.

6.19 What we do know, however, is until the Statistics Unit collate the data from the new Population Register with the first manpower returns process, the Population Office has no way of knowing exactly how the new Law has performed to date. Jersey's Resident Population 2013 Report was due to be released on 18th June this year. However, during the course of this review the public was advised that, due to problems experienced with the new manpower returns, the deadline for businesses to provide this information would be extended to the end of February (a month later than the normal deadline).

6.20 This news causes us concern for a number of reasons. First, it does not fill us with much confidence that the new Law and controls are performing effectively. Secondly, the delay has affected the ability of the Statistics Unit to publish statistics to their provisional schedule. As a result, the Chief Statistician has postponed the publication of Jersey's Labour Market 2013 Report and Jersey's Resident Population 2013 Report until the necessary information is available. Until such time that these reports are published, we will not know whether the new Law has been successful in limiting migration. In the 2012 Strategic Plan the Chief Minister committed to undertaking a post implementation review of the new Law within the first 12 months of its operation. However, this work is still pending and we will not know the results of that review until July 2014 at the earliest.

6.21 In 2013, during the Sub-Panel's review of the Control of Housing and Work (Jersey) Law, the Minister for Housing was asked how he would evaluate the effectiveness of the new Legislation once implemented. The following response was provided:

"Initially that we have reliable information that we can make the right decisions on...you cannot make decisions on half the information; we do not have the information at the moment; we do not truly know everything that we ought to know. We will know that."³²

6.22 The Panel recognised that it was never the Council of Minister's intention to hold the debate after the publication of Jersey's Resident Population 2013 Report. However, given the importance of the debate and the possible implications for the Island it is essential that all necessary information is available. Consideration should be given, therefore, to the

³² Minister for Housing, Transcript, 10th December 2012, p45

appropriateness of holding a debate on Population Policy in the absence of the latest population statistics.

KEY FINDING

6.23 Due to the delay in the compilation of the data from the latest Manpower Survey, the publication of the 2013 Jersey Resident Population Report has been postponed. Until the data is available the Population Office cannot assess the efficacy of the new Law and the Statistics Department cannot provide an analysis.

KEY FINDING

6.24 In the 2012 Strategic Plan the Chief Minister committed to undertake a post implementation review of the new Law within the first 12 months of its operation. It is proposed that the results of that review will be made available by July 2014.

Potential implications for the Island

6.25 As we have mentioned earlier, if these proposals are accepted, and the target of +325 people per year is adhered to, then based on the Statistics Unit projections the total population in 2015 would be 100,800. If the States were to continue to use this figure as their planning assumption for net migration in the long term then Jersey's population would reach 110,700 in 2035 and 117,600 in 2065.³³ In comparison, if Jersey continued to experience the same inward and outward migration trends as seen in 2012 the total population would be 115,500 in 2035 and 130,400 in 2065.

6.26 When deciding an appropriate population target it is important to consider the potential implications of the policy on Jersey's resources and infrastructure. The report that accompanies the Proposition addresses the impact of assuming a net migration figure of +325 on our working age population and, in turn, the implications for our ageing society. However, the report does not reference the effect of the proposed Policy on increased demands on Jersey's resources. The Chief Minister has told us that it will be for the next Assembly to set a future Policy for population as part of its long-term planning and it will be for them to determine the future level of population. So, what are the short-term implications of this Policy for the Island?

³³ Statistics Unit, Projections for Net Inward Migration of 325 people per year

6.27 We were advised by the Chief Minister that *“most departments are already planning their services on a net migration assumption of +325/+150”* and, as a result, no short term implications are anticipated. In order to have suitably considered alternative planning assumption levels, we believe that the Council of Ministers should have reported on the effect of planning for a net migration of +325 on Jersey’s resources. This is one issue that has been considered by Deputy Southern within his proposed amendment to the Proposition. Using the demand for housing as an example, he has argued that, based on the Statistics Unit’s projections, in the short term there will be a *“significant growth in demand for housing resulting from inward migration.”*³⁴

KEY FINDING

6.28 No consideration has been given to the short term implications on Jersey’s resources of planning to a net migration target of +325 in comparison with a lower level of net migration.

Potential implications for businesses

6.29 It is inevitable that any Policy decisions based around population and migration will impact on Jersey’s business community. Therefore, whilst it is extremely important to assess the implications of a growing population on the Island’s resources and Jersey’s way of life, consideration must also be given to our economy and the need for limited migration in order for it to grow and be successful. As with any debate surrounding this subject, exactly how much migration is needed to aid economic growth is a matter of controversy.

6.30 Since the Interim Population Policy was lodged in February, many concerns have been expressed by businesses about the potential impact of the proposals. The majority of those concerns highlighted two main areas of unease; uncertainty as to whether the Policy would be achievable and fears regarding its potential application. At a public hearing the Chamber of Commerce told the Panel that *“I think it is fair to say that there is scepticism as to whether or not we will achieve a figure of 325.”*³⁵ As previously highlighted, despite the States agreeing to a maximum net migration figure of +325 per year in the 2009 Population Policy, the average annual net migration in Jersey since 2009 has been 575 people. The Chamber of Commerce pointed out to the Panel that if the

³⁴ P.10/2014 Amd, Deputy Southern ,p6

³⁵ Chamber of Commerce, Transcript, p3

proposed Policy is agreed by the States and applied effectively it will reduce the average annual net migration figure that has been experienced over the last few years by 44%. In this regard, the President of Chamber of Commerce advised us of the following concerns:

“Effectively what we are saying is we think we can reduce net inward migration by 44%, but also grow the economy – presumably which is what I would imagine we all want to do for our own prosperity – but somehow we can do that by reducing net inward migration through one of the deepest recessions since the Second World War by 44%.”

He added:

“If we do not recover our economy, we are all in trouble. It is as simple as that, and whoever you work for, ultimately we rely on the economy of the Island, so we need to recover our economy.”³⁶

6.31 The extent to which this opinion is held among members of the Chamber of Commerce was emphasised in a recent survey in which 57.7% of respondents said that they did not feel the +325 figure was achievable. Interestingly, half of the respondents believed that a net migration figure would dampen Jersey’s economic recovery and only 29.45% believed that the Policy would cause their business recruitment issues.³⁷ The Chamber advised us at the Public Hearing that further analysis would be undertaken on these figures to help inform the debate on the Policy and to provide Members and the public with an improved understanding of the results.

FINDING

6.32 Over half of the respondents in a recent survey carried out by the Chamber of Commerce did not believe that the Policy was achievable.

