

# STATES OF JERSEY

## MIGRATION POLICY REVIEW

BLAMPIED ROOM, STATES BUILDING

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**Panel:**                    **Deputy G. Southern (President)**  
                                  **Senator P. Le Claire**  
                                  **Deputy J. Martin**  
                                  **Deputy J. Bernstein**

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### EVIDENCE FROM

**SENATOR F. WALKER**        **(President, Policy and Resources Committee)**  
**MR B. OGLE**                    **(Policy and Resources Department)**  
**MR M. ENTWISTLE**          **(International Relations and Policy Officer,**  
  **Policy and Resources Department)**

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on

**Monday, 21st March 2005**

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DEPUTY SOUTHERN: Welcome, gentlemen, to this first Scrutiny hearing on Migration Policy.

It is nice to see so much interest from the public for once. We start off, as always, with our formal introduction. There is a document in front of you if you would like to follow it as I read it. It is important that you fully understand the conditions under which you are appearing at this hearing. You will find a printed copy of the statement I am about to read to you on the table in front of you.

Shadow Scrutiny Panels have been established by the States to create opportunities for training States Members and Officers in developing new skills in advance of the proposed changes of government. During this shadow period, the Panel has no statutory powers and the proceedings at public hearings are not covered by Parliamentary privilege. This means that anyone participating, whether a Panel Member or a person giving evidence, is not protected from being sued or prosecuted for anything said during hearings. The Panel would like you to bear this in mind when answering questions and to ensure that you understand that you are fully responsible for any comments that you make.

SENATOR WALKER: Thank you.

DEPUTY SOUTHERN: Right, well, that is the formal part. As I say, welcome. I see this one, this meeting in particular, as a general starting point. I do not think we will be examining you in minute detail. We are talking about principles before we go on. If I can start us off with this question. In the past, the States have attempted to constrain population growth through the Housing Laws and to regulate economic growth through RUDL. Under the existing Housing Law, the Housing Committee would grant short term J category licences for a period of, say, three or five years, hence trying to reduce the numbers eventually qualifying to live here. Under the new proposals, an employer will be given a number of licences to use at his or her discretion and the employer does not have the same motivation as government, in that it is not in its interest particularly to appoint short term licences. If an employer is sitting there with the ideal candidate in front of him to do the job he wants, in order to make sure that he comes and works for him, he is likely to say "This is a 10 year contract" or "This is a full-time contract." Has the Policy and Resources Committee considered the effect that this change might have on overall

numbers?

SENATOR WALKER: Yes, and of course the crucial thing here is the number of licences that are issued by the Regulation of Undertakings Department. There is nothing in the policy at all which suggests that the new one-stop-shop, if you like, no longer the Regulation of Undertakings, but the new one-stop-shop, there is nothing in the policy at all which suggests they will be issuing additional licences and, if they wish to issue time restricted licences in the way you described in the question, then, of course, they are perfectly at liberty to do so. So what the employers want and what the employers are given may not necessarily be the same thing. Indeed, that is very much the continuation of the current position.

DEPUTY SOUTHERN: But surely, if you are going for economic growth in association with your Migration Policy, do you not envisage that these numbers will grow?

SENATOR WALKER: We envisage that it is quite possible that the number of licensed employees will grow, but, at the same time, part of our policy and part of our strategy based on equity is that people already living in Jersey, who may at this moment in time be registered only, would quite likely, if they have the requisite skills and if the employer wishes them to do so, convert to being a licensed employee. But that does not mean the number of licences will go up; nor does it mean that the population will increase. That is a shift of emphasis on the grounds of equity, rather than necessarily economic growth, within the existing population.

I think, if I could just add to that, our Strategy is, I think, very clear. Of course the Strategic Plan has been overwhelmingly approved by the States, and the Strategic Plan makes it very clear what the maximum number of inward migrants could be under our policy. We are saying (and I have said this many times in the public arena) that that is an absolute ceiling. One might even say it is a worse case scenario. It is not an objective. There is every reason -- I think I covered this in answer to Deputy Martin's question last Tuesday -- there is every reason to believe that the numbers of inward migrants required to fuel economic growth would be very substantially less than that. We have a very considerable pool of people, local people, already resident in Jersey, not necessarily qualified but already resident in Jersey, who will be able to drive a very considerable part, if not all, of the staff requirements to fuel economic growth.

We have a pool, an unprecedented number (and it is an unprecedented number) of young people in Highlands and staying on at Hautlieu, for example, in sixth form education and further education, who are currently looking for work or who will shortly be looking for work. We have, by Jersey standards, but not by world standards (because, by world standards, we still have virtually no unemployment, but, nevertheless, by Jersey standards), we have relatively high unemployment and clearly there are people there looking for work.

Similarly, in common with European-wide if not world-wide trends, a very considerable number, an increased number, of elderly people -- "*elderly*" may not be the right description, but people normally approaching retirement -- who are looking to stay on, not necessarily in the job they are doing, but looking to stay on in employment of some sort. Now, that number you can't define. We don't know what that number is, but it is very clear that there is a trend, an identical trend, in the UK, which was referred to by Government Ministers during the last week, and the same trend in France, Germany and other countries within the EU. So there is a very considerable pool of people already resident in Jersey who, in one way or another, are looking for employment. That is why we say with absolute confidence that the figure approved by the States in the Strategic Plan is a ceiling, is a maximum and we believe that the 2% per annum economic growth agreed to by the States can be achieved without pushing us to that extent.

DEPUTY SOUTHERN: Did you want to come in there, Judy? Is that why you caught my eye?

DEPUTY MARTIN: Yeah, about this pool of people out there and the equivalent jobs to grow the economy, are you saying that 500 jobs that I think -- well I know -- Phil Austin has quoted as having in Jersey Finance could be filled from the pool of retired people and people taking further education at Highlands and other local people? Is that what you're saying?

SENATOR WALKER: I'm not saying they can all be filled, no; nor have we ever said that. There will be inward migration required. The question is, I think, what sort of numbers are we looking at. But, of course, Jersey, not just since it became a finance centre, but when it was an agriculture based, a tourism based economy and, of course, a finance based economy, has always required and indeed benefited from an influx of people with new skills and new thinking and new ability from outside the Island. We see no change in that situation at all. But I emphasise

we see no change in that situation.

DEPUTY MARTIN: But, as you said, worse case scenario, the number is 500 jobs a year, worse case?

SENATOR WALKER: No, what we are saying is 500 jobs a year, a 1% growth in the working population.

DEPUTY MARTIN: In percentages, in numbers it is 500?

SENATOR WALKER: It is in the working population. It is not a 1% growth. I need to make this very clear.

DEPUTY MARTIN: No, I totally understand.

SENATOR WALKER: Okay. For the record, it is not a 1% growth in inward migration. It is a 1% growth in the working population and I emphasise again that that is a ceiling, a maximum, it is not an objective. Indeed, if you look at the specific objectives, as stated in the Strategic Plan, we are saying that inward migration should only be allowed when it either fuels economic growth or, more importantly, provides jobs for local people. That is very consistent with the Migration Policy and very consistent with our overall figure. **(The witnesses conferred)**

I have just been reminded by the Chief Officer, to whom I am grateful, that the 500 jobs referred to are across the whole economy, not just the finance industry, because the finance industry generates ... it is a common misconception that the only jobs in or generated by the finance industry are high skilled jobs which require inward qualifications. That is actually not the case. The finance industry generates jobs for secretaries, for reception staff, for catering staff, for messengers and, of course, generates jobs through the wealth it creates in the whole of the rest of the economy, be it in the retail sector, construction sector, accommodation sector or whatever. So the 500 jobs maximum is not just in the finance industry, it is across the whole spectrum and would no doubt -- again emphasising it is 500 jobs in the working population, not inward migration -- would no doubt cover the whole range of skills that I have just referred to and others.

DEPUTY SOUTHERN: I note the absolute confidence with which you use these figures, but I would like to hear more. Would you like to take us on, Julian?

DEPUTY BERNSTEIN: Does this mean that these jobs that we are going to be creating are not going to be senior positions?

SENATOR WALKER: No, not necessarily is the answer. Some of them, of course, will be, and they always have been. If you look at the number of J category licence holders at the moment, the vast majority are public sector. The vast majority are nurses, teachers, doctors etc and there is a small, relatively small, at least minority in the private sector. Now, of course, most J category licences are given to senior executives or people with particular skills or qualifications. Indeed, we envisage that remaining exactly the same in the future, as it has done for the last X number of years.

DEPUTY BERNSTEIN: So, linking this with the fiscal and economic growth plan, both the Fiscal and Economic Development Committee believe that the target of 2% economic growth is realistic and achievable and will generate up to £20 million per annum in additional taxation revenue. While growth in the financial service industry will be the main driving force behind the additional £20 million of tax revenue that is required from the economic growth, it is important to recognise that it is unlikely to provide many additional jobs or job opportunities. But this makes it critical that growth in the non-finance sector of the economy is also generated to provide employment opportunities for local people. Is it inevitable that, in order to raise £20 million, the majority of growth will be in the financial services?

SENATOR WALKER: That is more a question, I think, for the Economic Development Committee and their Economic Growth Strategy, but I think the simple answer to your question, on any analysis, would suggest yes. But, as I said just now, that doesn't by any means then suggest that all those jobs are going to be high skilled, high ranked jobs. There will be a range of employment offered to local people predominantly within the finance industry and as a result of its growth in other sectors.

DEPUTY BERNSTEIN: I take your point, but the high skilled employees that are going to come in will be presumably well paid and that is where the £20 million of tax revenue is going to come from.

SENATOR WALKER: Er, no, not really. In some cases, of course, the tax revenue will come

from individuals, yes, but the predominant aspect of the tax revenue -- again, I would emphasise a point for the record that this is not really part of the Migration Policy, but nevertheless I am quite happy to answer the question -- the majority of the tax revenue forecast by the Finance and Economics Committee will come from the profits made by the finance industry, and I am not just referring to banks, I am referring to lawyers, trust companies, fund managers and so on, based on the fees they will earn, which has, again, been the case now for many, many years and we envisage continuing really without change, albeit at a somewhat higher level. Satisfactorily and satisfyingly, we are already seeing a very significant level of growth in the finance industry based on returns we are getting over the last 12 months.

DEPUTY MARTIN: On page 6 on your report in the middle, it starts "*It recognises that the population issues are a major concern to Islanders. To maintain a balance between economic growth and the size of the resident population, a compromise is required. It is therefore proposed that population growth be allowed only to support the economy. The aim should be for only economic growth of 2% per annum in real terms. This should support full employment for local people. Sustained growth in inward migration would be supported when it supports economic growth and increases tax revenues. Skilled people are necessary to support industries that would employ local people. Numbers of low wage immigrant workers should be kept to a minimum and the working population should be allowed to grow by no more than 1% or i.e., 500 people over the next five years.*" Could you tell me what the States have and ways and means to keep the sentence there "*numbers of low wage immigrant workers should be kept to a minimum*"? How are we going to control it?

SENATOR WALKER: Well, the successor to the Regulation of Undertakings predominantly. That is the mechanism. The whole Migration Policy is a mechanism. That is all it is. It is almost like a tap and the States can turn it on or turn it off at will. The mechanism is totally within the remit of the States. That is the position we based it upon and, of course, that remains the position, and it is up to us to ensure, as we said, that the majority of inward migrants come in to do exactly what you read out, Deputy, to support creating the jobs for local people. Local people are going to need jobs. The economy, as it stands, is not sufficient to provide enough

jobs for all our young local people. We are going to need economic growth, a balanced and controlled economic growth certainly, but we are going to need it to provide enough jobs for local people. We are very specific here and very clear that inward migration will be permitted when it means it will generate a combination of economic growth and providing more jobs for local people.

