

COMMENTS ON MIGRATION CONTROL POLICY

1. THE PROPOSITION

The proposition is in grey type and comments on the parts are in blue.

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that action should be taken to provide more responsive controls on the number of migrants who acquire the right to settle permanently in Jersey and to remove the automatic 'graduation' from one CHWL permission to another;
- (b) to request the Chief Minister to bring forward amendments to the States of Jersey Law 2005 to require the Council of Ministers to develop a common policy on population; .
- (c) to request the Chief Minister to bring forward the following amendments to the Control of Housing and Work (Jersey) Law 2012 (CHWL):
 - (i) to introduce a 9 month CHWL permission that does not lead to permanent residential status; *See remainder of this document.*
 - (ii) to introduce a 4 year CHWL permission that does not lead to permanent residential status; *See remainder of this document.*
 - (iii) to introduce a 10 year CHWL permission that may lead to permanent residential status; *See remainder of this document.*
 - (iv) to introduce a long-term CHWL permission that does provide permanent residential status; *See remainder of this document.*
 - (v) to require the applicant for a new permit to make a declaration of any unspent criminal convictions;.
 - (vi) to introduce enhanced identity requirements for all CHWL cards issued to new residents; *This was discussed when registration cards were first introduced. Under the proposals it is possible for the registration card to become an identity card and for each person to have to have a digital identity through YOTI. There are wider implications to this other than migration policy.*
 - (vii) to provide for an independent, statutory, expert panel to research and advise on population matters; *Need more info on its makeup.* and
 - (viii) to provide for a Committee of States members to hold responsibility for determining applications under the CHW law that fall outside formal guidelines.

2. KEY EXTRACTS FROM THE MIGRATION CONTROL POLICY (Excluding the Appendix)

The extracts are in grey type and comments on them are in blue.

Page 7:

The main driver of the recent growth in Jersey's population has been the automatic 'graduation' of migrant workers who arrive in the island to take up registered employment and who, when they become Entitled To Work (ETW) after five years, can move into the wider job market – freeing up registered employment permissions that employers use again for new inward migrants. This allows one registered permission to be used repeatedly by the employer allowing more than one migrant to take advantage of the permission at different times. This means that the total number of workers in the Island continues to increase even if no new registered permissions are granted to businesses

It is hard to argue that "graduation" of registered employees to Entitled To Work employees has not led to a rise in population. However arguing that one registered permission is being used repeatedly is a stretch, it is not. What has caused the issue is that there is no regulation of the number of entitled to work employees that a business can employ. This means that more profitable sectors tend to hoover up employees who have "graduated". To its logical conclusion this will lead to a very risky single sector economy, with spiralling payroll inflation and therefore spiralling costs. In turn this will make that sector less competitive in the global market place and increase the gap between the wealthy and the poor on the island.

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Migrants who have skills that are in short supply operate in a global market with multiple jurisdictions competing for their services. A fair package of rights and benefits is important to ensure that migrants feel valued and integrated members of our community, and that Jersey remains an attractive destination for the essential migrants that we require.

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The COVID-19 pandemic has demonstrated the importance of a healthy economy in providing the essential services that give us financial, social and physical security, and of the benefits of a strong economy in building the strategic reserves to temper the impacts of such a crisis. It has also highlighted the importance of the natural environment and a supportive community in maintaining the physical health and mental wellbeing of all Islanders.

A strong economy includes an economy where risk is reduced. There must be economic diversity in order to reduce the impact of shocks, in whatever form, damaging an economic sector. We cannot have (predominantly) all our eggs in one basket.

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The average increase in the resident population during the four year period (2016 to 2019 inclusive) at 1,300 per year, is around four times that at the start of the previous decade (2001 to 2004: 400 per year).

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With net migration remaining at +700 over the 60-year period [2017 to 2077], this projection shows that the [Social Security] Fund remains stable at just under 6 years' worth of expenditure, based on the current contribution rates. If net migration is experienced at a higher level, the projections show that the Fund would increase significantly over time.

With net migration at +325, the Fund is exhausted towards the end of the 60-year period, assuming that social security contributions do not increase.

In order to help the Island minimise the impact of an ageing population some net migration is a good thing. If the impact on the Social Security Fund was to be the measure of this then net migration of 700pa would be the optimal. However, this needs to be managed carefully to prevent a never ending upward pressure.