6.33 During this review we also received information from a recent survey that had been undertaken by the Institute of Directors with its Members. Sixty three individuals responded to the survey, of which 73% were from the financial services sector and 40% were from organisations with more than 100 employees. Of those who responded, 76% did not believe that the +325/150 limit sensibly balances the desires to grow the economy with limiting migration. Furthermore, the Institute of Directors *“do not believe that the*

³⁶ Chamber of Commerce, Transcript, p16

³⁷ Chamber of Commerce, Survey

*proposal sufficiently recognises the challenges facing Jersey in 2014 and 2015 as it attempts to emerge from a deep recession, and does not provide the balance between economic, community and environmental goals that it claims to seek.*³⁸

6.34 In contrast to the business community, the Council of Ministers believe that +325 is a reasonable annual planning assumption to assume for net migration. The Proposition and accompanying report highlights the need for limited migration to, not only support our ageing population, but to help our economy prosper. The Assistant Chief Minister told the Panel that devising a Population Policy was a “*really tough balancing act*”. He advised us that on the one hand they have the desire to meet the wishes of 77% of the population who are concerned about the way Jersey’s population is growing and on the other hand they need to try to ensure that business communities have the right level of staff with the right skills to enable the Island to be economically viable³⁹.

6.35 Another concern that was expressed by Chamber, and one that we hold ourselves, is how the Policy will be applied if it is agreed by the States Assembly. The report states that when making decisions regarding licence allocation for “Registered” staff, the Population Office will support migration that has a high economic and social value.⁴⁰ However, there is a fear that the decisions made by the Population Office as to which businesses will boost our economy may have a detrimental effect on sectors that are not perceived as high value. In contrast to finance and digital sectors, businesses within the tourism, agricultural, hospitality and construction sectors may be unequally disadvantaged by the new proposals. In this regard, the President of Chamber of Commerce stated:

“the knock-on effect from that is what they [Population Office] effectively have to do is to focus the applications they say yes to around specific sectors, i.e. finance and digital, so what that says to tourism, hospitality, retail and any other business in Jersey, I think it is quite a strong message. I think those sectors are going to find it increasingly tough to recruit from outside of the Island.”

6.36 Furthermore, in the survey that was undertaken by the Chamber of Commerce the tourism/leisure/hospitality sector expressed most concerns regarding the Council of Ministers suggested Policy. For example 67% of the respondents within this particular sector said the Policy would cause them recruitment problems; 77% said that they did not

³⁸ Institute of Directors, Written Submission

³⁹ Assistant Chief Minister, Transcript, p13

⁴⁰ P.10/2014, p10

think +325 was achievable and 63% thought the Policy would dampen economic recovery.⁴¹

6.37 The Chairman of the Jersey Voluntary and Community sector, in his written submission to us, highlighted the importance of licences for “registered” staff to voluntary organisations such as Family Nursing and Home Care, Jersey Hospice Care, the Cheshire Home and the JSPCA, who often require staff with specific and considerable skills. As a result, he stated that *“new permissions must not only be granted to “high value” finance and digital Jersey-orientated jobs but “high social value” positions must also be taken into account”*. The Chairman also argued that each application should be looked at on its individual merits and *“need should be the final arbiter, not simply a pre-determined finite number.”*⁴²

6.38 When we asked the Assistant Chief Minister whether the same standards would be applied across all sectors in respect of licence allocation we were advised *“when it comes to businesses that are providing a valuable service to the Island, a social service, they may have perhaps a more lenient approach. If it is a business that is not creating a high economic value to the Island, we would probably be a bit tougher”*.⁴³

FINDING

6.39 There is a risk that the decisions made by the Population Office as to which businesses are of high economic value will have a detrimental effect on particular sectors of the economy.

FINDING

6.40 Each application for ‘Registered’ and ‘Licenced’ permissions should be considered by the Population Office and the Housing and Work Advisory Group on its individual merits.

6.41 As we have mentioned earlier, one of the proposals of the Policy is to focus on businesses that employ more migrant staff than their average competitor and support them to recruit local staff. In this regard, page 8 of the Proposition states *“currently there is not a level playing field between businesses, with some holding many more permissions*

⁴¹ Assistant Chief Minister, Transcript, p20

⁴² Jersey Voluntary and Community Sector, Written Submission

⁴³ Assistant Chief Minister, Transcript, p30

*than others, even where those businesses are substantially the same.*⁴⁴ From the evidence that we have received it is clear that businesses hold a particular concern in regard to this proposal. For instance, although businesses may be in the same sector and may appear comparable, in reality they may operate in entirely different parts of the economy; they may face different business environments with different revenue streams, skill requirements, ownership structures etc. In order to determine the competitive nature of businesses the Population Office would have to develop a comprehensive understanding of their objectives. Thus, it could be argued that forming a conclusion that one business in a particular sector is a 'competitor' to another business in that sector may, in some instances, be inappropriate.

FINDING

6.42 Although businesses in the same sector may appear comparable, in reality they could face different revenue streams, skill requirements and ownership structures.

6.43 Despite the Chamber of Commerce having met with the Population Office on a number of occasions to discuss the proposed Policy and potential application of the Control of Housing and Work (Jersey) Law, it is still unclear to them how decisions, such as which businesses create higher economic growth and which businesses are above a perceived sector average, will be made. In this regard, the President of Chamber spoke about the need for further information:

*"I would still like to have more transparency as to how decisions are being made, because then it takes it out of the realm of being one man or woman in an office. I would like to have a little more transparency as how those judgements are being made, because I know that over the next year or so, we are going to get an increasing number of those types of concerns from tourism, agriculture, construction, all of the sectors which are deemed to be of low value."*⁴⁵

FINDING

6.44 The business community is yet to receive clarity from the Housing and Work Advisory Group as to how the proposed Policy would be applied in practice.

⁴⁴ P.10/2014, p8

⁴⁵ Chamber of Commerce, Transcript, p9

6.45 The requirement for new businesses to predominately employ “entitled”/“entitled to work” staff within the new proposals reflect the agreed aims of the 2012 Strategic Plan to “support employers in recruiting and developing the increasing number of locally qualified job seekers through the ‘back to work’ programme” and, one of the main priorities, to “get people into work”. The recent high levels of unemployment experienced in Jersey, particularly among the “entitled” population, has meant that many efforts are being made by the Population Office and Social Security Department to encourage businesses to employ locally. Unfortunately, however, the evidence that we have received during this review suggests that despite the high unemployment levels some businesses are struggling to find the right individuals with the necessary skills. For example, whilst the Chamber of Commerce fully accept that all efforts should be made by businesses to employ locally and recognise the benefits of the ‘Back to Work’ programme in helping businesses to do so, concerns have been expressed about a skills gap within some sectors of the economy. The President told the Panel:

“The reality is that there are jobs in the industry, particularly in finance at the moment, which cannot be filled. There are not people who are here to do those jobs. There are vacancies that have been vacant for a very long time...It is not as simple as saying “there are jobs and there are 1,800 people, therefore match them up and we are done”. It does not work like that.”⁴⁶

6.46 Similar views were shared by the Voluntary and Community Sector and Deputy Steve Luce, who also submitted evidence to the Panel:

Voluntary and Community Sector

“We do agree that wherever possible organisations, including those in the voluntary and community sector should attempt to recruit locally when it is practical and indeed they should be able to demonstrate that they have indeed done this or at least made all possible efforts to do so. We are concerned however that even within our sector there are examples of functions for which specific and considerable skills are required – for example, specialist nurses and veterinary nurses. We also appreciate there is an evolving Skills Strategy which over time might bring these skills to local people but it is early days and we do have some way to go at this time.”⁴⁷