DEPUTY MARTIN: How do you square that with your last two answers? You said that the 500 jobs won't just be in the top sector, they would come all the way down. So if you are growing the top sector, you must be growing the bottom sector. How do you square it with keeping the number of low paid immigrant workers to a minimum?

SENATOR WALKER: Local people.

DEPUTY MARTIN: So the local people are going to fill any ----

SENATOR WALKER: There are currently people still in secondary education or at sixth form, people unemployed or people looking to extend their working careers. That is exactly the nub of our Strategy. **(The witnesses conferred)**

Can I just add a point, again following a helpful comment from the Chief Executive? The number of low paid migrants ... low paid migrants have to a very great extent been employed, not exclusively of course but to a great extent been employed, in either tourism or agriculture. Agriculture, whether we like it or not, is smaller -- I hesitate to use the word "declining", but it is a smaller industry than it was and there are something like 500 fewer employees in the agricultural industry now than there were, say, five years ago. We, sadly in some respects, don't see that position changing to any great extent. We do see a viable future -- although, again, this is not really part of the Migration Policy -- but we do see a viable future for agriculture, but in no way can I envisage, we envisage, a position where it is employing the same number of low paid migrants as it has in the past.

DEPUTY SOUTHERN: Can I come in there because it leads on to the point I was going to actually make? The point to start with is that, surely, all the elements of the Strategic Plan are actually interlinked, as you yourself admit. The Strategic Plan is linked into the Fiscal Strategy, into Migration Policy, into economic growth.

SENATOR WALKER: Yes.



DEPUTY SOUTHERN: And the whole thing is linked so that, inevitably, we will stray into those associated fields. Specifically on the point you are making, I turn to an OXERA paper, I think it is 2002, called "*Population and the Economy*", where they talk about, for example, "*replacing 1,000 low skilled workers with the equivalent number of high skilled workers in the economy*" over obviously a period of time, but low skilled to high skilled, which is part of your thrust.

SENATOR WALKER: Yes.

DEPUTY SOUTHERN: And they suggest that employment in the finance sector grows by 13.5%, whereas, as a result of this policy, growth in the tourism sector goes down by 16% and in agriculture it goes down by a massive 20%. So, as a result of your policies, effectively OXERA are saying you will shrink those two other areas in competition with ... you are shaking your head? Does that not make sense?

SENATOR WALKER: That doesn't necessarily mean it is our policy. That is an OXERA paper which was published, I think, in 2002.

DEPUTY SOUTHERN: Yes.

SENATOR WALKER: And things, of course, have moved on in terms of economic thinking and overall strategy very considerably since then. I think what we are facing up to here though is a reality that we are unlikely to see enormous growth in either agriculture or tourism certainly in terms of the number of employees that we would expect to work in those industries, but there is nothing whatsoever in our policies which seeks to curtail or cut back on the size, the current size, of tourism and agriculture. They will be different, but they will be viable. Another point I would like to ... I think they will be viable, I hope they will be viable. Certainly they will have the support of the Economic Development Committee, as they do clearly state in their Economic Growth Strategy.

But another aspect of our overall, as you said, Deputy, all these policies and strategies are interlinked. Another very important part of that is a much greater concentration on developing the skills of local people. There is a very considerable element of the Economic Growth Strategy which is dedicated to providing greater skilled education (if that is the right word). Certainly the ability of young local people to acquire greater skills which would be of direct relevance to them

in the workplace, there is a tremendous concentration on that and we see that as being an integral part of the overall strategy as well.

DEPUTY SOUTHERN: So are you still saying that the figures produced in 2002 by OXERA definitely do not apply to your current strategy today? They definitely do not apply to your current strategy today?

SENATOR WALKER: They definitely don't?

DEPUTY SOUTHERN: Don't apply.

SENATOR WALKER: Don't apply?

DEPUTY SOUTHERN: Yes.

SENATOR WALKER: No, I'm not saying they don't.

DEPUTY SOUTHERN: You appear to be saying that.

SENATOR WALKER: Sorry?

DEPUTY SOUTHERN: You appear to be saying that.

SENATOR WALKER: No, I don't think they don't apply. What I'm saying is that that was produced in 2002 and OXERA's thinking and our thinking has moved on since then. I think our thinking is totally transparent in this. Our thinking is exactly as outlined in the Strategic Plan, interlinked, as you rightly say, with the Economic Development Strategy and in the Migration Policy. It is very clearly outlined. It is all based on economic growth because, without economic growth, we will not provide enough jobs for local people and who of us wants to face the spectre of much greater unemployment amongst local people? I would suggest none of us. So, without economic growth, we will not achieve that and we believe that our policies are very clear, that they will provide more jobs for local people; that we will, because of one aspect or another of the overall policy, provide greater skills to local people so that they will have a greater choice of jobs they can enter into, which in itself will help in terms of economic growth; and we are determined -- and this is what our Migration Policy has always been based on -- to reduce inward migration to a minimum. That doesn't mean no inward migration. Jersey can't function and never has been able to function without some inward migration, so it doesn't mean no inward migration. It means the lowest possible element of inward migration so that we can grow

the economy to the benefit of local people and that is what it is all about.

DEPUTY SOUTHERN: Julian, you were talking about finance?

DEPUTY BERNSTEIN: Yes. Going back to some of the comments that you made earlier about increasing the job skills of the bottom end of the market, you stated, quite rightly, that a very large percentage of students who left school have now gone on to further or higher education ----

SENATOR WALKER: Yes.

DEPUTY BERNSTEIN: ---- leaving very few who went directly into any industry or workplace. I'm led to believe that, as always, there are funding issues at Highlands College that need to be addressed and they are always very tight for the money to train those extra numbers of students who are entering college. Can we be assured that we are going to actually fund them? Otherwise, we might find ourselves in the position where there will be students who might not get a place at Highlands College and then what are we going to do? We are going to have a number of people untrained entering the marketplace.

SENATOR WALKER: Again, it is not, strictly speaking, an issue for the Migration Policy ----

DEPUTY BERNSTEIN: No, but it has a link to it.

SENATOR WALKER: ---- but I do defer to the Chairman's view that all these policies are linked. Very clearly, the Economic Development Strategy, as put forward by ... I mean, the Economic Growth Strategy, as put forward by the Economic Development Committee, to a significant extent, one vital element in that policy is based upon young people being able to acquire those skills and it makes it very clear that that will require funding.

DEPUTY BERNSTEIN: Yeah, and that funding will come forward?

SENATOR WALKER: That is a matter for the States, of course.

DEPUTY BERNSTEIN: Yes, but the other fact is that there are a number of jobs that the immigrant workers have been performing, not only in this country but in every country of the world, because the local populace don't like doing those jobs.

SENATOR WALKER: Yes, yes.

DEPUTY BERNSTEIN: And that situation isn't going to change. So we, as you said quite rightly, are always going to have a certain number coming in. But those locals we are training

need to be trained to do other jobs. Do you agree with me?

SENATOR WALKER: Yes, absolutely.

DEPUTY SOUTHERN: Can I come in as well there?

SENATOR WALKER: Sorry, can I just stop you just there for a minute? I want to have a little bit of consultation and then I want to come back to you on OXERA.

DEPUTY SOUTHERN: Okay, no problem. **(The witnesses conferred)**

SENATOR WALKER: Would you mind, Chairman, if the Chief Executive made a comment on that?

DEPUTY SOUTHERN: By all means.

MR OGLE: It was just to address the OXERA 2002 report.

DEPUTY SOUTHERN: I don't want you feeling redundant.

SENATOR WALKER: Sorry?

DEPUTY SOUTHERN: We don't want you feeling redundant. We can't have that.

MR OGLE: Well, it would probably help with the job numbers. It was to address the OXERA 2002 report. There was a report in 2002 about what would happen with the population if there were not significant attempts made to readdress the skills and workforce issues. It was a if we do nothing but allow the population to grow in order to create economic growth, those are the consequences. We had OXERA do significant further work, and that is all in the papers that back up this proposition that Senator Syvret asked to be brought forward. The latest set of papers that led to the Strategic Plan were actually looking at that whole issue of skills acquisition, providing jobs for the resident workforce, which was all set out on pages 6 and 7 of the Strategic Plan and addressed a whole balanced package of proposals that weren't just about "Let's have economic growth and let's let the finance industry take up the strain and therefore other sectors of the population have to reduce", but it identified the fact that we do need to focus on niche activities in terms of agriculture and tourism to provide more job opportunities to invest, as you say, in the skills of local people so that there are a different range of jobs.

That is why the Economic Growth Strategy, which picked up the Strategic Plan, had a twin aim. One was the economic growth to fill a £20 million tax bucket and the other was to

provide full employment for local people and, therefore, had the whole emphasis around skills, around enterprise development, business start up and support to create a whole new set of opportunities. It was that which was brought together through those OXERA reports and the Strategic Plan which led to this 1% in the working population, which was more about providing job opportunities for people within Jersey who would want those job opportunities than it was about providing more jobs into the finance industry, because it was believed that they could be accounted for within changes within the finance industry employment.

DEPUTY SOUTHERN: Increasingly I am getting the impression that it is not just interlinked but interdependent, that actually, if one of the elements fails, then we may be in trouble.

SENATOR WALKER: I think that is a fair comment. I think, if we are going to deliver the Strategic Plan that the States approved, then there has to be an absolute interdependency between the Strategic Plan at the top end, if you like, and economic development, the Economic Growth Strategy, and the Migration Policy falling down beneath it. Yes, I do agree.

DEPUTY SOUTHERN: Okay, would you like to take it on, Judy?

DEPUTY MARTIN: Yeah. The Economic Growth Plan is based on a light touch and a free market philosophy. Going on to page 16 ----

SENATOR WALKER: Of the?

DEPUTY MARTIN: Sorry, of the Immigration Policy.

SENATOR WALKER: Of the report and proposition?

DEPUTY MARTIN: Yeah, the report and proposition. It is just one sentence there, a bullet point: "*The States will manage inward migration through regulating overall employment.*" Now, how does that square with a very light touch and free market philosophy, and what mechanism at all do we have to do that? That is a very, very seductive statement for States Members and the public. It is one sentence. I would like you to explain exactly how it would work in practice.

SENATOR WALKER: It is very easy.

DEPUTY MARTIN: Well, I would like you to explain it.

SENATOR WALKER: The light touch is all about enabling the private sector, those who drive

the economy, who make the profit, who pay our taxes, who provide jobs, to establish where they see their future lying rather than the States trying to dictate to them what they ----

DEPUTY MARTIN: But that bullet point says they can.

SENATOR WALKER: May I finish, please?

DEPUTY MARTIN: Yes, certainly.

SENATOR WALKER: ... what they should be investing in or not, and that is what the light touch refers to. The light touch does not in any way mitigate, undermine (or whichever way you want to put it) the ability of the Population Office, if I can call it that, to control the numbers of licences it agrees to give to industry generally. It is exactly the same as we have now. There is no change effectively in that respect. For “*J category*” in most cases read “*licence*”. The light touch does not in any way, as I said, undermine the ability of the Population Office to control the number of licences it gives out, and it will continue to do that in very much the same way as it has for J category licences so far. Normally they are on a three year approval, rolling on a three year basis. There is no change there.