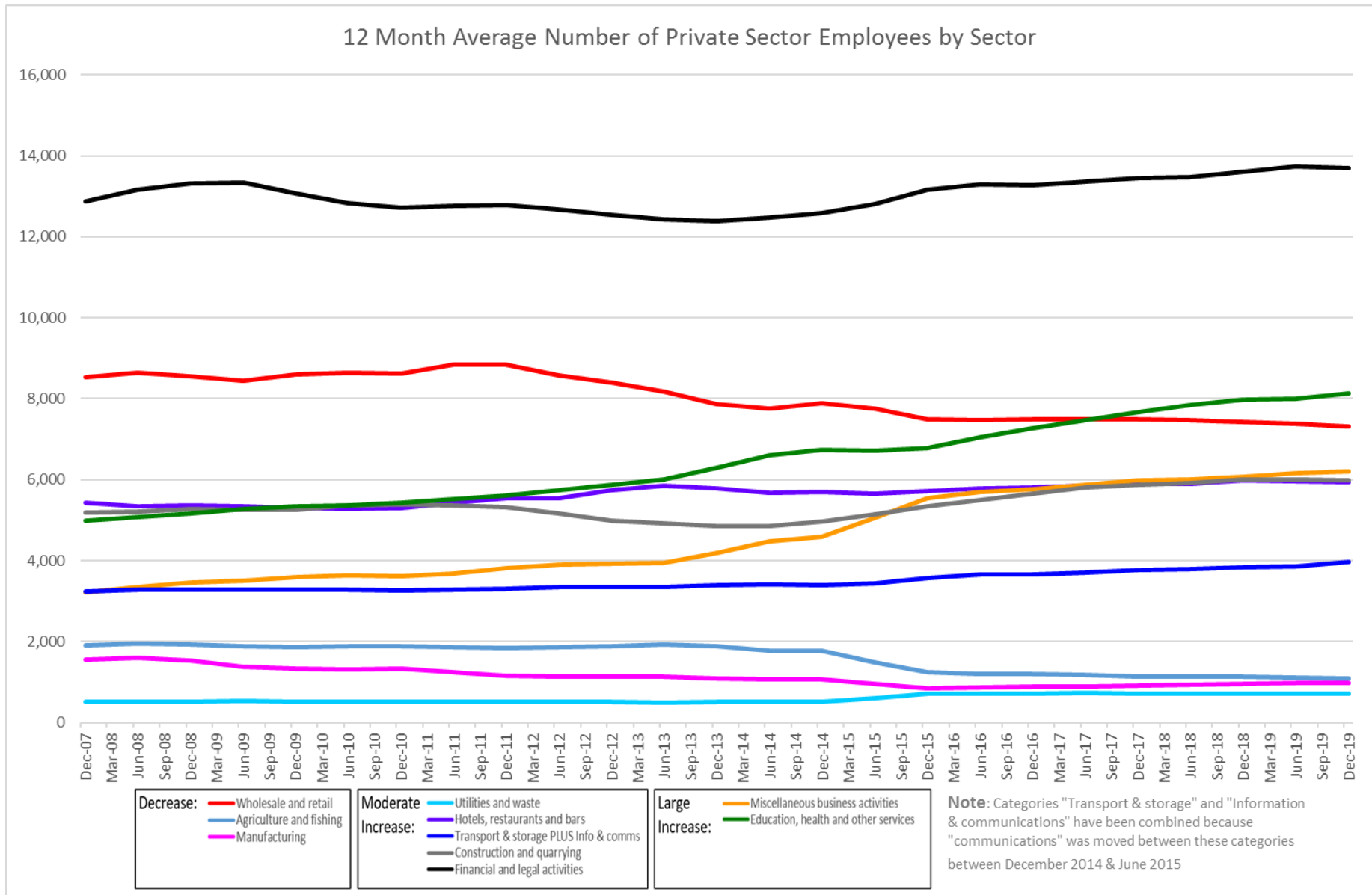
Page 16:

This decline in the productivity of the Island's economy overall has been driven by a decline in the productivity of the financial services sector. Much of this decline is connected with the reduction in interest rates since 2007 which led to lower net interest income in the banking sub-sector.

A separate factor in the decrease in productivity of non-finance sectors since 2007 has been the greater proportion of the Island's workforce being employed in lower productivity sectors; the private sector service industries accounted for 15% of the island's workforce in 2007 (on a full time equivalent worker basis - FTE) rising to 22% in 2019, representing an increase of more than 5,000 FTEs over the period. Easy access to migrant workers over this period, particularly for some of the low productivity sectors, may have encouraged some businesses to continue to rely on a supply of lower paid migrants rather than investing in new working practices or using technology to become more productive.