⁴⁶ Chamber of Commerce, Transcript, p6

⁴⁷ Jersey Voluntary and Community Sector, Written Submission

Deputy Steve Luce

“We cannot fill the potential demand using local resources alone, especially in the short term, and especially in regards to Digital Jersey and Financial Services. We have always in the past, and will continue to in the future, be completely dependent on a certain level of “imports” to help us achieve our goals.”⁴⁸

6.47 Interestingly, whilst we were undertaking this review, an article was published in CONNECT by the Bailiwick Express about the experiences of local recruitment agencies. Tina Palmer, an ASL Director who has 24 years of experience in the recruitment industry, told the magazine *“we have got more jobs than we have had for ages and we are struggling to fill them and my counterparts are exactly the same. It is not the senior, senior positions or the raw trainees, it’s the ones in the middle.”* When considering the reasons for this situation she stated *“The problem is people who are unemployed are not matching the very specific vacancies in financial services. I know the Jobs Fest and the Back to Work schemes have worked really well but the skills do not seem to match the vacancies in financial services.”* Members of the Institute of Directors spoke about the implications of a skill shortage on the Island for potential new businesses:

“if we are not allowed to recruit appropriate staff in Jersey the business will move to where it can” and “business will simply go elsewhere. Once certain parts have gone they will never return. This policy is short sighted and ill informed.”⁴⁹

6.48 In light of this evidence we wonder whether more can be done to evaluate the skills gap thereby enabling more of the local unemployed population to obtain work. The Panel are aware that the Council of Ministers have introduced a range of strategies such as the Back to Work Programme, the Enterprise Action Plan and the Skills Strategy to help ensure that Jersey has the right skills to match the business community’s needs. However, reducing the skills gap in Jersey is not a ‘short term’ incentive. It follows that such an incentive does not fit in well with the immediate objectives of the Interim Population Policy.

6.49 During the Public Hearing with the Chamber of Commerce we enquired whether it was felt that economic growth was simply a by-product of population growth and, in essence, a result of increased net migration. The President advised us that *“it is very difficult to tie*

⁴⁸ Deputy Steve Luce, Written Submission

⁴⁹ Institute of Directors, Written Submission

*economic growth to the number of people in Jersey.*⁵⁰ Instead, the Chamber believes that increased productivity as well as attracting the people with the right skills to Jersey is crucial for growing our economy. For this reason, it has been argued that focusing on a number is “misguided”. The President stated:

*“I think the actual number thing, that is nonsensical. I fail to see it. I had this debate recently with the Chief Minister, that they feel they have to have a number because that is what people require. My view of that is I do not see how you can have a number, because I do not see what relevance it has.”*⁵¹

FINDING

6.50 Despite the high levels of unemployment, industry sectors are struggling to fulfil certain vacancies as a result of a significant skills gap within our local community.

FINDING

6.51 Increased productivity as well as having the right skills in Jersey is essential for aiding economic growth.

6.52 In the 2012 Strategic Plan, under the Council of Ministers’ priority to ‘Manage Population Growth and Migration’, it states that *“it is essential for our economy that Jersey is seen as ‘open for high value business’ which create and safeguard local employment.”*⁵² However both the Chamber of Commerce and Deputy Steve Luce feel that the new proposals are contrary to this aim. For instance, the President of the Chamber believes that Jersey must be open for investment and, unless the States are careful about how population numbers are restricted, there is a possibility that the proposed Policy would dampen economic recovery⁵³. Similarly, Deputy Luce explained:

“The setting of immigration limits is completely contrary to the ‘Jersey, Open for Business’ strap line that is currently being used by the Economic Development Department and specifically Locate Jersey in their quest to find new businesses and high net worth individuals to diversify our local economy.”

⁵⁰ Chamber of Commerce, Transcript, p4

⁵¹ Chamber of Commerce, Transcript, p16

⁵² 2012 Strategic Plan

⁵³ Chamber of Commerce, Transcript, p16

6.53 In its written submission to the Panel, the Institute of Directors acknowledged the potential implications for the Island if Jersey was perceived as being closed for business:

“If it appears that Jersey is not “open for business” and as a result the economy does not grow, or even worse contract, then the end result could be higher unemployment, higher taxes and poorer public services and that should ultimately be of concern to us all.”⁵⁴

FINDING

6.54 There is a concern among the business community that the proposed Policy would convey the perception that Jersey is ‘closed for business’.

⁵⁴ Institute of Directors, Written Submission

7. DELIVERING THE INTERIM POPULATION POLICY

Is the Interim Policy achievable?

- 7.1 In the previous chapter we considered the performance of the new Law and whether, in the absence of statistical data, it was too early to assume the legislation was capable of delivering the proposed Policy. In this chapter the Panel considers first, whether the proposed Policy is achievable and secondly, whether the Policy will be enforced.
- 7.2 The Chief Minister and Assistant Chief Minister have, from the very beginning, acknowledged that the proposed Policy will be difficult to deliver. For example, in a public hearing the Assistant Chief Minister told the Panel *“it is going to be a very difficult challenge to meet the +325...there is no doubt in my mind.”*⁵⁵ Achieving the right balance between economic, community and environmental goals is not an easy task but one that must be faced when developing a Population Policy. Despite past failings, the Council of Ministers has agreed that +325 is an “appropriate” Policy to have in place for the next two years. But what does this mean?
- 7.3 Unlike the 2009 Population Policy which set a maximum inward migration level, the Interim Population Policy has no mention of a “maximum” or “limit” or a “cap”. The Proposition clearly outlines that the Control of Housing and Work (Jersey) Law will be used to “support” a “planning assumption” of +325 people per year. In a Public Hearing, the Chamber of Commerce expressed some confusion as to how a planning assumption could be enforced. When we queried this with the Assistant Chief Minister and Chief Minister it became clear that the figure +325 was simply an aim or objective rather than a limit to which Population and Migration would be controlled. In this regard the Chief Minister advised:

“The Proposition is very deliberate in using terms “support” and “planning assumption” with reference to the +325/+150 [heads of household] net migration number. We are clear that an exact specified number cannot be precisely achieved. Simply, that is not the nature of any population and migration regime, as, for example, it is perfectly legitimate and proper that migration is influenced by personal decisions around relationships and

⁵⁵ Assistant Chief Minister, Transcript, p24

family, and that government should respond to business opportunities, while continuing to hold an overall objective in mind.”⁵⁶

FINDING

7.4 Unlike the 2009 Population Policy which set a maximum inward migration level, the Interim Population Policy makes no mention of a “maximum” or “limit” or a “cap”.