I think the point behind your question, obviously, is that you are concerned (if I have defined it correctly and please tell me if I haven't) that the light touch means a let it rip basically and therefore grant whole masses of new licences to companies to allow them to bring a greatly increased number of people in. That is not the case. I think it is very clearly -- very clearly -- stated in the Strategic Plan that we put to the States and the States agreed and in everything else that we were putting forward at this point. There is nothing in our policies whatsoever which suggests that anyone can or anyone should effectively let it rip and grant an enormous number of licences or grant the opportunity for a highly increased number of people to come into Jersey. That is not part of our thinking, it never has been a part of our thinking and it will not be a part of our thinking. On the contrary, this is mainly based upon the absolute need, and it is a need -- it is not a view, it is a clearly defined need -- to continue to provide enough employment for local people and to use a limited number of inward migrants to create those jobs and to provide the skills that the Island has relied upon for so many years and will continue to rely upon. (**The witness conferred**)

MR OGLEY: Chairman, may I add to that, because I think there is an issue here. The light touch and the regulate overall employment are entirely in sync because what we are envisaging here is that the regulation will be strong. The regulation will be intrusive through the three year job licence and, therefore, the States will be able to exert control over the population by controlling employment. That will be strong, but it will be light touch, in that, unlike now, an employer has to come forward with every individual case and justify it and work all the way through the housing situation, which can take a long time and is not only intrusive for the employer but also for the individual who has been affected by it. The intention is that, by exerting overall control on an employer's employment and, therefore, overall control on the whole employment, the States actually has more control than it does now, very firm. What it is, is that it is less intrusive on the individual cases.

Through the system of three yearly review, well, quarterly review through the combined return, we will have much more up to date information on what an employer is doing, who are employed by which category and then, through the regular mechanism of the three yearly review, or in between, which is allowed, then the States can change those total number of employees. Therefore, the States should control but without the very heavy, intrusive individual case by case approach. I think the two are entirely square.

SENATOR WALKER: I absolutely endorse that. I think there is another very important point here. Hitherto, and as of today, none of us know who is coming into Jersey and what they are doing. We don't have that monitoring mechanism. A central element, a core element, of the Migration Policy is that, through registration, we will know who is coming into Jersey and what they are doing. Therefore, we will have a much greater range of data and information, very consistent with what the Chief Executive said, available to us -- and by "us", I mean the States as a whole. We will have a much greater range of information, much more detailed information than we have ever had before.

We have all heard the cries from local people of "Why are you allowing people just to come in off the ferry?" or whatever it may be "and take up accommodation and move into employment?" Of course, we have to at the moment because we have no means to do anything

else. Under this policy, we will both have the means to monitor that so that we know who is coming into the Island, what they are doing and where they are and we will have the means through overall States' policies to regulate it as well. We simply don't have that at the moment. There is a big hole, if you like, a big gap in our current and all previous population policies that the States have worked to.

DEPUTY SOUTHERN: I accept "*regulate*" and "*monitor*", but the word "*control*" is not there. We cannot, I don't believe, and perhaps you might agree or not, actually control the population.

**(The witness conferred)**

SENATOR WALKER: I think there is a fine line here. You can't finely control. You can't exercise border control. That is absolutely not legally permissible. We accept that. But, from an overall point of view, yes, we are not going to refine it down to two or three employees here or there, but, from an overall point of view, the States could regulate which sectors are growing, which sectors of the workforce is growing in or not as the case may be. The States will be able to exercise a higher level of control, a higher level of regulation, if you like, than ever we have been able to do before.

DEPUTY SOUTHERN: Julian, would you like to come in?

DEPUTY BERNSTEIN: No, no, but there is a degree of "big brother" in this, in that you will get legally much more information about the workforce. Is there a scenario where you might try and control what is going on from that information?

SENATOR WALKER: Well, yes. That is very much one of the points, that we would obviously want to -- I say "*obviously*", but perhaps it isn't obvious, but it is absolutely clear to us that we want to -- minimise inward migration, so, of course, what we ideally would like to do is to funnel those people coming into Jersey into the most productive jobs so that they are of the maximum benefit to the Island. You say, Deputy, an element of "*big brother*". Yes, up to a point, I think I would have to agree with that, but I think the fact is that, if the Island wants a population policy to be effective, which is in some way to monitor and regulate the population, that is inevitable and, you know, if we are not prepared to do that, then we are probably tearing up our ability to monitor and regulate the population generally. The alternative is either to continue with the



status quo, which, I think, is generally, from an economic perspective and an equity particularly perspective, unsatisfactory or let the situation rip, which is exactly what we are not proposing and exactly what we are seeking to avoid.

MR OGLEY: May I also add though that “*big brother*” can have an Orwellian sense about it.

DEPUTY BERNSTEIN: Yes.

MR OGLEY: And that is not what this policy is about. That is why we have been very careful to work with the Data Protection Registrar and to say that we will as it now rolls forward be entirely Data Protection compliant, indeed as this has always been. We are not going to be searching out more and more information about individuals. This is about having good information about the workforce, which is up to date and of the moment, better information about housing stock, which is up to date and of the moment and then using the two to bring them together so that the States can exercise policy control. It isn’t about the “*big brother*” sense and looking at the individual and in any way trespassing on their rights.

SENATOR WALKER: And couldn’t be because then, as Bill Ogley has said, it would neither be Data Protection compliant or Human Rights compliant. Of course, if it is going ultimately to come into law, it has got to be both.

DEPUTY MARTIN: Yeah, it is interesting, if I just pick up on the point, that you said, and it sort of leads on to another question I wanted to ask you anyway about, which is that my reading of the Migration Policy is we are selling it as a simplified and more fairer system, but you said a three year licence. Now, working on the basis that most businesses will have to go back to Reg of Unds or whoever with their business plan every three years, so your licensed person will probably be a three year licence, which is supported on page 20, the third paragraph. It is: “*For example, a licensed person’s lease on a controlled property should ordinarily only be for the duration of the employment contract.*” So there are actually going to be a very lot of people on licences for short term employment. They can only lease their property for three years.

SENATOR WALKER: No.

DEPUTY MARTIN: Well, it actually says that, Frank.

SENATOR WALKER: No, it doesn’t, Deputy, with respect, it says “*three year review*”. It

doesn't say "*three year licences*".

DEPUTY MARTIN: Oh yeah, it does say "*three year review*", but I am talking about that you are linking their licensed employment with their lease for their accommodation.

SENATOR WALKER: But that doesn't mean only three year licences. They might say they will be five year or ----

DEPUTY MARTIN: I am sorry, but what Bill Ogley said "*three year licences*".

MR OGLEY: No, no, review.

SENATOR WALKER: Three year review.

DEPUTY MARTIN: And if you keep reading all the different parts of this ----

SENATOR WALKER: We need to be clear. What is being stated here, and there is no contradiction here of any sort, but what is being stated here is exactly what exists today. The companies have a licence to employ currently X number of J category people. Now, they may be employing those J category people on five year or it could be three possibly, but three, five, seven year, but in some cases in the public sector normally permanent Js.

What is being proposed here, and is exactly what happens today, is that every three years that company, those companies, would have to come back to the Population Office with a new business plan, the next three year plan, if you like, and ask for or request either to increase the number of licensed employees they have got to maintain the numbers they have got or perhaps even, if it suits them, to reduce them. Maybe they have got more local people now. That is entirely as the Regulation Undertakings Office works today. There is no change in that respect at all. You should not confuse a three year review of the number of licences a company holds with a three year review of every employee's contract.

DEPUTY MARTIN: When you say there is no change, you are opening up a lot more people in the ... well, they will be A to H under licence that can actually access licensed accommodation.

SENATOR WALKER: Hang on, A to H are not licensed. A to H are qualified, entitled.

DEPUTY MARTIN: Well, yeah, but you are including A to H, yeah, entitled. But, for the purpose of a licence, a working licence, an employment licence, they are then able to access A to

H rented. Yes, they will, Frank.

SENATOR WALKER: I'm only looking puzzled because I don't quite understand the point. If they can access A to H, that means they are providing jobs for local people.

DEPUTY MARTIN: No, no, no.

SENATOR WALKER: Yes, they can.

DEPUTY MARTIN: No, on a licence, a licence can occupy any A to H on a three year lease.

SENATOR WALKER: Oh well, okay. I see the point you are making.

DEPUTY MARTIN: What I am saying is the person, the person then is sort of quite beholden to their employer.

SENATOR WALKER: Far less than they are today.

DEPUTY MARTIN: Why?

SENATOR WALKER: Far less than they are today because a J category employee today has ... first of all, obviously, a company ... the first step is that a company has to get a licence to employ a J category person in a specific job. Let us say he is an accountant, for the sake of argument. So company X has to go to the Regulation of Undertakings Office and say "I want to employ a migrant, a non-resident, as my accountant" and the Regulation of Undertakings Office then says "Yes, okay and we will give you a licence. You have proven you can't find a local person, so we will give you a licence." Then the company goes out to recruit and the company then has to go back and get a specific licence for Joe Bloggs to fulfil the rôle of company accountant. Now, Joe Bloggs is then absolutely stuck with that job. Joe Bloggs can't move to another J category job anywhere else in Jersey, not unless he or she happens to be lucky enough to find another employer who can get a licence in their name, etc, etc. So they are very, very restricted.

Now, under the licensed régime, a company will get X number of licences. Let us say for the sake of argument it is ten. The company can then fill those ten licences with whomsoever it likes basically. If they want to give a licence to whoever, then it's up to them to do so. That employee, once the employee is licensed, the employee can move. He or she is not restricted to a particular job within a company. They can move within the number of licences the company

has got. They can move around in the company. Similarly, they could move to another company who is quite happy to use them as one of their licensed employees. So the freedom the employee has got is infinitely greater under our proposals than it is today.

MR OGLEY: Can I also add, since I think I have created some of this, I think I referred to a “*three year licensing review*” being the three yearly review of the employer and the licences they have.

SENATOR WALKER: Yes.

MR OGLEY: But the important thing, and this is where it links to the potential Employment Law, is that there is no suggestion whatsoever that these are three year licences. An employer might employ somebody on a three year fixed term contract if they have agreed with the new Population Office (Reg of Unds) that they have a need for a post for a three year period to achieve a job. They won’t get a licence then for the long term. But a review of a company’s licences cannot trigger, under the Employment Law, the termination of the individual’s employment. The expectation is that the employment continues and that their holding of that licensed job continues. It is a fact though that if an employer has licences removed at the three years, then the next time a licensed person leaves their employment, their licence number will come down and they can’t renew. So there is a very clear relationship between the regulation and the management. But it doesn’t affect the individual and it doesn’t make it any less certain for them. Indeed, the two laws, which is again your dependency of what is happening, the two laws really make it potentially better for the employee.

SENATOR WALKER: Can I just add to that?

DEPUTY SOUTHERN: Yes, by all means.

SENATOR WALKER: Contrast today, I am an accountant with a licence. I have come in and I am a J category accountant from the UK. I fall out with my employer. My employer says “You’re out”. Now, I’ve got no great protection under Jersey’s current Employment Law -- the new Employment Law will make a huge difference.

DEPUTY SOUTHERN: So he is not being made redundant then?

SENATOR WALKER: Sorry?

DEPUTY SOUTHERN: He is not being made redundant?

SENATOR WALKER: No, no, fired.

DEPUTY SOUTHERN: There is somebody else coming in to take that job.

SENATOR WALKER: I have got no great protection under the current Employment Laws and I have got no possibility, unless I am very lucky, as I have said, of finding another employer who will go to Reg of Unds and say "I want to employ me as their accountant." I have got very little possibility of getting any other job in Jersey. The chances are I will have to leave Jersey.