The second paragraph is misleading as it does not define what "private sector service industries" are and leaves the reader to their own imagination and preconceptions, especially with the use of the wording 'lower productivity sectors'. The "Jersey Labour Market at June 2013" Report states "The private sector service industries comprise the SIC sectors 'Miscellaneous business activities', 'Education, Health and other services' and 'Computer and Related Activities' (now called 'Information and communication')".

Using employment numbers as a proxy for FTEs (Actual FTE numbers are difficult to establish) from the various GoJ Labour Market Reports, the change in employment over the period is shown as:



Using the average of the June & December labour market figures each year to compare the 2007 position to the 2019 position, the net result of the “Decrease” and the “Moderate Increase” sectors is an increase of 475. This confirms the position that the large increases have been seen in:

1. ‘Miscellaneous business activities’ (increase of 2,990 2007 to 2019)
2. ‘Education, Health and other services’ (increase of 3,140 2007 to 2019)

What is driving these increases is not clear and may not be as a direct cause of population increase due to immigration. For example:

- According to the “Jersey Labour Market at December 2019” Report 60% (480 jobs) of the five year increase comes from three sub-sectors (‘Management consultancy activities, and activities of head offices’, ‘Cleaning activities and combined facilities support activities’ & ‘Office administrative, office support and other business support activities’) all of which will probably be primarily driven by activities in the ‘Financial and Legal Activities’ sector.
- Increases in “Education, Health and other services” could be driven by the existing aging population rather than new migrants.

It is probably not, as the reader may be led to believe, because of mass immigration due to the demands of the likes of agriculture or hospitality.

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In order to remain within the CTA, which allows this freedom of travel for islanders across the UK and Ireland, Jersey cannot introduce immigration controls on Irish citizens.

In the absence of an autonomous immigration system, the Control of Housing and Work (Jersey) Law (CHW Law) was introduced on 1st July 2013 with the intention of controlling:

- a) The overall population density of Jersey; and
- b) The availability of work and housing in Jersey for people with strong connections or associations with Jersey and, more generally, in such a way that is in the best interests of the community of Jersey.

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Some businesses have permissions that are not currently being used. These permissions can be retained by the business and used to recruit a new licensed or registered worker in the future. To discourage businesses from holding on to empty permissions, an annual fee is applied to each permission, at £50 per registered permission per year, and licensed permissions at £225 per year.

Business licences are issued with a 3-year review date. The number of migrant workers in post is actively managed as part of the licence review process. A business’s need to retain vacant permissions is challenged and where possible, vacant permissions are removed in line with the average proportion of permissions held by other businesses in the same sector.

Despite these steps to improve the balance of permissions held by local businesses, there are still many vacant permissions within the system and an uneven distribution of existing permissions within and across sectors.

Overall, the total number of licensed and registered permissions has only risen slowly over the last few years as permissions have been kept under tight control.

The experience in the hospitality sector is that licences are very difficult to attain and retain. It is one of the constant issues that stifles business performance. Due to staff turnover rates or the seasonality of employment patterns it may at times appear that there is an excess but this is only due to timings and the difficulty in employing staff.

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The current CHW Law does not provide any specific control in respect of the “graduation” of “registered” migrant workers to entitled to work (ETW) status. The regular supply of extra ETW workers into the local labour market has fuelled the expansion of many business areas over the last five years.

See comments made for the “page 7” extract

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It is proposed to amend the statuses available to workers and the permissions granted to businesses under the Control and Housing of Work (Jersey) Law 2012 to prevent automatic graduation, to provide responsive controls and to enable government to be more selective in meeting the needs of Jersey’s economy and society.

A 9-month CHWL permission to support the need for additional staff to cope with peak workflows, typically associated with a particular time of year.

A 4-year CHWL permission to support the provision for additional staff needed for year-round work requirements.

These two new statuses will not lead to the right for the worker to remain in Jersey permanently.

Once the required IT application and control systems are in place the intent is to provide permissions to businesses on a named worker basis. A business will then apply each time a new 9 month or 4-year CHWL permission worker is employed. Businesses will no longer hold vacant permissions for these categories of worker.