FINDING

7.5 A planning assumption cannot be enforced.

7.6 In February 2013, a Corporate Services Sub-Panel undertook a review of the Control of Housing and Work (Jersey) Law. The Sub-Panel came to the conclusion that the success of the new legislation was dependent on the extent to which it is enforced. However, the Panel is still uncertain as to the degree in which the Law could, or indeed would, be enforced under the proposed Policy. For instance, on the one hand the Director of Corporate Policy stated that the Law will be applied to achieve +325 per year but on the other hand he told the Panel that an exact specified number cannot be achieved.⁵⁷ Furthermore, the Report attached to the Proposition clearly states that the target of +325 would be applied flexibly and that, under the right circumstances, there would be justification for exceeding the number set out in the Proposition:

“A business may wish to relocate to Jersey or expand, and as part of creating jobs locally, they may also need some permission for migrant workers. Such a business may bring a range of benefits to Jersey, and it would not be sensible to refuse those permissions even if the target for a single year was to be exceeded, especially with high unemployment.”⁵⁸

7.7 It is therefore unclear as to the level of flexibility that may be applied under the proposed Policy. For example, to what extent would the Population Office be prepared to exceed the “planning assumption” figure in order to encourage new businesses to the Island? If the Policy were to be applied leniently and the trends in inward and outward migration seen in 2012 continued at the same level, in 2035 the total population size would be 115,500. This level of net migration in the short and long term would have significant impact on the Island’s resources, especially if all States Departments assumed a planning

⁵⁶ Chief Minister, Written answers

⁵⁷ Director of Corporate Policy, Transcript, p18

⁵⁸ P.10/2014, p24

assumption of +325 within their Policies. Interestingly, during the Corporate Services Sub-Panel's review of the Control of Housing and Work (Jersey) Law 2012, the Minister for Housing advised that, realistically, he could not see the level of net migration reducing significantly under the new Law but rather remaining stable.⁵⁹

7.8 Both The Chamber of Commerce and Deputy Steve Luce have queried the relevance of including a number within the Policy that firstly, cannot be enforced and secondly, that may not be adhered to. In response to the comments at a public hearing, Deputy Luce told the Panel *"it was made clear by Senator Routier that the "limit" was not a limit at all...That has to beg the question; why have a number at all? Why bring this to the Assembly if the numbers are meaningless?"*⁶⁰

7.9 According to the Chief Minister, the fact that +325 is only a planning assumption and not a limit *"does not invalidate the importance of having a planning assumption to inform the public and the business community of the direction to which our controls are being applied, and as means of informing the planning of public services."*⁶¹ It was our understanding however, that since the new Law was introduced in July it had been applied in line with a net migration figure of +325. Furthermore, all Departments, apart from two, are currently using +325 as their planning assumption. Thus, it must be questioned why we are debating a Proposition that makes no material difference to the situation we are currently in. It is hard to envisage how proposals to reintroduce a planning assumption for net migration of +325 will address the concerns of islanders who identified migration as their most pressing concern.

FINDING

7.10 The Council of Ministers consider that under the right circumstances there will be justification for exceeding the number set out in the proposed Policy.

FINDING

7.11 It is still unclear whether asking for the States to agree a planning assumption for net migration of +325 people per year will adequately address the concerns of Islanders and the business community.

⁵⁹ Minister for Housing, Transcript, 10th December 2012, p44

⁶⁰ Deputy Steve Luce, Written Submission

⁶¹ Chief Minister, Written answers

Measuring Success

- 7.12 One of the key benefits, which was continuously raised during the Sub-Panel's previous review of the Legislation, was that the new Register of Names and Addresses (Jersey) Law would provide the States with a much improved depth and range of information, and that in turn would lead to decisions related to Migration and Population being made on a much more informed basis.⁶² The Proposition identifies the inadequacies of our past migration controls in this regard by stating *"it was difficult to gather and maintain population statistics on a frequent basis"* which *"meant that decision makers did not have sufficient information to monitor performance against targets and respond."*⁶³
- 7.13 From the start we have been advised by the States Statistics Unit that it will take at least 3 to 5 years before a definitive assessment can be made as to whether or not the data collected in the Population Register is fit for purpose for the ongoing accurate measurements of the total population and of net migration. Before such time, the Statistics Unit would continue to measure population through both the Register and the new Manpower Survey. Unfortunately however, as we recently discovered, the Chief Statistician is not yet confident that the recent Manpower Survey is sufficiently complete, reliable or accurate and, as a result, has delayed the publication of Jersey's Resident Population 2013 Report.⁶⁴
- 7.14 Usually, however, the end of year statistics for population are presented in June the following year. Consequently, until the register can be relied upon as a rolling measure of the population, the Population Office can only effectively monitor the performance of the new Legislation and indeed the proposed Population Policy annually. Despite the Council of Ministers proposing a planning assumption and not a population limit, it is still envisaged that the Population Office would aim to achieve a net migration level of +325 people per year. However, without real time information it will be impossible to assess the success of the Policy until a year after it had been implemented and 6 months after each year end. Thus, it is plausible that we may face the same issues with this Legislation that we have with previous Legislation with regard to monitoring performance against targets.
- 7.15 The issue of exit polls also needs to be addressed when considering population and net migration statistics. Net migration is the difference between large numbers of people

⁶² S.R.2/2013

⁶³ P.10/2014, p23

⁶⁴ Press release, 16th March 2014

moving both into and out of the island .i.e. the number of people arriving minus those people leaving⁶⁵. Unfortunately, at the moment we have no mechanism to monitor people leaving the Island. We have previously been told that the new Register would indicate discrepancies in the information provided by the Tax Department and the Social Security Department if someone had left the Island. However, until the Register is proven to be accurate, the Population Office will have difficulty successfully measuring the level of net migration.

FINDING

7.16 The Chief Statistician is not yet confident that the recent Manpower Survey data is sufficiently complete, reliable or accurate and, as a result, has delayed the publication of Jersey's Resident Population 2013 Report.

FINDING

7.17 In the absence of real time information, the Population Office cannot accurately monitor migration or effectively measure the performance of a Population Policy.

Cart before the horse?

7.18 The Council of Ministers has brought forward a two year Interim Population Policy in order to allow a suitable period of time to consult with the public and to develop a Long Term Population Policy and a vision for Jersey as a whole. We have been advised that the temporary policy will enable the Assembly to consider the issue of population and migration, as well as the Council of Minister's objectives within this area. We have also been told of the importance of bringing a Policy to the States in order to fulfil on the promise of a debate included in the 2012 Strategic Plan.⁶⁶ Nevertheless, should the Council be proposing a population plan before consideration has been given to a long term vision?

7.19 It has been acknowledged that the Interim Population Policy was not designed to provide all the answers to issues surrounding population growth and migration. It has also been recognised that such issues will be examined in depth in the Long-Term Framework "Preparing for our Future". However, The Chamber of Commerce and the Institute of

⁶⁵ Jersey's Resident Population 2012

⁶⁶ Chief Minister, Written Answers

Directors are unanimous in their view that the Council of Ministers should not be bringing an Interim Population Policy forward for debate at this time:

Chamber of Commerce

“It is premature for me in the sense that it comes before the debate as to what we want for our population, as to give you a blunt answer, yes, I think it is premature from that point of view, because I think we as a society need to decide what we want.”⁶⁷ The debate has to focus on the issues faced in managing an ageing and growing population rather than adopting a number that may be achieved or not but perhaps says that Jersey is not open for business.”⁶⁸

Institute of Directors

“ At face value we do not believe that the proposal sufficiently recognises the challenges facing Jersey in 2014 and 2015 as it attempts to emerge from a deep recession, and does not provide the balance between economic, community and environmental; goals that it claims to seek. We welcome the “Preparing for our Future” initiative as a mechanism to establish those goals but we do not see how it is possible to arrive at a population policy in advance of that initiative being carried out.”⁶⁹

7.20 One of the reasons that was given by the Assistant Chief Minister for bringing an Interim Population Policy to the States was to provide businesses with clarity as to how the Control of Housing and Work (Jersey) Law would be operated going forward. From the evidence we have received, however, we are uncertain as to whether the proposals will provide the level of clarity that is envisaged. A lot of questions remain with regard to the Policy’s potential application and the extent to which the proposals could, and would, be enforced.