Now, under the new combination -- and, again, I think we come back to how everything meshes together -- under the new proposals, which I hope I have explained fairly clearly in answer to Deputy Martin's question, under the new proposals, combined with the new Employment Law, then the employee has much greater protection than they do today, much greater protection: they have got contractual rights under the Employment Law and otherwise; they also have Human Rights, or will have when the Human Rights Law is finally registered, so they have got human rights protection; and, should they wish to stay in Jersey, they have a much greater opportunity of doing so if another company is prepared to offer them one of their licensed posts. So they are in much better shape than they are today.

DEPUTY SOUTHERN: I am aware that Paul wants to get in because he has got a series of questions.

DEPUTY BERNSTEIN: Can I just have one point of clarification?

DEPUTY SOUTHERN: Sorry, yes.

DEPUTY MARTIN: I thought I was next.

DEPUTY SOUTHERN: Okay, it is all right. I thought you had signalled that you had given up.

DEPUTY BERNSTEIN: With the scenario that you have offered a company ten licences, where do we go -- and those licences had been given at different levels within the organisations -- what happens if they need another licence because their business is growing and they need to bring in somebody else?

DEPUTY MARTIN: Yeah, well I put it in a sort of different way round.

DEPUTY BERNSTEIN: And, if they couldn't get another licence, they would be very tempted

to lose somebody on a licence lower down to bring in somebody higher up.

DEPUTY MARTIN: Yeah, yeah.

SENATOR WALKER: Well, providing they could achieve that under the new Employment Law, as well as the Human Rights legislation, which would mean adhering to and meeting all the contractual obligations that apply, somebody could retire, somebody could go on permanent sick leave or somebody could be sacked. I mean, clearly, there is no total ban on sacking people for gross incompetence or misbehaviour or whatever, but they couldn't manoeuvre that. That is the important thing. They could not manoeuvre it under the contractual law. If they wanted an extra person, an extra licence, then, as they do today, they would have to go along to the Reg of Unds Office or the Population Office and they would have to prove their case. They may or may not succeed. As we know, there are a considerable number of companies in Jersey who have not been granted the licences that they requested, and I don't anticipate that changing in the future.

DEPUTY BERNSTEIN: I will come back with another question later which relates to that.

DEPUTY SOUTHERN: Okay. Judy?

DEPUTY MARTIN: Yeah, um, following on, on page 27 there is only one that I can see paragraph that relates to the new Employment Law, the third paragraph down, and it is basically saying what you have just said, that an employee, as long as they can prove that they have been, that they were not to be terminated unfairly, so if they are, as you put it in your -- you wrote a letter in the *JEP*, Frank ----

SENATOR WALKER: I did.

DEPUTY MARTIN: ---- saying "*Under the new Law, a contract of employment, including a licence, if that goes with the job, cannot be terminated unfairly. In fact, there is a presumption that a contract will be renewed as long as the job continues. Therefore, it will not be possible for an employer to take away a person's licence or accommodation at will.*"

You said that an employee can go from licence to licence and also don't you think you are putting a lot of faith in a law that hasn't even come into force yet? We have never had one person on a contract in Jersey go under the Employment Law, to the Panel and say "I have been unfairly dismissed", which you are basing your whole presumption on. Well, you know, this law

cannot be abused by employers, employees will be protected. I think you are making some very strong statements again, but this is a law that has not been tested in one court in Jersey yet. If it was a tried and tested law that we've had in for ten years, I'd have a lot more faith in what any of you three were saying. I am sorry, Mike, you haven't spoken yet, but I would have a lot more faith in what you were thinking probably.

SENATOR WALKER: Okay, I think that is a point of view, but the fact is that the Employment Law has been the subject of an enormous amount of consultation and debate and we are not talking about the Employment Relations Law here, we are talking about the Employment Law.

DEPUTY MARTIN: No, I know. I know what we're talking about.

DEPUTY SOUTHERN: We are very clear on that.

SENATOR WALKER: It has been the subject of much debate and consultation and, of course, it has been approved by the States. But I would go back in any case. Let us assume that the Employment Law didn't exist, which is effectively what you are saying, or that maybe it is not going to work, but let us assume it doesn't exist. The employee -- and, of course, we're reckoning on him existing -- the employee would still be in a better position under our proposal than they are today. Today they are stuck, and I emphasise this again, they are stuck. A J category, in the future licenced, is stuck at this moment with a particular job with a particular company. Now, if the employer wants to abuse that, then they have much greater opportunity to do so now than ever they will under the proposal we are bringing forward.

DEPUTY MARTIN: Well, just to say you will have a lot less Js. You will be opening up the market to a lot more licensed jobs than you already have Js.

SENATOR WALKER: No, no, we won't.

DEPUTY MARTIN: Well, you can't have it both ways. You can't keep the licence numbers the same and keep the economy, grow the economy.

SENATOR WALKER: No. The number of licences may well grow, but a great deal of that, as I said much earlier, will come from people already resident in Jersey. It doesn't mean that we are going to necessarily be looking outside the Island. I go back absolutely to the points I made, that we have given the States in our proposals an absolute ceiling -- not an objective, an absolute

ceiling -- and I think it is very important that that is noted, and I think it is. It is an absolute ceiling and there is a great deal of opportunity here to find all the skills we need and the people we need, a great opportunity to find a lot of those from within the Island.

DEPUTY MARTIN: Yeah, but just to say that what you're saying is that the licensed people within the Island can only come from probably agriculture or tourism. The other people you are talking about, the people up at Highlands or the elderly wanting to will be entitled people, or 99% of them will be entitled and will not be licensed.

SENATOR WALKER: A lot of them, yes.

DEPUTY MARTIN: So we will be growing the licensed or, once we have used all the people that probably are moving, shrinking to our other industries, once we have used them, we will have to be bringing people in, licensed people, because the people here that you already talk about, two sectors of them are going to be or already will go straight across from A to H to entitled because they are entitled.

SENATOR WALKER: If they are A to H now they are entitled, they will be entitled.

DEPUTY MARTIN: The people you are talking about, the elderly retired and at Highlands, unless they come under sort of fluke, are going to be entitled people, A to H.

DEPUTY SOUTHERN: Right, I am getting signals from all over the place.

DEPUTY MARTIN: Right, sorry, I will shut up. I've been talking for a long time.

DEPUTY SOUTHERN: I know Bill wants to come in and Paul and then I want to move the subject on, please.

MR OGLEBY: It is just to add a little bit there, because there is in the report a concept that there will be more licensed posts than there are now. That is really driven by a policy of social equity rather than economic growth, in that part of this has been to see if it is possible to move people who would be in the registered category (currently non-qualified) to start allowing them to move into the licensed category. There was an aim within the report that said you could see over time the number of registered posts reducing and an increase in the licensed posts by the same number. So it is not an overall population increase. That would have to be judged by partly economic benefit, but, in reality, the whole issue of social equity because the argument here is



that people do not enjoy the same benefits as those people in Js or in licensed in the future and that was the reason in the report it was reported that there would potentially be an increase in licensed. It was that move from registered to licensed. That was seen to give people more opportunities.

SENATOR WALKER: But they are already in Jersey. That is the thing.

DEPUTY SOUTHERN: Paul?

SENATOR LE CLAIRE: This issue -- I don't know who wants to answer this -- but this issue of social equity, economically inequitable, which are the words we have heard this afternoon, how is this policy going to address the inequalities within our society? In particular, if I refer to one piece of consultation, you may be able to explain this to me. This is from Jersey Finance: "*It is perceived certain States' employees enjoy preference in the area of allowing property purchase. That is felt to be inequitable and the policy should address this.*" It is not in the policy. It is part of Jersey Finance's response to the consultation.

They obviously want to keep the position -- you have explained it quite well -- of us having employment licences and quotas given, which gives us a competitive advantage over our competitors, Isle of Man, Guernsey, etc, but where do these social equities, the whole issue of social equity, how is that going to be delivered to the bottom sector of the market, the people who are not involved in the finance industry and are currently not on the J categories and where is this preference that the States enjoy over the private sector?

SENATOR WALKER: The States enjoy over the ----

MR OGLE: Can I? That is a very specific issue, which is some States J category employees have the right to acquire a financial interest in property. In the past it was done through the States' ownership. From, I think, October last year it is done through the vehicle of company ownership. What Jersey Finance were arguing was that that should become available to people in other sectors of the economy, although still controlled by the same licence requirements. That is on page 25 of the report, the fourth paragraph down, where there is a suggestion that licensed employees should be able to occupy and have a financial interest through a company. So that will address that issue. That was different to the issue of registered and licensed.

SENATOR WALKER: I think, let's be clear, the Migration Policy is not a panacea for all the ills

that faces Jersey society at this point, we never ever suggested that it is and nor in isolation could it possibly be. What it does do is it gives a massive step forward towards resolving the inequity in housing because it gives the opportunity to people who are currently lodging house occupants, in the future if the policy goes through registered-only, it gives them the opportunity to move into licensed employment and licensed accommodation.

Now, that means, and we have been criticised -- the States have been criticised -- for many, many years (and rightly, I think) because it is perceived that we have been taking advantage of a large number of people who come in to live and work in Jersey who have had to put up with some pretty appalling, in some cases, accommodation and social issues. This gives ... it is not going to resolve that totally, of course not, it can't, but it does create a great opportunity for an element of those people at least to move forward.

The other part of our plan, of course, of our Strategy, is to reduce the qualification period generally from 15 to 10 years over a period of time. But that, of course, will be within the control primarily of the Housing Minister in the future, but ultimately of course of the States. There is nothing in our policy, let us be clear, nothing in our policy that we are going to reduce from 15 to 10 within the next three years or two years or whatever. It is going to be a gradual process, but, again, if the States agree that that is appropriate, it is a great step forward for equity.

SENATOR LE CLAIRE: Isn't that the same as just in relation to you are feeding up from the bottom registered people into gaining better qualifications to become licensed because the licensed people can purchase? What happens, because it is not easy to determine at the outset of employment the length of anyone's employment and what happens when you grant a company ten licences and after two years somebody walks away? They are still going to be entitled to retain the ownership of the house they have probably purchased.

SENATOR WALKER: They're not.

SENATOR LE CLAIRE: No? You are going to take that right away?

DEPUTY SOUTHERN: Could I follow that up, Paul, because this is about the registered licence "hopping", as we have called it. Take the example of let us suppose an electrician arrives in the Island as registered. He applies for and gets a licensed post, yes? He is licensed for

accommodation. He gets married, has a family, etc, possibly buying property through share transfer, yes? After eight years, suppose he makes a mistake and loses his job, genuinely is sacked? He goes back to registered status, gets a registered job as an electrician again, but is unable to remain in that licensed accommodation.

The question is, what advice has the Committee considered regarding a potential challenge under Article 8 of the Human Rights Convention, which is likely to come through in due course and, therefore, relatively easy to access compared to the European courts and then also what effect is there likely to be on the supply of housing if the number of licensed persons buying property increases over this period?

SENATOR WALKER: Well, taking that last point first, that, of course, is dealt with in the recent housing survey position, where it forecasts what might happen and the effect is actually nowhere near as great as one might suppose. I assume you have, I am sure you have, access to that document.

The first part of your question, firstly, the Strategy as a matter of fact, I guess, can't work unless it continues to be Human Rights and Data Protection -- in this instance obviously Human Rights -- compliant. I mean, it just breaks down at that point and we are well aware of that. I am well aware of the advice that we have had that, currently as it sits, it is Human Rights compliant. I am well aware of the advice that we have had that if it is going to be capable of being implemented properly it will have to continue to be Human Rights compliant and that applies, of course, to any law that the States bring forward. It is not just Migration, it applies to any law.