The 4-year CHWL permission is also important where continuity and stability of position is required. Whilst applications will need to be on a named worker basis it is important that indicative numbers are agreed well in advance especially in the high-turnover 9-month category*. If a business needs ten 9-month staff in 2020 it will also need ten 9-month staff in 2021. If only five of their 2020 staff come back in 2021 a business cannot be put in a position where only five 9-month licences are issued because there are no more available.

As previously stated if a mixed economy is to be encouraged and population is to be controlled all categories of CHWL employees need to be considered and enumerated.

*NB – workers names may not be known until the Immigration process has been successfully completed but businesses will need to know the number of permissions they can apply for regardless of whether for 9 months, 4 years or 10 years.

Also if the intent is to ultimately provide permissions on a named worker basis will this in turn tie the worker to the business for the duration of the permission? How will second or even third jobs be recognised?

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Areas currently covered by 'licensed' permissions will typically receive a 10-year permission immediately. This will apply to specific areas such as qualified health professionals (including social workers, nurses and doctors) and teachers, as well as qualified finance, legal and digital professionals

4 & 10 year CHWL permissions should be extended to critical skilled, essential and key workers in hospitality and tourism related businesses most of which are not identified in the SIC listings – i.e. Hotel General Managers, Deputy Managers, Food & Beverage Managers, Assistant Managers, Night Managers, Revenue Managers, Rooms Division Managers, Restaurant Managers, Executive Head Chefs, Head Chefs, Sous Chefs, Chef de Parties, Sommeliers, Executive & Head Housekeepers as well as sector specific roles in Marketing, HR, Maintenance, IT and Accountancy

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[Regarding Immigration Laws\Policies]

Both systems would include a nine-month seasonal route with a mandatory three-month minimum gap between successive applications.

Both systems will include a longer route which does not automatically lead to long term residency. The immigration system will provide a 3-year permission for a **skilled worker** route, requiring a minimum salary of £30,000 per annum and a qualification level equivalent to A level.

In all cases, immigration permission will only be granted if the business already holds an appropriate CHW permission for the proposed job. The Minister for Home Affairs will not impose additional immigration caps. At the end of the three-year permit, the worker may apply for permission to extend their immigration permission. This will allow them to apply to transfer from a four-year CHW permission to a 10-year permission.

Whilst the nine-month seasonal route fits well with the 9-month CHWL permission, the 3-year permission for a skilled worker route ("Skilled Worker Route") does not fit well with the 4-year CHWL permission. This would mean that the Skilled Worker Route is largely closed off for sectors such as hospitality and as a result only employees from the CTA have any chance of obtaining a 4-year CHWL permission.

There is also an apparent disconnect in the number of years that the respective CHWL and immigration permissions are issued.

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Transitioning to a new CHW system will require careful management, taking account of the existing permissions held by business and the current cohort of migrants working under CHW permissions. We intend that:

- all existing CHW licences will be transferred to 10 year permissions and granted on a named worker basis: This will apply to existing workers who hold a “licensed” permission under the current CHW law at the time the law is changed, such as doctors, teachers and finance and digital professionals. They will be able to continue to work in Jersey to complete ten years’ residency and then move to a long-term permission;
- vacant licences held by businesses will not be transferred to the new system;
- all existing CHW registered workers will be given transitional rights to continue to work in Jersey for up to 5 years, in order to gain access to the local labour market (ETW status). This will apply to workers who have been in Jersey for less than 5 years at the time that the law is changed and are working under a “registered” permission. After they have completed 5 years continuous residency, they will retain the right to access the local job market. After 10 years continuous residence they will be able to move to a long-term permission;
- the management of vacant registered permissions held by businesses will be considered to ensure a smooth transfer to the new system.

Point three means that there would be a delay in stopping the “graduation” of registered employees to entitled to work employees.

The details of these transitional arrangements need to be carefully considered in order to ensure that businesses can still operate.

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It is right to ensure that those accessing public services have paid/or will pay a fair amount of contributions into the system that they are using, and also that those who have paid a fair amount of contributions into the system should be able to access public services appropriately.

Ministers will undertake a review of all government funded services that include residency requirements with the aim that access to benefits and services is fair and aligned across all areas.

The range of outcomes that would be justified by the above is very wide indeed from zero support, because in a nine month period the amount contributed is not seen as a fair amount for the services received, to support from day one as this is seen as what’s fair.

What is paramount is that there may well be human rights issues implications so the findings of this review should form an integral part of the proposition and not be left undetermined with no specified date to its conclusion.