7.21 We do not except that the proposed Interim Population Policy will address the concerns expressed by the public about population growth and migration. We have been advised by the Assistant Chief Minister that the actual operation of the Law was debated and discussed with Jersey’s business community 2 or 3 years ago. As a result, we have been told that if the Proposition is agreed by the Assembly nothing will change with regard to how the Law is currently applied. According to Senator Routier:

⁶⁷ Chamber of Commerce, Transcript, p14

⁶⁸ Chamber of Commerce, Written Submission

⁶⁹ Institute of Directors, Written Submission

“What we are asking from the States is just to give us a nod to say continue to aim for that number and we will do that.”⁷⁰

FINDING

7.22 The Council of Ministers is proposing that issues surrounding population growth and migration will be examined in depth in the long-term plan framework “Preparing for our Future”.

FINDING

7.23 The Interim Population Policy would have no substantial impact on how the States currently manage population and migration.

FINDING

7.24 The Panel was advised that in bringing the Proposition to the States for approval, the Council of Ministers was simply asking for a “*nod to say continue to aim for that number and we will do that*”.

RECOMMENDATION

7.25 The Council of Ministers should not bring P.10/2014 to the States Assembly for debate.

RECOMMENDATION

7.26 A Population Policy should not be brought to the States Assembly for debate until:

- All relevant statistics are available from Jersey’s Labour Market 2013 Report and Jersey’s Resident Population 2013 Report;
- The post implementation review of the new Law has been undertaken; and
- Public consultation on a long-term plan and vision for the Island has taken place, as agreed in the 2012 Strategic Plan.

⁷⁰Assistant Chief Minister, Transcript, p32

8. CONCLUSION

- 8.1 In conclusion, the Panel does not believe that the Council of Ministers should bring P.10/2014 to the States Assembly for debate.
- 8.2 The Panel was advised that one of the main reasons for bringing an Interim Population Policy to the States was to provide the business community with clarity as to how the Control of Housing and Work (Jersey) Law 2012 would be applied going forward. From the evidence we have received, however, it is unclear whether the proposals would provide the level of clarity that is envisaged.
- 8.3 The Council of Ministers are not proposing a limit in which population and migration would be controlled through new Law. Rather, the States Assembly is being asked to agree a planning assumption which the Chief Minister and Assistant Chief Minister have, from the very beginning, acknowledged will be difficult to deliver. The Panel was advised that under the right circumstances there would be justification for exceeding the figure set out in the proposed Policy. This finding questions the relevance of proposing a number that would not be enforced.
- 8.4 Despite the Council of Ministers proposing a planning assumption and not a population limit, it is still envisaged that the Population Office would aim to achieve a net migration level of +325 people per year. However, in the absence of real-time information it would be impossible to assess the success of the Policy until a year after it had been implemented and 6 months after each year end. Thus it is plausible that we will face the same issues with the new Legislation as we have with previous Legislation with regard to monitoring performance against targets.
- 8.5 The Panel was advised that since the new Law was introduced in July 2014 it has been applied in line with a net migration figure of +325. Furthermore, all States Departments, apart from two, are currently using +325 as their planning assumption. Thus, it must be questioned why the States are being asked to debate a Proposition that would have no material impact on our current situation. Rather than bringing these proposals forward for debate, the Council of Ministers should ensure that the new Law is applied and enforced effectively. A Population Policy should not be brought to the States Assembly until all relevant statistics are available to inform the debate; until the post implementation review of the new Law has been undertaken; and until public consultation on a long-term plan and vision for the Island has taken place.

9. APPENDIX 1 – PANEL MEMBERSHIP, TERMS OF REFERENCE AND EVIDENCE CONSIDERED

Panel Membership and Terms of Reference

9.1 The Corporate Services Scrutiny Panel comprises the following Members:

Senator S.C. Ferguson, Chairman
Deputy J.G. Reed, Vice-Chairman
Connétable D.W. Mezbourian
Deputy R.J. Rondel

9.2 The following Terms of Reference were agreed for the review:

1. To consider the proposals contained within the Interim Population Policy, with particular regard to the following:
 - a) The rationale behind the proposals;
 - b) The implications of the proposals for the Island
2. To consider the appropriateness of adopting a planning assumption for net migration of +325 people per year.
3. To consider how the Control of Housing and Work (Jersey) Law 2012 will be used to support the policy and planning assumptions.
4. To report to the States Assembly on the work undertaken.

Evidence considered

Documents

1. P.10/2014 – Interim Population Policy 2014-2015, lodged by the Council of Ministers, 30th January 2014
2. Control of Housing and Work (Jersey) Law 2012
3. Population and Migration Review – Part 2 (S.R.2/2013), Corporate Services Panel, presented to the States on 19th February 2013
4. Strategic Plan 2009-2014
5. Strategic Plan 2012
6. Jersey population projections 2013 release, States of Jersey Statistics Unit, published September 2013

7. P.10/2014 – Interim Population Policy 2014-2015 (P.10/2014) – Amendment, lodged by Deputy G.P. Southern, 18th February 2014

**10. APPENDIX 2 – MINISTERIAL RESPONSES FROM
PREVIOUS REVIEWS (S.R.1/2012 AND S.R.2/2013)**

STATES OF JERSEY



**POPULATION AND MIGRATION REVIEW –
PART 1 (S.R.1/2012) – RESPONSE OF THE CHIEF
MINISTER**

**Presented to the States on 11th June 2012
by the Chief Minister**

STATES GREFFE

POPULATION AND MIGRATION REVIEW – PART 1 (S.R.1/2012) – RESPONSE OF THE CHIEF MINISTER

Ministerial Response to: S.R.1/2012

Ministerial Response required by: 6th June 2012

Review title: Population and Migration Review – Part 1

Scrutiny Panel: Corporate Services

Introduction

It is accepted that a new regime to control immigration is required, and this is why the new Control of Housing and Work (Jersey) Law 201- was developed and is being introduced as a significant improvement in efficiency and effectiveness. While developing the new Law, the long standing Housing and Regulation of Undertakings and Development Laws were applied to their proper extent within the prevailing constraints.