The particular position you have outlined is, I think, covered by the fact that the employee in that circumstance would be acquiring the property through a company basically.

DEPUTY SOUTHERN: Yeah.

SENATOR WALKER: And so there are qualifications and limitations attached to the licence that they currently have. It is exactly the same in many respects as the law today.

DEPUTY SOUTHERN: So is that person going to be ----

MR OGLE: But in Human Rights terms, this is not a right to housing. This is a right to acquire a financial interest in a property through a company and, therefore, it is compliant.

DEPUTY SOUTHERN: But if he loses the licensed position and he returns to being registered, does he continue to have a right to live in that house?

MR OGLEY: No, no.

SENATOR LE CLAIRE: But he continues to have a right in holding the shares.

DEPUTY SOUTHERN: We have to accept then that that is wide open to challenge on an individual basis, which is the only way in generalities in terms of how proportionate the law is in that person's particular right to enjoy a home and family life.

SENATOR WALKER: That is not the advice we have received. Also, I would refer again to where we were earlier. What happens to a J category employee today? Not only, if they lose their job, they have got no -- and we have many such cases, or a number anyway -- not only do they have no right to continue in the property they are occupying today (and nor does their family incidentally), but they have no opportunity, or very, very unlikely to have an opportunity, to be able to find another job with accommodation that goes with it. Now, what we are producing, what we are putting forward, what we're proposing gives them a much greater freedom. I can only repeat, Deputy, that our advice is that our policy is Human Rights compliant.

DEPUTY SOUTHERN: Okay, back to you, Paul.

SENATOR WALKER: Sorry, can I just add that there is under the policy, as there is today, the opportunity to apply to the Housing Committee -- the Housing Minister in the future, I guess -- on the hardship basis and that has not changed.

DEPUTY SOUTHERN: I think we will return to that in a minute. I think that is coming up.

SENATOR WALKER: But, again, that is exactly the same as today.

DEPUTY SOUTHERN: Go on then, Paul.

SENATOR LE CLAIRE: I think there are also issues as well apart from that, for instance, with regard to the advice you received, because there are issues about this transition from what J categories can do today to what licensed people can do tomorrow, inasmuch as tomorrow the licensed people will be able to come and rent anywhere in the A to H market and tomorrow they will be able to come and purchase, in association with agreements with their employers,

properties that are not categorised. Therefore, I would like to see what strength of argument we would have for taking into account the fact that properties will no longer be a category, it will be a property. We have a category of housing at the moment under J category. Certain houses are allocated as J category houses.

MR ENTWISTLE: Can I answer that one, if I may? My understanding is that the threshold for J category accommodation was until recently somewhere up to properties over about £250,000. Effectively, you know, most properties are already above that limit anyway, so J category employees aren't limited effectively to any particular category of property. In the future, under the proposals, all property would effectively be controlled, but once somebody becomes entitled they can access any of that property or, if they are licensed, they can access the same property but by lease or by company purchase.

SENATOR LE CLAIRE: And how difficult would it be or how easy would it be for the Government to say to the person who no longer holds the licence that they are no longer entitled to rent that property or lease that property?

SENATOR WALKER: They couldn't do that.

SENATOR LE CLAIRE: You couldn't do that. So, once they gain access to Jersey's workplace through a licence, then that it's it, they are in to the infrastructure of the housing permanently.

SENATOR WALKER: The Government here -- and this goes back to Deputy Martin's point earlier -- the Government here is all about providing, or permitting is the right word, a number of licences to companies. What happens then as far as an individual is concerned, providing they adhere to the laws of the land, what happens then to individuals is no longer the concern of Government. They are part of the licensed sector.

SENATOR LE CLAIRE: What if they stop being in that employment?

SENATOR WALKER: Then they have the opportunity -- this is the critical point we were making earlier -- under our proposals, unlike today, they have the opportunity to find another job, another licensed job, in any other company in Jersey. That is much fairer than anything we have seen or certainly we see today or have ever seen in the past.

DEPUTY MARTIN: Do you want to come in?

DEPUTY SOUTHERN: I want one quickie before we go back to you, Judy. Judy is leading up today, I think. She is on form. Yeah, I want to return to the issue of the number of possible immigrants into the Island and I want to return to the statement, the clear statement, that Deputy Voisin made when he was exposing the Economic Growth Policy, that he expected that the numbers of J cats or the equivalent, the licences in the FSI, would be likely to grow or the number of J categories would be likely to grow to double over the five year plan of his Economic Growth Policy. He since, apparently, according to answers in the States, doesn't recollect stating that, even though he spent a good five minutes under questioning from me on that particular topic. I have a very clear recollection. Are you telling me that doubling of the number of J cats through licensing is not what is predicted?

SENATOR WALKER: Yes.

DEPUTY SOUTHERN: Okay, that will do.

DEPUTY MARTIN: Right, going back ----

SENATOR WALKER: To add to that, we have already covered the point about the opportunity that doesn't exist significantly anyway today for people who in future will be registered-only to convert to licensed jobs, but that doesn't increase the population. That is a change within the existing population. So if we were going to see a considerable increase in licensed jobs and an equivalent decrease in registered only, I don't think any of us would complain. That is not going to add to the population. It merely means that we are being more equitable to those that we rely on to fuel our economy and it means that we are genuinely in most cases -- of course you can't say in all cases -- but in most cases we are raising the skill level within the Jersey population. Again, that has got to be a benefit, we would argue certainly, to everyone in Jersey.

DEPUTY BERNSTEIN: But it puts the pressure on the employer vis-à-vis the number of licences that he has got. If you are bringing people up, you can't bring anybody else in if you need to. It is a fine and dangerous line you play as an employer.

SENATOR WALKER: I don't think it is any less or any more dangerous. In fact I am sure that it isn't any more dangerous; and I don't think "*dangerous*", quite honestly, is the right word. All employers are going to be granted, pretty much as they are now, a limited number of licensed

posts and a limited number of non-registered posts. Now, it is up to them then how they treat individuals within those spheres, but the important thing is that the States overall, through the Population Office, remain in control overall of how many licensed positions are granted and how many non-registered positions are granted. The emphasis always will continue to be on creating and providing employment for local people.

DEPUTY BERNSTEIN: I accept that, but if you have been in business yourself you get a situation where the sales mix (and I use that loosely) of the staff change as your business reacts to the situation of the time. You know, you might suddenly find that you, for instance, want to suddenly start producing sushi and you need to bring in a sushi chef, but you haven't got a licensed one because up until then you were doing rotisserie work and you needed a rotisserie chef and the two are not interlinked and interchangeable. I mean, I know I am simplifying it somewhat, the analogy, but I think the mix changes and I think it is a dangerous situation.

SENATOR WALKER: I don't think the mix really changes at all. Again, it provides more freedom to the employer than they have today. Let us say that an employer has got a patisserie chef on a J licence today.

DEPUTY BERNSTEIN: Yes.

SENATOR WALKER: The employer will be employing A N Other specifically for that job. So they can't suddenly change that around and find a sushi chef. They can't do that today without getting an additional licence, which they may or may not get. In the future, if they want to change the emphasis of their business, because they will have a number of licences overall without being specifically allocated to an individual or an individual position, then they have much more freedom than they have got today.

DEPUTY SOUTHERN: I am going to close you down ----

DEPUTY BERNSTEIN: Yes, close me down.

DEPUTY SOUTHERN: Because you are having a conversation and not questioning people.

DEPUTY BERNSTEIN: Sorry.

DEPUTY SOUTHERN: I am aware, from my own chairing skills, that we have got actually quite a way to go so I would ask members to try and keep things tight.

DEPUTY MARTIN: Yeah, I'm keeping in order, but I'm going to take, because of the relevance of what Frank said earlier about the hardship, I'm going to take 9 and 10 before 8 and 6 because ----

DEPUTY SOUTHERN: Carry on, no problem.

DEPUTY MARTIN: ---- that brings up a completely new issue. Where am I? Papers, papers. You bought up the hardship case of the man who loses his job ... oh, in your box, sorry, in the Immigration Policy, page 18, you actually say "*Discretionary hardship concessions for loss of licensed employment to allow time to seek a new licensed job or find alternative registered accommodation*", so, i.e., they either have to change their accommodation or get a new licensed job. That is discretionary hardship.

Then, on the last paragraph on the next page, it is on about "*a spouse or partner of an entitled or a licensed person will be classified as entitled for employment purposes for the duration of the marriage or relationship*", just as it is now and then it says "*However, the Committee would have discretion to consider granting continuation of that in the case of hardship arising, for example, through a marriage breakdown.*"

My question is, is it the same Committee who will need to be approached for both these, which I see maybe it would be the man losing his job, the man leaving his wife and she would be stuck in the accommodation, so, to me, I want to know, firstly, if it is the same Committee.

SENATOR WALKER: Yeah, it will.

DEPUTY MARTIN: Which would be?

SENATOR WALKER: Well, currently the Housing Committee.

DEPUTY MARTIN: No, no. This won't be in before we go to the new system.

SENATOR WALKER: So it won't be the Committee. It would then be the Minister who is responsible for administering the Housing Law of Jersey, which would be the Housing Minister.

DEPUTY MARTIN: Yeah, right, okay, but both these are talking about employment. Even the second one it is the relationship to the spouse's employment, so you are saying we go to a Housing Minister. Well, actually, I mean, reading this whole document and taking advice on it, legal advice on it, which is, you know, maybe not quantified by the AG, I find this the most



frightening part of this, because you say this whole system will be fairer, but you are using discretionary hardship. So now you are talking about one person, the Housing Minister, who is not even going to be involved in this, which is a good thing, but he is not independent. So for this to stand up under Article 8 of the Human Rights Law, there must be a set of criteria for a lawyer to fight in court so we must know the criteria of hardship, when is it discretionary?

SENATOR WALKER: With respect, Deputy, this is an issue for the Housing Committee.

DEPUTY MARTIN: No, only because you are making it Housing. I say it should not be Housing.

SENATOR WALKER: This is an issue for the Housing ----

DEPUTY MARTIN: It should be an independent panel, independent panel.

SENATOR WALKER: But we are not empowered to change the Housing Law as it currently stands.

DEPUTY MARTIN: But you are changing the whole policy. It depends on this.

SENATOR WALKER: Sorry, in this context we are making no change at all. It is absolutely quite wrong to suggest that there is a change here. There is no change at all.

DEPUTY MARTIN: Which is my point entirely. It is absolutely wrong to say that all this can be mopped up by the discretionary hardship law that we have in place today, that we have had in place since 1949.

SENATOR WALKER: That is exactly where we disagree.

DEPUTY MARTIN: Well, we shouldn't be sitting there then. We shouldn't be sitting there under this certainly.

SENATOR WALKER: In which case, amendments should be brought to the Housing Law, because it is the constraints of the Housing Law that cover hardship cases and nothing we are proposing will change that.

DEPUTY MARTIN: Well, then there will be no fair system. If somebody is sacked, they have got nobody to go to except in the future, which is even worse than a Committee. At least you have got six or seven people agreeing or four or five. You are talking about one person in next year, the Housing Minister. Under Human Rights itself -- I think Geoff can quote the

Article -- it is totally wrong.

SENATOR WALKER: I am not going to either agree or disagree.

DEPUTY MARTIN: It is the right of the fair trial, a fair hearing.

