

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY J. H. YOUNG OF ST BRELADE
ANSWER TO BE TABLED ON TUESDAY 9th SEPTEMBER 2014**

Question

Will the Chief Minister give the Assembly details of the relationship breakdown policy currently applied under the Control of Housing and Work (Jersey) Law 2012, and explain how this policy is applied both to entitled persons and to persons licenced to occupy housing and, in particular, inform the Assembly -

- (a) the effect on the separated partner's right to occupy housing if such partner does not enjoy either entitled or licenced housing status in their own right;
- (b) the policy in respect of Jersey born children, whether they can remain in their homes whilst in education and whether the policy recognizes the jurisdiction of the Family Division of the court in such matters;
- (c) how many applications for one party to remain in their family homes have been made under this policy and how many have been refused;
- (d) whether applications where one party is licensed are automatically refused and, if so, how the Chief Minister justifies such decisions;
- (e) whether persons and their children refused consent to remain in their home are required to appeal to the Royal Court?

Answer

The relationship breakdown policy currently applied under the Control of Housing and Work (Jersey) Law 2012 (noting that policies under the Law are under ongoing review) is as follows:

**Population Office
Control of Housing and Work (Jersey) Law 2012
Marriage and Relationship Breakdown Policy**

This policy was developed because of the increasing number of applications of this nature and specifically, to ensure that they were dealt with in a fair and consistent manner. The rationale behind it was that, provided the unqualified spouse or partner had been co-habiting and resident for the specified period, at the time of the marriage, or the commencement of co-habitation as man and wife, such person would have had the expectation of being able to house themselves and any children in satisfactory and suitable housing conditions. The fact that, for whatever reason, the relationship or marriage had broken down was felt, on housing grounds, to have a material and detrimental effect on the children of the relationship or marriage, many of whom had been born and bred in the Island.

The policy is reactive to the breakdown of a relationship where the unqualified partner or spouse could be faced with having to move into uncontrolled accommodation with any children of the relationship or marriage, and is not retrospective or applicable where the spouse or partner has Licensed status.

Policy

Because of the hardship otherwise caused to minor children of a marriage or common-law relationship if entitlement is not granted, Entitled status is granted to an unqualified spouse or partner provided that:-

(a) the unqualified spouse or partner has been married to, and/or living with, the Entitled spouse or partner in the Island for at least the previous five years; and

(b) the unqualified spouse or partner has been continuously ordinary resident in Jersey for at least the previous seven years; and

(c) the unqualified spouse or partner has care and control of the child(ren) either by means of a legal separation or a Court Order. Any permission granted to occupy accommodation will be conditional upon the unqualified spouse or partner in question continuing to have care and control of the minor child(ren).

In the case of a common-law relationship breakdown, no Court Order will be granted but care and control of any child of the relationship must still be with the applicant on a full time basis.

In response to the individual parts of the question and as to how the policy is applied:-

- a) A separated partner does not have the right to occupy Qualified property if they do not have Entitled or Licenced status, or if they do not satisfy the criteria for qualifying under the relationship breakdown policy. However, all cases are looked at on their own merit and decisions made accordingly, with due account of precedent. Where a partner owns the property, wholly or in part, they are able to remain in occupation, but would not have Entitled status to enable them to lease or purchase alternative Qualified property.
- b) The Population Office would consider the Family Division of the Royal Court when making decisions under the Control of Housing and Work (Jersey) Law 2012, but having a Jersey born child does not give a Registered or Entitled for Work parent Entitled status or the automatic right to occupy Qualified property.
- c) Applications under the Law for Entitled status on hardship grounds arise for a variety of reasons, and often marriage or relationship breakdown is combined with other elements of hardship. In addition, queries as to Entitled status that very clearly fall inside or outside the policy do not reach the stage of a full hardship application. Having noted this, 6 applications have been processed for Entitled status on the grounds of hardship/marriage and relationship breakdown this year, of which 4 have been refused.
- d) The marriage and relationship breakdown policy applies to spouses of Entitled people, not Licenced people. The housing position of a Licenced employee, their spouse/partner and children, is inherently uncertain, being linked to continued essential employment for at least ten years. Many other Islanders continue to work toward their 10 years residence while living in registered accommodation.
- (e) Applications are firstly submitted to the Population Office for a decision. The case may then be put before the Assistant Chief Minister and the Housing and Work Advisory Group for further consideration. Once these avenues are exhausted, it is for the individual to decide whether to seek Administrative Review or to appeal to the Royal Court.