Findings

	Findings	Comments
1	The 2011 Census results called into question the Population Policy agreed in 2009 and the capacity to control inward migration.	It is accepted that a new regime to control immigration is required. This is why the new Control of Housing and Work (Jersey) Law 201- is being introduced. The new Law will be more effective, but we also monitor its effectiveness and provide further enhancements as required to ensure objectives are met.
2	The 2011 Census was conducted in an efficient and robust manner and evidence to date suggests that the significant increase in the population figures results from the failings of our current control mechanisms.	As above.
3	The reconciliation of the 2011 Census results by the Statistics Unit will help to provide more accurate annual updates. However, it will not resolve the issue of measuring migration to and from the Island and a degree of uncertainty will therefore remain.	The Population Register as being introduced under the new Control of Housing and Work (Jersey) Law 201- will provide the assurance needed in this regard.
4	The Statistics Unit will not have completed a revised Population Model before December 2012.	Agreed.

5	The current Population Policy was adopted on the basis that new population control mechanisms would be implemented. However, those new mechanisms are still not in place.	The new Control of Housing and Work (Jersey) Law 201- is currently with Privy Council and the objective is to have the Law appointed by the States Assembly in September, 2012.
6	There must be a full understanding of the difference between the 2011 Census results and previous population predictions before a debate on the new Population Policy can take place.	Agreed.
7	A delay in the debate on population policy is unfortunate given that it impacts upon other policy matters: housing, education, employment, economic growth and infrastructure – all of which will be covered in the new Strategic Plan.	Agreed. However, it is important that any debate on population be informed by accurate data and having engaged fully with the public. It is therefore incumbent to await the full analysis of the census data, including annualised net migration data, and a robust population model thereon, and to progress other policy areas in so far as is practical and reasonable in the meantime.
8	If the current population trends continue then the population limit of 100,000, set by the current Population Policy, will soon be breached.	<ul style="list-style-type: none"> • The Chief Statistician has estimated that in 7 – 8 years the population will exceed 100,000 through natural population growth. • In addition, the level of net inward or outward migration obviously directs the size of the population. The Statistics Unit are currently working on annualised net immigration which will provide a range of scenarios around population size to support future population policies and actions. • In the meantime, the Strategic Plan is very clear in stating that permissions for non locally qualified staff will be limited, and 1(1)(j) permissions will only be granted where high economic or social value is compellingly demonstrated.
9	Although the Chief Minister has stated that he would like to see the population constrained to 100,000, the Council of Ministers has yet to decide on whether the new population policy should include a set population limit	The new Population Policy will be based on thorough consultation and analysis, consideration by the Council of Ministers, and ultimately the approval of the States Assembly. In the meantime, the Chief Minister has expressed a view consistent with the 2009 decision of the States Assembly.
10	Further work on the granting, renewal and removal of licenses by the Population Office is required in order that a full understanding of the employment position in Jersey, and the impact of inward migration, can be	The new Law will be supported by new processes and importantly, new systems to enable a fuller range of statistics to be readily produced.

	developed.	
11	In order to have managed the population more effectively, measures should have been taken earlier to address high levels of inward migration to the Island.	The current Laws have been applied to their full extent to support States objectives as the economic situation has changed, alongside bringing forward a new Law and new systems to support more effective migration controls.
12	The Statistics Unit will need to validate the Population Register before it can be relied upon as a rolling measure of Jersey's population.	Agreed.
13	Until the Population Register is complete and mature, 2 sets of population statistics will be available, thereby increasing the risk of confusion when discussing population policy.	Only one set of population statistics will be produced – by the Statistics Unit.
14	Until such time as the register is operational and has been validated, any population policy that sets overall population limits is likely to be frustrated and runs the risk of failure.	It is clearly the case that a Population Register informs the MAG and Population Office in making appropriate and effective business licensing and housing decisions and is an essential component of an effective regime. However, in the meantime, the approach contained in the Strategic Plan is being applied.
15	The Chief Minister has begun to consider whether qualification for access to work should be extended from 5 years to 10 years.	Agreed.
16	Delivery of the population policy will depend upon the effectiveness of migration controls. There must be clarity as to the responsibility for those controls and accountability for their success.	Agreed.

Recommendations

	Recommendations	To	Accept / Reject	Comments	Target date of action / completion
1	The Chief Minister should undertake a fundamental review of the structure of the Population Office and, in particular, examine the compliance and enforcement function and licence allocation.		Accept	The new Law will be supported by new processes and importantly, new systems to include providing a more robust and effective compliance regime utilising the new powers available.	September, 2012
2	Given that the current control mechanisms are failing, the Chief Minister should ensure that a comparison is undertaken between the annual population updates and the numbers of locally qualified and non-locally qualified licenses that are allocated. Furthermore, these findings should be published in a report and presented to the States on an annual basis.		Accept		December, 2012
3	At least 3 months before the debate on Population Policy, the Chief Minister should request the Chief Statistician to provide his view on when the Register will be statistically viable as a rolling measure of the Island's population.		Accept		April, 2013
4	The Chief Minister should advise the States Assembly during the debate on the new Strategic Plan about any increases plans to extend the qualification		N/A	The Strategic Plan debate has taken place.	

	period for access to work.				
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Conclusion

The new Control of Housing and Work (Jersey) Law 201- was developed and is being introduced as a significant improvement in efficiency and effectiveness. While developing the new Law, the long standing Housing and Regulation of Undertakings and Development Laws were applied to their proper extent within the prevailing constraints. The Panel's Report is a constructive contribution and is welcomed as such.

STATES OF JERSEY



POPULATION AND MIGRATION REVIEW – PART 2 (S.R.2/2013) – RESPONSE OF THE CHIEF MINISTER

**Presented to the States on 5th March 2013
by the Chief Minister**

STATES GREFFE

POPULATION AND MIGRATION REVIEW – PART 2 (S.R.2/2013) – RESPONSE OF THE CHIEF MINISTER

Ministerial Response to:	S.R.2/2013
Ministerial Response required by:	2nd April 2013
Review title:	Population and Migration Review – Part 2
Scrutiny Panel:	Corporate Services Sub-Panel

INTRODUCTION

The Report of the Sub-Panel is firmly welcomed, and the majority of its recommendations accepted as helpful contributions toward creating a more effective and efficient means of limiting immigration.

Some of these recommendations and findings will be incorporated immediately, for example, it is accepted that more resources need to be directed toward compliance and data management functions. This will be facilitated by a streamlining of administration to free up staff for these tasks, and additional staff as required, funded through fees.

Other recommendations will form the basis of a post-implementation review of the Law, with a view to making any changes that need to be made in the first 12 months, for example, the question of a photograph on the registration card, the 90 day exemption for individual visiting workers to register (noting that their employer nevertheless needs a licence to employ them), and the 5 year rule for employment.

Having noted this, the new Law will bring a sizeable number of benefits which the Sub-Panel have acknowledged in the body of the Report, which is very pleasing: for example, the ability to vary licences, detailed employee returns from businesses, new powers to require illegal activities to immediately cease, and the sharing of information to support compliance activities.