SENATOR WALKER: I am not going to argue with you or either disagree or agree with you.

That is not a matter for the Migration Policy.

DEPUTY MARTIN: Well, I am sorry then. I can't see that you can ----

SENATOR WALKER: Well, I am sorry, but that is a matter of fact.

DEPUTY SOUTHERN: Can I come in rather less argumentatively?

MR OGLEY: Chairman, may I just add to that because there is, as was always envisaged, the potential right of appeal to the Administrative Decisions Appeal Panel.

MR ENTWISTLE: And ultimately to the court.

MR OGLEY: And to the court.

SENATOR WALKER: But that is a matter for the Housing Law.

MR OGLEY: Yes, and the discretion is always used to benefit.

DEPUTY SOUTHERN: I believe that, within the context of what you are doing in the Migration Policy, you suggested at one point you were replacing the Housing Regulations by this three tier system.

SENATOR WALKER: Not in ----

DEPUTY SOUTHERN: But you haven't considered bringing in an independent appeals procedure with proper guidelines so that it is clear and obvious on what grounds people will be considered.

SENATOR WALKER: What specifically are we talking about, the issue raised by Deputy Martin?

DEPUTY SOUTHERN: Yes, yes.

SENATOR WALKER: But I repeat my point. It is a matter for the Housing Law. The (g) or hardship clause is enshrined in the Housing Law as approved by the States.

DEPUTY SOUTHERN: Right.

SENATOR WALKER: And it remains enshrined in the Housing Law. That is an issue, if any

States Member feels that that is inequitable, then of course they have the right to propose an amendment to the Housing Law.

DEPUTY SOUTHERN: It is the belief of this Committee that that will open ... that these particular changes will be challenged in the Jersey Courts.

SENATOR WALKER: Well, no, I think you will find that that perhaps would put the Housing Law possibly into that position. That is not something I would like to comment on. All I can say, and we stand by this, is that the legal advice the Policy and Resources Committee have received, and you may have alternative legal advice -- you obviously have something up your sleeve judging by your smile, Deputy -- you may have alternative legal advice, but that is not ----

DEPUTY SOUTHERN: The smile is a mere pleasantry.

SENATOR WALKER: Well, there we are.

DEPUTY SOUTHERN: There is nothing hidden in it.

SENATOR WALKER: That is not for me to comment on. We have legal advice which quite clearly states that our proposals are Human Rights compliant. As far as we are concerned, that is where the matter rests.

DEPUTY SOUTHERN: Okay.

SENATOR LE CLAIRE: Can I ask these questions?

DEPUTY SOUTHERN: Yeah, sure.

SENATOR LE CLAIRE: I have got a series of questions that are quite quick and succinct, if you could answer them to the best of your ability, surrounding the consultation process. In the consultation process for the manufacture of these proposals, you formed, or the States formed, a body that consisted of politicians and States' officers and various meetings were held. Can I ask how many meetings were held by politicians and the officer bodies either as politicians or officer bodies and if the minutes of those meetings are available?

SENATOR WALKER: Absolutely. That information, so far as I can recall, is all contained in the report and proposition.

SENATOR LE CLAIRE: Right.

MR ENTWISTLE: The actual details of the meetings, first of all, if I can clarify, there were two

bodies. There was the officer working group ----

SENATOR LE CLAIRE: Yes.

MR ENTWISTLE: ---- which represented officers from six different Departments. Then there was the political Steering Group, which represented politicians from the respective Committees. So there was quite a widespread involvement across the whole of the States in terms of developing the policy. The actual consultation process itself was extensive.

SENATOR LE CLAIRE: Sorry, can I ask? Can I just be succinct, because I have got some succinct questions? I wanted to know, we have identified there were two bodies.

MR ENTWISTLE: Yes.

SENATOR LE CLAIRE: I wanted to know how often they met and what the quorum membership or what the membership of those were. If those are available, if we could see those?

SENATOR WALKER: The memberships are in the actual report, in the Appendix.

SENATOR LE CLAIRE: For example, Deputy Southern was a member of the political body, and I know that he attended one meeting, so if we can establish what kind of participation was involved, that I would like to know. Other questions I have got, bearing in mind ----

SENATOR WALKER: Can I say that was Deputy Southern's choice. There were many more.

SENATOR LE CLAIRE: I'm not casting aspersions, I just want to know. I have got six other questions.

SENATOR WALKER: Sorry, just so that we are clear, let us just deal with one issue at a time.

SENATOR LE CLAIRE: Yes.

SENATOR WALKER: You are asking for information on how many times the Steering Group Members met.

SENATOR LE CLAIRE: And who they were when they met, yes.

SENATOR WALKER: Well, that is easily provided.

SENATOR LE CLAIRE: It is minuted, isn't it?

MR ENTWISTLE: I have got the records here. Without referring to the question, we can give them to you.

SENATOR WALKER: It is easily provided.

SENATOR LE CLAIRE: Thank you very much.

DEPUTY SOUTHERN: Can you get to your questions, Paul?

SENATOR LE CLAIRE: The six questions, which I am trying to get to. How many written responses did you receive to the consultation?

MR OGLEY: Written responses? You have had, the Panel has received a copy.

DEPUTY SOUTHERN: If we are talking numericals, can you just get back to us later with it?

MR OGLEY: Yes, yes. We can come back on that.

SENATOR WALKER: I am surprised you haven't got that information already, but it is easily provided.

DEPUTY BERNSTEIN: Thank you.

SENATOR WALKER: I note that the Committee Clerk is nodding in assent. You have that information.

SENATOR LE CLAIRE: Okay, I am just trying to ascertain where the build up for this, for these proposals has come from. How many public meetings did you hold? That is another question. I would also like to ask, I think you met, I remember reading somewhere that you met with Jersey Finance. How many times did you meet with them, because I know that their submission seemed to, in my view, impact quite heavily on the proposals that are coming forwards?

MR ENTWISTLE: Can I actually answer some of those as we come along, otherwise it is going to be very difficult to ----

SENATOR WALKER: You are taking us to about five different questions all in one go here. Let's be clear because there is a record here. Let's be quite clear what the answers are to each of your questions.

SENATOR LE CLAIRE: Yes, all right.

MR ENTWISTLE: Just in terms of your first question about the number of written responses, I have provided the Panel with a list of over 30, some of which are some of the media responses, but there were some 25 written responses. We held meetings, three public meetings. Well, we actually held four, but one of them was very poorly attended and was cancelled. I think there

was something good on television that night. But the meeting at Grouville Parish Hall was attended by 20 people, roughly. I mean, there was just a head count, you know, at the meeting. At St. Helier Town Hall about 30 and St. Thomas's Church about 30.

SENATOR LE CLAIRE: Sorry, did you say 13 at St. Helier.

MR ENTWISTLE: Thirty, 3-0.

SENATOR LE CLAIRE: At St. Helier. Two last questions in relation to the ----

SENATOR WALKER: Can I just make a point? Those meetings were extensively publicised.

SENATOR LE CLAIRE: Yeah, I am not doubting that.

SENATOR WALKER: We were, I think, somewhat disappointed in the turnout, but we couldn't have done much more to actually publicise the fact that the meetings were being held.

SENATOR LE CLAIRE: There were two other questions I have got in relation to the consultation on the written submissions. You had one written submission from XXXXX in respect to a practice in the Cayman Islands where they actually allocate a certain amount of money to a licence. For example, I think he has stated in his paper that he supplied to you that, in the Cayman Islands, there is a practice of apportioning a value to a licence. So, for example, if it was in the hospitality sector, it would be apportioned at £300 and, if it was in the finance industry, it would be apportioned at £10,000. Currently in the Cayman Islands he makes the point that a financial director's licence in the Cayman Islands is valued at \$40,000. He makes the point that there is an option for us, or there would have been an option for us, to have generated a considerable revenue stream. What work was done on that, into looking into that comparison?

MR ENTWISTLE: Can I clarify, first of all, that was a submission by XXXXX as a ... I think it is headed up as a personal contribution?

SENATOR LE CLAIRE: I beg your pardon. I didn't want to use his name because I was getting used to the States where we don't mention names, so I inadvertently used his title, which is the wrong way round.

MR ENTWISTLE: It was a personal submission and purely a personal opinion rather than a policy proposal.

SENATOR LE CLAIRE: Yes.

MR ENTWISTLE: The working group did consider the question of whether or not this could be an income stream and felt that that was not an appropriate way forward.

SENATOR LE CLAIRE: How did you consider it? Did you ask the Cayman authorities how much they achieved through that mechanism?

MR OGLEY: No. The consideration was not about financial benefit, it was about the principle of whether people should pay for licences and whether they should become traded commodities, which of course would then significantly ----

SENATOR LE CLAIRE: But people are paying for licences though under your policy.

DEPUTY SOUTHERN: Paul, Paul, Paul.

SENATOR LE CLAIRE: It is businesses that pay for licences. Under your policy, it is businesses that pay for licences.

MR OGLEY: I am sorry, but I was using "*people*" in terms of businesses.

SENATOR LE CLAIRE: Hmm.

MR OGLEY: People within businesses.

DEPUTY SOUTHERN: Have you got your last part?

SENATOR LE CLAIRE: The last part is another one was submitted by XXXXXX. Whether or not she did it as a Deputy or whether she did it as an individual, the point was that she had been accosted by somebody apparently that bent her ear back in relation to the fact that there was in New Zealand a similar provision with a similar policy. She makes the point that New Zealand has a very similar policy, she says.

SENATOR WALKER: Similar to what, sorry?

SENATOR LE CLAIRE: To the one that we are proposing. This is from her submission. She says: "*New Zealand has provision that if a licensee buys a property and then leaves the jurisdiction, the licensee may not let the property for financial reward. New Zealanders were concerned that people would take up employment, buy a property and then leave whilst retaining the property portfolio.*" Did you think along those lines?

SENATOR WALKER: I think we have effectively answered that already in replies to an earlier

question.

SENATOR LE CLAIRE: So that is really not an option that Jersey would allow?

SENATOR WALKER: That's not where we're going. That is certainly not what we are proposing.

SENATOR LE CLAIRE: Thank you very much.

DEPUTY SOUTHERN: Okay, thank you. Judy?

DEPUTY MARTIN: Yeah, um, setting up the single office, the one-stop-shop, could somebody sort of run through exactly how this would work, how would the integrated system operate and what is the balance of Housing, Reg of Unds, Employment and Social Security? What guidelines are there for allocation of licences? Also, on page 14, it might have been a slip in the bottom paragraph, but in this single office, working with Housing, Economic Development, Employment and Social Services and Environment and Public Services? Why are they going in there, or is that some sort of typo slip? Why would Environment and Public Services Committee be going in?

SENATOR WALKER: Because there, too, there are States policies, not least the Island Plan, which of course covers a number of ----

DEPUTY MARTIN: Yeah, it's just that that is in there, but when you go on to read, I can see quite clearly what the other three should be doing, but how many people you are talking about from Housing, Environment, Social Security and EDC, all officers?

MR OGLEY: In terms of the Environment and Public Services Committee, it wasn't intended that there would be officers transferring into a single office.

DEPUTY MARTIN: Right.

MR OGLEY: That was to reflect the fact that when the States or when either Committees or Ministers are looking at the allocation of licences, they would need to have a look at the planning and housing, creation of housing, so that you didn't get population and housing out of balance. That, to be honest, isn't done properly at the moment, so this was seen as a step forward to control or to regulate population and housing much more closely together. That is that.