FINDINGS

	Findings	Comments
1	As of yet and for whatever reason, no decisions have been made by the Chief Minister with regard to extending the qualifying period for access to work from 5 years back to 10 years.	The extension of the qualifying period for work from 5 years to 10 years is a complex issue, recognising that any increase in qualification periods either has the effect of disadvantaging individuals, or involves transitional and saving provisions to protect those individuals, which then need to be administered in respect of the individuals thereon protected. There is also the question of to what extent, if at all, businesses are compensated for the increase in the qualification period by way of an extension of their licence, recognising that not all the skills required by a business are readily obtained in Jersey, especially for more complex and specialised roles.

	Findings	Comments
		All these issues will be considered in depth following the introduction of the new Law, findings reported, and a proposed response recommended.
2	There has been too much lenience in the past with regard to the number of non-qualified licences issued to businesses.	The levels of population and immigration seen in recent years have manifold reasons which cannot simply be attributed to the number of licences issued, most notably, the census results indicated a higher than expected number of individuals remaining longer in the Island – this meant that more people were gaining their 5 year qualifications than expected, and more licences were thereon freed up to be used by new migrants. The new Law has been developed with the express intention of limiting this going forward, for example, through the maintenance of a population register to closely monitor actual migration, and provision to remove licences.
3	The ability to vary a licence for unqualified staff at any time under the Control of Housing and Work Law will provide the States with greater control than they have under the current system.	Agreed.
4	Work has already begun to remove non-qualified licences from businesses. Despite this, however, a significant number of unutilised licences of this category still remain.	The power under the new Law to remove licences will substantially address this issue.
5	Subsequent to a Sub-Panel Public Hearing with the Chief Minister, it has now been agreed by the Council of Ministers to introduce a fee for all Registered licences.	This proposal is subject to finalisation and publication.
6	Tighter controls on unqualified licences will not independently solve the current unemployment situation.	It is clearly the case that the answer to unemployment is not simply being stricter on the ability to employ migrants, but also investment by businesses and government in the skills and job readiness of locally qualified people. It is for this reason that the “Back to Work” Programme has been developed, in conjunction with a number of Departments, including the Population Office.
7	It is obvious that some local people need to be educated and trained to undertake work in areas that are traditionally associated with non-	Agreed.

	Findings	Comments
	qualified people.	
8	The existence of the Registration Card will make it easier for businesses to comply with the new legislation and their licence allocation.	Agreed.
9	New arrivals will be exempt from registering for the first 3 months of living in the Island, provided they do not work within that time period.	Agreed.
10	The proposal to exempt short-term workers from registering under a 3 month period could significantly affect the States ability to monitor transient populations and may increase the risk of non-compliance.	<p>The Sub-Panel's concerns are understood and will be considered as part of a post-implementation review of the new regime.</p> <p>However, the policy intent is clear: it is to require a visiting contractor to have a business licence restricting the number of people who can be employed by that contractor, but not to require every single worker engaged by that visiting contractor to register in person. This would create significant additional work for Departments, without appreciable gain in the ability to control migration.</p> <p>Indeed, the only exemption period that eliminates risk is one that is nil, i.e. that a registration card is always needed before any work was undertaken. This is easily policed – as in that circumstance, any person on any site would need a card and this could be checked. (In the absence of this, a person on a site could always claim to a compliance inspector that they have only just arrived in the Island and are within whatever period is set). An immediate registration requirement, however, means all workers, even if only here for a day, need a registration card. This creates significant burdens for government and impedes the operation of an effective economy which inevitably has some reliance on visiting workers, for example, regional managers visiting Jersey branches, auditors of various kinds, visiting architects, etc. Some exemption period is therefore required, and investment must take place in ensuring it is policed involving spot site visits and monitoring workers from site to site, with the findings assessed with a view to determining whether the period should be changed post implementation.</p>
11	The Sub-Panel has not been convinced that adequate	It has been outlined that a photograph on the card is an unnecessary addition insofar as the

	Findings	Comments
	consideration has been given to the inclusion of a photograph on the new Registration Card.	registration card should be used alongside existing photographic identification, and that some fraud risks and costs are associated with creating a card with a photograph that could gain wider currency as a form of identification. This will be considered further as part of a post-implementation review of the new regime.
12	In the absence of a photograph, it is imperative that a form of identification is shown alongside the new Registration Card for all transactions as a method of validation.	Agreed.
13	At point of implementation, the Register of Names and Addresses will be linked up to the databases held at Social Security, Income Tax and the Population Office.	Agreed. The database will be created from name and address information from a range of public authority sources.
14	There is a great deal of uncertainty as to when the Population Register can be relied upon as a rolling measure of Jersey's Population.	It is for the Statistics Unit to validate the Population Register to their robust requirements, and they will require a number of data points before are able to confirm their satisfaction that the Population Register is maintained over time. However, the objective of the Chief Minister's Department is to have a Population Register that aligns sufficiently with published Statistical Information within 2013.
15	A considerable amount of work still needs to be undertaken by the Population Office before the Register will be complete.	Agreed. The task of aligning data held by a number of Departments is a significant one, but it is essential as a foundation going forward for the streamlining of approaches to customers and as a current record of our population. For this reason, work will continue in order to achieve a complete and accurate database.
16	The Population Office significantly underestimated the resources needed to implement the Register of Names and Addresses.	As noted above, this is a complex but essential task, and providing advance estimates is inherently challenging until administrators begin the task of aligning those databases. However, the work is significantly advanced and progressing satisfactorily.
17	Any significant delay in the completion of the Register will have a considerable effect on the new system and its ability to control population and migration levels.	Agreed. At the same time, other elements of the new Law are also important in achieving objectives; for example, the registration card, the detailed returns from businesses, the enhanced compliance powers, etc., all contribute in the round to a more effective regime.

	Findings	Comments
18	The new Combined Return will provide the States with a much improved depth of information which in turn should allow for better licence enforcement.	Agreed.
19	If the IT system works as envisaged, there is a high chance that improved sharing of information will lead to a more efficient and effective compliance operation.	Agreed.
20	In order to reap the real benefits of the Register, it is imperative that as soon as non-compliance is identified officers are sent to investigate, and if necessary take action.	Agreed.
21	The number of compliance checks carried out under the existing system is inadequate.	Agreed. The new Law will facilitate a much greater investment in compliance resource backed by new legal powers.
22	There is a great deal of uncertainty as to whether the proposed increase in manning levels from 1.5 to 2.5 'boots on the ground' staff will be sufficient to enforce compliance with the Control of Housing and Work Law.	It is accepted that the more resources that can be diverted from administration and toward compliance, the more effective the regime. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.
23	A culture of 'whistle-blowing' in Jersey could be key to ensuring that the new system is enforced.	Agreed. This will be promoted alongside the new Law.
24	The real success of the new legislation is dependent on the extent to which it is policed and enforced.	Agreed.
25	Provided they are exercised, the new powers to cease illegal activity immediately will provide an important means of enforcing compliance with the Law.	Agreed.
26	The Population Office must work <i>with</i> businesses to ensure that the new law is understood and	Agreed.

	Findings	Comments
	managed in a fair and pragmatic way.	
27	The issue of political responsibility for the implementation of the Control of Housing and Work Law has not yet been fully resolved.	The Chief Minister is legally solely responsible for the new Law. Other Ministers will advise in securing a balanced policy position.