In terms of setting up a single office, we haven't done a tremendous amount of work on



this because this needs a States' decision and we are going to wait to get that States' decision, but we would expect that it would be the staff working within the Regulation of Undertakings Office and those within the Housing Consents Office that would be brought together in the first instance to manage the existing and implement the existing laws and to then start working on future laws. Whether we would be able then subsequently to make some reduction in those numbers because it should be, or we do believe it will be, simpler and better, then we would look at that, but, in the first instance, it is bringing those two groups of officers together.

The relationship with Employment and Social Security is about the registration function, so that we can automate the registration in line with Employment and Social Security. Now, whether it would be possible to bring that registration into this office or not is something that certainly wouldn't happen at day one, but it might well happen six or 12 months down the line. The new Social Security system is bedding down. That needs to be working properly. Get the Reg of Unds and the housing function working properly and then see if we can bring registration better together with it.

DEPUTY MARTIN: So the people would have to go to Employment and Social Security first to go on the register, not this office. This concerns me. It has been mentioned. I think I asked the question before. How robust will the register be? What evidence will the person presenting at that ... you know, presenting ... and then, secondly, you go on at page 24 to say: *"It will be necessary to remove an individual's registration where there is good reason to believe they are no longer resident in Jersey. Experience elsewhere indicates that systems are able to ensure that a register should be maintained with a reasonably high level of accuracy."* But you don't actually say how you are going to find out.

I know somebody might stop paying their Social Security. They may have moved in with someone who is rich enough, but they might not appear on any one of your ... how ... as I say, to maintain everything, it has got to be a very robust register if we are going to do it, so taking people off just because they presume they are no longer in Jersey, I mean, how often will that happen? Could people have been left for six months? We could have lost 400 or 500 people in six months. It is not ... I need to know how robust it is going to be, you know, how really is it

going to reflect the population. When they register, I know they have to register their independents, you know, their dependents, family and things like that and they only go back to the register if, you know, their status changes or their job, but are you satisfied that all these can be covered?

MR OGLEY: I think there are three things there. Firstly, the question is will they have to go to Employment and Social Security to register or this office? The answer to that is that we need to work that through. That is an issue we have got to work through with the Data Protection Registrar. Ideally, if we could bring the two together it would be better. We now need to work through in that level of detail with the Registrar, because clearly it is better for somebody to go to one place and register and have it all done than moving around, and that would our aim.

DEPUTY SOUTHERN: Presumably there is a timescale on that though?

MR OGLEY: Yes.

DEPUTY SOUTHERN: By the time you bring this to the States presumably, so the next few months.

MR OGLEY: Yes, exactly.

DEPUTY SOUTHERN: Okay.

MR OGLEY: There is no doubt about that. So that is point one.

MR ENTWISTLE: The robustness of the register, can I comment on that?

DEPUTY MARTIN: Yes.

MR ENTWISTLE: Largely, our proposals have been looking at similar proposals being proposed in the UK. So, for example, there is a Citizen Information Project, which has been proposed by the National Statistics Office, looking at establishing a population register for the UK, and in Ireland there is a similar system. I think it is called the Reach Programme, or something like that, again, looking at a fairly comprehensive population register. They have got the same issues: how do you maintain an up to date, current register? How do you decide when somebody has left the country? They have got basically an approach which is the same as the sort of approach that we're suggesting, which is that you keep a track of when people are interacting with government, when people have paid their Social Security contributions and their tax and, if after a certain period of time you hear nothing from somebody, you have probably got

good grounds to think they have left the Island and you can check that out.

SENATOR WALKER: You cannot force anyone to say "I'm leaving the Island next week." You just can't do that. That is impossible. You know, if somebody decides to go tonight and claim, there is nothing you can do about it, but sooner rather than later, because of the process of the employment side of it particularly, you will become aware of it. I mean, what we are looking at there, if you like, is a potential decrease in the population, a potential decrease in the number of migrants in Jersey which is not going to cause anyone other than perhaps the employer in the business sector any great stress, I wouldn't have thought. Maybe lodging houses, but other than that, that is not necessarily going to cause anyone any great stress. But there is no way of monitoring on a day to day or week by week basis how many people have left. How many people are coming in, which is surely the important part of what we are looking at, yes. How many people have decided to leave the Island for whatever reason, no, you can't do that on a regular basis.

MR OGLEY: There were two other points though. One is about evidence. Social Security assure me that they already do require quite good sources of evidence nowadays before people --  
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DEPUTY MARTIN: No, sorry.

MR OGLEY: They are certainly tightening up on that. That is what they have told me. Our intention is to tighten up still further. Again, I don't want to become a cracked record, but we have got to check that out with Data Protection, what is acceptable in order to make it work.

The second element about keeping it up to date is that one of the big reasons for amalgamating the manpower returns and the Social Security returns is (1) yes, of course, it will reduce one level of bureaucracy for employers, but (2) it will also be a much more up to date check on activity rates.

Now, the other element of this, of course, is that we are not talking about Smart Cards or an identity card, but we are talking about the use of a unique identifier when somebody is registered. Now, our intention would be (and this is not an overnight thing) that then you start using that unique identifier for schooling, school registers or health and, therefore, you get a

much more active register of people's interaction. We don't then for Data Protection purposes look through and follow that person, but we can have an automated flag-up to say "This unique identifier has not been active for six months" and then you check it out. So we think it is possible without breaching any of the requirements to make this reasonably robust. It won't, as the President said, always be right to the numbers two, three or four, but it will be robust and it will enable us to make sure that things are kept in track.

DEPUTY SOUTHERN: Can I just check? The statement: "*Experience elsewhere indicates that systems are able to ensure that the register could be maintained with a reasonably high level of accuracy.*" Those are referring to the UK and Irish projected systems which are in development, as is ours?

MR ENTWISTLE: That is taking advice from the people involved in setting up the UK system as to the evidence they have researched elsewhere as well.

DEPUTY SOUTHERN: Ah so they are from various ----

MR ENTWISTLE: It is third hand evidence, if you like.

DEPUTY SOUTHERN: Do we have any access to the evidence gathered elsewhere, or are you just taking the word of the UK Government, which is saying "We can do this"?

MR ENTWISTLE: We met with the officials who have been involved in developing the Citizens Information Project in the UK. A couple of people came over and presented a seminar to some of the officers involved, so that we had a full morning's session to get information from them.

DEPUTY SOUTHERN: How crossed are your fingers that the computer systems that they will have to use are actually up to the job?

SENATOR WALKER: That is a matter for them. We are very confident that ours are. But, just to go back to Deputy Martin's point, picking up a point made by Deputy Bernstein earlier, the "*big brother*" aspect of effectively exercising a daily or weekly control or whatever over people leaving the Island, I can't see any way that would be HR compliant and it goes far beyond what is acceptable anyway.

DEPUTY MARTIN: Just going back to the point. I mean, you said you have been reassured

by Employment and Social Security that they have tightened up their act.

MR OGLEY: They are tightening.

DEPUTY MARTIN: Well, I mean, I don't ----

DEPUTY SOUTHERN: You are speaking from your own experience.

DEPUTY MARTIN: Yeah, I mean, I was in there last week and I was getting something for my daughter and the lady said to me "Oh, I shouldn't really give you this, but tell him to sign that there." It was for her son. I've done it for myself. My son doesn't even have the same surname. So what I would like to be assured of is what ... like, as I said, basic at the meeting you gave, Frank, basically I would like to see at least what you would produce to open a bank account to prove, maybe your birth certificate. If you are already registered, I know it would be harder if you were new, but like a utility bill or something. That is just standard and I can't see, to register or to work in Jersey or live in Jersey for it not to be Human Right compliant or Data Protection, so they might be reassuring you, but the practice at the front desk is not actually probably coming from the top. That is why I'm talking about robust. I mean, we have got to have good statistics and, you know, I find it myself.

SENATOR WALKER: I would make the point that this is the Policy and Resources Committee Migration Strategy at this point, in a similar context that we talk about Article (g) hardship under the Housing Law.

DEPUTY MARTIN: I know it's not your, but for it to work it's all got to be working.

DEPUTY SOUTHERN: But we are joining up.

DEPUTY MARTIN: Yeah, we are joining up.

SENATOR WALKER: We are joining up and we note the point, we note very carefully the point the Deputy has made, because it seems to us to be important as well, that there is some proof of identity when registration takes place.

DEPUTY SOUTHERN: That is vital to the whole system working. Paul, you wanted to come in?

SENATOR LE CLAIRE: In that respect, the Jersey Finance submission makes a statement in relation to, for it to be workable, there should be a legal requirement to register and a legal requirement to deregister. Listening to what you are saying, it sounds very promising on a

unique identifying number, but at what point, if we are going to require people to register, at what point, if any, are we going to enable a deregistration and how will that go?

DEPUTY SOUTHERN: We have just done it. I think we have just explored that. You can't chase people all around the world to deregister them.

MR ENTWISTLE: You must recall that the opinion of Jersey Finance in their submission isn't necessarily the policy that has been put forward.

SENATOR WALKER: And if they are suggesting there that there should be a legal requirement to deregister, it just goes to show that our policy is not being driven by their submissions.

SENATOR LE CLAIRE: I would say, I would put to you that that may not be your policy, but a lot of what they are suggesting is actually being met within your policy?

SENATOR WALKER: That may or may not be the case, but that appears in their one submission of many and clearly they have a right for their submission to be reviewed and taken into consideration along with everybody else's and that may be the case, but they were given no special rights or capabilities or no special attention was paid to their submission over and above any others.

DEPUTY SOUTHERN: And some fell on stony ground.

SENATOR WALKER: Sorry?

DEPUTY SOUTHERN: And some fell on stony ground, as it were, some suggestions.

MR OGLEY: And their submission was in response to our ... we published a paper, if you remember, last summer.

SENATOR LE CLAIRE: The consultation document, yes.

MR OGLEY: Yes. And their submission was in response to that. So where you seeing them playing back a number of the ideas that are in there, I think that is merely reinforcing what we have said. They didn't come to us and say "We would like this."

SENATOR LE CLAIRE: My question really was, there is going to be no ... if I just re-emphasise, there is not going to be any requirement for deregistration?

SENATOR WALKER: There cannot be.

MR OGLEY: No.

DEPUTY SOUTHERN: Okay, Paul, I think perhaps would you like to go on to make the comments about risks in the document?

SENATOR LE CLAIRE: Yes. I think this is quite an interesting part of the proposition, inasmuch as, on page 35 of the policy document -- sorry, the proposal to the States, page 35 of P25 -- you highlight that you undertook a risk analysis to a certain degree of the benefits and risks of the proposals. I notice that, whilst there are a number of benefits identified, there are only three risks identified. I just want to get some kind of proportion in respect of this, especially as two of the risks that are identified are quite clearly not in place if the evidence goes against the submissions of the Jersey finance industry that say that we clearly enjoy at this time a competitive advantage over the Isle of Man and Guernsey etc by not having a requirement to issue licences to the employee, but we issue licensed terms to the employer. They make the point that that would actually be retained.

So I would put it to you that those first two risks are hardly credible, based upon the submission from the Jersey finance industry. But the last one is quite relevant. You state in your proposition "*The public or political perception that the proposals would be ineffective, that they could have unacceptable adverse consequences for the existing population, that they might lead to undesirable environmental change, will place an unacceptable burden on the Island's infrastructure or that they could lead to unsustainable migration changes leading to lack of support for the proposals.*" The wide-ranging risk analysis of the third bullet point is, given it is your risk analysis and not mine, the wide-ranging points made in the third bullet point of the risks that are identified in your document have been placed there because you do identify them as risks.