RECOMMENDATIONS

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	The Chief Minister should now urgently set out to ensure that once the Law has been implemented, due consideration is given to an extension of the qualifying period for access to work from 5 to 10 years, and the potential implications for population and migration levels.		Accept	This will be considered as part of the post-implementation review.	2013
2	The Chief Minister should undertake a thorough and accurate audit of the number of non-qualified licences issued to businesses every 6 months and in advance of any Population Policy debate. Furthermore, these findings should be published in a report and presented to the States.		Accept	The actions of the Migration Advisory Group in 2012 demonstrate a firm commitment to removing permissions for the employment of new migrants in favour of locally qualified people, and in this vein, a review of licences will take place in 2013, and using the new powers, licence capacity will be removed following evaluation and with a firm presumption toward local employment.	Ongoing
3	In line with the States' top priority to manage population and migration levels, the Chief Minister should consider quickly and effectively removing unutilised non-qualified licences at the point of implementation of the new legislation.		Substantially Accepted	The actions of the Migration Advisory Group in 2012 demonstrate a firm commitment to removing permissions for the employment of new migrants in favour of locally qualified people, and in this vein, a review of licences will take place in 2013, and using the new powers, licence capacity will be removed following evaluation and with a firm presumption toward local employment.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
4	Effective enforcement measures must be developed alongside the new charge for Registered licences to minimise the risk of non-compliance amongst businesses.		Accept	It is accepted that more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected.	2013
5	The Chief Minister should review the 90 days' grace period as it is likely that it will lead to inaccuracies in the Register.		Substantially Accepted	This will be considered as part of the post-implementation review to assess the level of impact, although at present it is considered reasonable to set a registration period that does not capture short-stay visitors who are not working or transacting property, for example, visiting family members, who may be elderly.	2013
6	With regard to the proposal to exempt short-term workers from registering under a 90 day period, the Chief Minister should ensure that every individual employed under a legitimately licensed contractor is required to Register, before they can begin work.			This will be considered as part of the post-implementation review. In addition, see comments in Finding 10 above.	2013
7	The Chief Minister should review the current policy on photographic identification within 12 months of the new Law being implemented.		Accept	This will be considered as part of the post-implementation review.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
8	The Chief Minister should ensure that the public are sufficiently informed regarding the rules and procedures for checking Registration Cards prior to the new Law being implemented.		Accept	Guidance materials and public information campaign is being prepared for release following debate on the Regulations. This will include radio adverts, posters and leaflets at prominent locations, including points of entry, online and social media presence, and use of the government website.	March and April 2013 and ongoing
9	Further consideration should be given to the establishment of a refund system for the Registration Card in order to help monitor population levels for efficiently.		Accept	This will be considered as part of the post-implementation review, noting the merit in the proposal.	2013
10	The Chief Minister should ensure that more frequent compliance checks are carried out at the appropriate locations to ensure that the new legislation is being adhered to. Failure to do so could significantly reduce the effectiveness of the new control mechanisms.		Accept	It is accepted that the more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.	2013
11	When the new Law is in operation, the number of officers available to the Population Office should be re-assessed to ensure that it is adequate.		Accept	It is accepted that the more resources should be diverted from administration and toward compliance. On this basis, the increase in compliance FTE by 1 is the minimum requirement, and a more significant increase is expected and necessary.	2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
12	The Chief Minister should ensure that members of the public are actively encouraged to report any suspected non-compliant activity to the Population Office so that it can be further investigated.		Accept	The Population Office will develop and introduce a "hot-line" to report non-compliance in 2013.	2013
13	Once the Regulations have been agreed by the States Assembly, and in advance of the new system coming into force, the Chief Minister should ensure that the general public are sufficiently notified regarding the provisions of the new legislation.		Accept	Guidance materials and public information campaign is being prepared for release following debate on the Regulations. This will include radio adverts, posters and leaflets at prominent locations, including points of entry, online and social media presence, and use of the government website.	March and April 2013 and ongoing
14	The Chief Minister should ensure that the structure of the Migration Advisory Group is included in his assessment of the effectiveness of the new legislation.		Accept	The Chief Minister is legally solely responsible for the new Law. Other Ministers will advise in securing a balanced policy position.	2013
15	The Chief Minister should give due consideration to increasing the resources available to the Population Office to ensure that the Register of Names and Addresses is fully functional before the Population Policy debate in order to inform decisions regarding the Island's future.		Accept	Data management is an essential component of the new regime and a foundation for a more streamlined approach to Islanders by government. For this reason, existing resource within the Population Office will be directed toward data management functions.	2013

CONCLUSION

It is a priority to introduce more effective controls immediately via the new Law, and with this objective in mind, the findings of the Sub-Panel are firmly welcomed, and their report supported as a thorough and constructive examination of the issues.

Many of the Recommendations will be reflected immediately, and others taken into account in 2013 as part of a post-implementation review, with the findings of that review reported to the Assembly and available for further Scrutiny.

11. APPENDIX 3 – THE CHAMBER OF COMMERCE SURVEY



The Jersey Chamber of Commerce
Interim Population Policy Survey – February 2014 – Final results

Please mark the box that best describes your business

Answer Options	Response Percent
Advertising / PR / Media / Marketing	4.6%
Agriculture	1.7%
Building & Development	10.0%
Charity	2.9%
Financial & Related Services	22.5%
Health Related	2.1%
HR / Training	3.3%
IT / Telecommunications	5.4%
Legal	5.0%
Retail & Supply	17.9%
Tourism / Leisure / Hospitality	9.2%
Transport & Links	3.8%
Other	11.7%

Number of Staff employed by your business

Answer Options	Response Percent
<5	25.2%
6 - 20	32.8%
21 - 30	10.5%
31 - 50	10.5%
51 - 100	7.6%
101 - 200	5.5%
201 - 400	5.9%
401 - 700	1.3%
701 +	0.8%

Please state what proportion of your workforce has a work licence (either licenced or registered)

Answer Options	Response Percent
Less than 5%	50.7%
5-10%	10.5%
11-20%	9.2%
21-30%	2.6%
31-40%	2.2%
More than 40%	25.3%

Do you believe that a net immigration figure of 325 as proposed is achievable?

Answer Options	Response Percent
Yes	42.3%
No	57.7%

Do you believe that a net immigration figure of 325 as proposed will dampen our economic recovery?

Answer Options	Response Percent
Yes	50.0%
No	50.0%



The Jersey Chamber of Commerce
Interim Population Policy Survey – February 2014 – Final results

Do you believe that a net immigration figure of 325 as proposed will cause your business recruitment issues?

Answer Options	Response Percent
Yes	29.4%
No	70.6%

Has your business been refused a work licence in the last 12 months?

Answer Options	Response Percent
Yes	11.7%
No	88.3%

How many work licences do you believe your business will need / apply for in the next 12 months?

Answer Options	Response Percent
0	49.6%
1	15.4%
2	12.4%
3	6.8%
4	1.7%
5	2.1%
more than 5	12.0%