SENATOR WALKER: Well, yes.

SENATOR LE CLAIRE: Why is it that that wide-ranging group of risks boil down to one bullet point when we have such a large number of bullet points in favour? Do you think that is an equitable representation as far as risks and benefits are concerned?

SENATOR WALKER: Well, we wouldn't be putting the proposals forward at all if the benefits didn't outweigh the risks. Otherwise, what would be the point? I would also point out that the

third bullet point you referred to is a public or political *perception* that the proposals will be ineffective.

We are not saying there is a risk that the proposals will be ineffective. That rests, of course, ultimately with the States, but there may be a perception that they are ineffective. That, of course, is something we would have to manage, assuming the policy is approved by the States, something we would have to manage in the normal way.

DEPUTY SOUTHERN: It does seem to me though somewhat very remarkable that there are only three risks identified and two of those are perceptual.

SENATOR WALKER: Well, if you can think of any others, we would be pleased to hear about them.

DEPUTY SOUTHERN: In your eyes then, it is virtually a risk-free policy?

SENATOR WALKER: It is a huge step forward. I mean, you cannot have a States' policy without there being risks, but we have done a genuine job and we have consulted. It is not just the opinion of P&R; we have consulted and done a genuine job here in seeking to assess what the benefits are for a variety of elements of the community, the States' employees, employees and so on, and a genuine job in assessing the risks. Now, because this represents such a huge step forward for Jersey in terms of our ability to monitor and regulate and in terms of the flexibility it gives in other areas, the risks are far outweighed by the benefits. But I would guess that one of the rôles of Scrutiny perhaps is, if you feel that we haven't assessed the risks adequately, that you will, I am sure, say so.

DEPUTY SOUTHERN: And I am sure we will as well. Can I ----

MR OGLE: Can I just say that, in preparing it, obviously there is a risk which is the converse to each of the benefits and, therefore, as we went through, both at the officer work and the member work, we went through and considered each of these areas and tried to come up with a policy that would have the benefit rather than the risk. So we did work really very, very hard to try and get it so that there were a lot more benefits than there are risks.

DEPUTY SOUTHERN: I shall return to that list, that extensive list of benefits, with a fresh mind.

SENATOR WALKER: I repeat my point, that if the benefit/risk equation wasn't hugely in favour of benefits, why are we bringing it forward?



DEPUTY SOUTHERN: If only it was always thus. Anyway, I want to return for a moment just to the issue of Data Protection. We referred to timescale on one particular issue, that you are still engaged with the Data Protection Registrar talking about and making sure that that is as tight as you can get it before you bring the proposition. In terms of the wider examples, interaction with States' Departments, healthcare, education, Social Security benefits, voting, paying income tax, etc, etc, etc, what is the timescale involved in trying to work out whether you can now progress this to the magic card with the identifier which does everything? Have you got a timescale on that?

MR OGLEY: We don't. We don't have a timescale on that. We have identified what might be possible, but there is a lot of work with Data Protection, first of all, to get the basic system in when it is agreed and then, and it is only then, that we would start looking to see if it is possible to extend it further.

DEPUTY SOUTHERN: So if someone is saying "Yes, this will be the magic card which will have the identifier ----

MR OGLEY: We are not saying that.

DEPUTY SOUTHERN: You are not saying that, but are you saying that we are perhaps years down the road before that is achievable?

MR OGLEY: Well, we certainly haven't set out to create a magic card. We do think this idea of a unique identifier has a lot of merit and we need to work that through, but you can achieve that without having either a magic card or indeed all of the systems totally integrated.

DEPUTY SOUTHERN: But, in terms of providing access through the number ----

SENATOR WALKER: It will take time.

MR OGLEY: Yes.

SENATOR WALKER: I think a question arises here though that if Jersey wants population control as opposed to just having no control at all, then basically it has a choice. We either keep what we have got today or we move forward along the lines we are proposing or somebody somewhere comes up with a totally different alternative, which, talking about all the consultation, with all the bodies and all the members of the public we have involved in the

process, nobody has done.

DEPUTY SOUTHERN: Okay. Paul, do you want to come in briefly?

SENATOR LE CLAIRE: Briefly, yeah.

DEPUTY SOUTHERN: Briefly, because I am aware of time.

SENATOR LE CLAIRE: When I met with you before, Mr Entwistle, and Senator Ozouf, I asked how many people were associated with the J category and I was given the number three. How are you going to identify families through the unique identifier? Will they be coupled? Will the whole family be identified as one number or will they have their own individual numbers and is that number three still correct?

MR ENTWISTLE: Sorry, I don't understand that question.

DEPUTY SOUTHERN: Number of dependents, I believe, he is asking about.

SENATOR WALKER: Will dependents have the same unique number?

MR ENTWISTLE: Yes, I think the evidence and the information we have had is 2.8 per average household, yes.

SENATOR LE CLAIRE: That is 2.8 people per J category, but will they ... how will you identify them? Will they all have their own unique identifier number? It is unique, so it will be unique?

MR ENTWISTLE: Every individual will be registered under the new proposals.

SENATOR WALKER: But, don't forget, it's not just J categories who will have that, it is everybody.

MR ENTWISTLE: It is everybody.

DEPUTY MARTIN: They will all have their own number.

SENATOR LE CLAIRE: I am just wondering about tracking them.

DEPUTY SOUTHERN: Okay. Can I take us on to another issue, which is the position, the relative position, of locally owned companies and foreign owned companies. If we are talking about a fresh start up rather than a rolling three year programme and talking about a company new to the Island, under 0-10, they will go along to the one-stop-shop and say "Here we are. We would like to set up. This is our business plan. These are the number of licences we need." Is

there a danger in, because the criteria are either to create or generate some wealth or to generate jobs, that a foreign owned company is in danger or would challenge that it is having a different treatment to a local company because the local company we can usually look through and assess the company profits; whereas a foreign owned company we would not be able to do that with? Is there a danger that, once again, we get to a position where we are breaching EU Directives about a level playing field for local and non-local members?

SENATOR WALKER: No, there is no such danger.

MR OGLEY: No.

DEPUTY SOUTHERN: And where do you get that confidence from?

SENATOR WALKER: From the legal and political advice that we have received in not just the Migration Policy but the Fiscal Strategy and the Strategic Plan as well.

MR OGLEY: On the level playing field, of course, we have had reassurance from the EU that the 0-10 proposals that we are bringing forward will be compliant and will be acceptable.

DEPUTY SOUTHERN: Including the difference between look through and no look through under 0-10?

SENATOR WALKER: And we have the right to grant licences to companies to set up or not, as we wish.

MR OGLEY: Yes.

DEPUTY SOUTHERN: Is that assurance a matter of public information?

SENATOR WALKER: Oh yes, absolutely.

DEPUTY SOUTHERN: Is it documented? Could you produce that for me?

SENATOR WALKER: Absolutely, we don't have a problem with.

MR OGLEY: We supplied that. We supplied that during part of the 0-10 debate.

DEPUTY SOUTHERN: Okay, and then, finally -- I think or I hope finally, but perhaps we will know -- I want to return to the issue we just touched on of legal advice. The issue of confidentiality of advice from the Attorney General has already been raised in Scrutiny matters and it is being raised again as we speak. I believe it is a matter, it is always expressed as a matter, of client confidentiality, the client being the Committee to whom the Attorney General or

Solicitor General gives advice. So, in other cases, if the simple procedure is for a person to give permission to the person who has the information to pass that information on to a third party, the question is, is this Committee prepared to give the Scrutiny Panel full access to the legal advice from the Attorney General in a similar way?

SENATOR WALKER: No, we cannot, because the client of the Attorney General ultimately is the States and we have to protect the States' position and we have to protect therefore the public position in that respect. Therefore, we cannot. That is a much bigger issue whether legal advice should be made legal advice to any body of the States -- and by "*body*" I mean Committee, Scrutiny Panel or whatever -- whether legal advice to any body of the States should be made publicly available or not. It is a very big issue which goes, I would respectfully say, far beyond the remit of a Scrutiny Panel and certainly far beyond my remit here this afternoon, where we are here to review the policy proposals, not legal opinion.

SENATOR LE CLAIRE: Can I just add ----

DEPUTY SOUTHERN: No, I will insist here. Despite the fact that we have obtained legal advice, external legal advice, we are about to speak to the Attorney General himself -- he wishes that session to be held in camera -- it still seems to me that as a body of the States and in order to function properly, a Scrutiny body needs access to the legal advice given to any Committee.

SENATOR WALKER: I think that is a bigger issue, as I have already said, a bigger issue than we are equipped to deal with this afternoon. I think that is an issue that has to be dealt with and addressed by the States as a whole. You say you have obtained alternative legal opinion. Well, of course, that could well lead then to a situation where you have two possibly conflicting legal opinions. Now, who is amongst us as States members equipped to judge upon legal opinion? That is surely a function of the Court. I don't think, again with respect, it is the rôle of the Scrutiny Panel to take a decision on conflicting legal opinion. A Scrutiny Panel is set up -- and I don't just refer to your Panel, Deputy, I refer generally -- but Scrutiny Panels are set up to decide on policy issues, not, in my view, to decide upon conflicting legal advice. But the basic point here is that this is a very big question.

Traditionally, in Jersey, legal opinion has not been made public except in the States'

Chamber and then in exceptional circumstances, quite frequently, as we had with the Les Pas debate in camera. The same is true in the UK and the same is true in most other jurisdictions.

Now, if you are suggesting that you would like to have legal opinion openly provided to you, legal advice to the Policy and Resources Committee legally and openly available to you, that is, as I said, a much bigger question which needs to be resolved in the first instance, I would have thought, by Privileges and Procedures, but, generally speaking and overall, by the States itself.

DEPUTY SOUTHERN: I am glad you can see that it is still an issue, requiring resolution.

SENATOR WALKER: I can see there is an issue. I can see there is a question. I can't answer it.

DEPUTY SOUTHERN: The difficulty is that it does make it difficult for Scrutiny to examine not only the policy which results, but also the process by which it was obtained.

SENATOR WALKER: Well, yes and no, I think. The only legal opinion we have had is that the policy is legal and Human Rights compliant. Now, that is all we need essentially. That is the opinion of the States' legal adviser. That is what we have been given and that is all we need. Now, it is a matter for you whether you are ready to accept the advice of the States' legal adviser (in this case the Attorney General) or not and that is of course a matter for you.

SENATOR LE CLAIRE: Can I make ----

SENATOR WALKER: Sorry, if I may finish. That is the position taken by my Committee. We have had legal advice. We have had it from the source that all Committees of the States have been advised by for countless generations and we accept that advice.

SENATOR LE CLAIRE: I am glad I didn't stop you when I wanted to. How does that tie in to the legal advice that was presented by Senator Pierre Horsfall before my proposition could be debated in the States? It was circulated to all States Members from the Law Officers prior to debating work permits, which found its way into the media weeks before we got to see it, parts of which I was issued with. It was tabled in the States over the lunchtime period in its totality from the Law Officers, and the reason we didn't go ahead with the work permit debate that I wanted to go ahead with was on the grounds that the States would be foolhardy -- I can get a transcript -- it would be foolhardy to debate something that had Human Rights implications without knowing and being aware of the full benefit of the issues.

SENATOR WALKER: I can't comment on the specifics because my memory isn't totally clear on it.

SENATOR LE CLAIRE: Well, it is in the States' minutes.

SENATOR WALKER: But what I will say is that that was legal advice, as I recall, that was made available to the States as a whole.

SENATOR LE CLAIRE: So can we get the same legal advice available to the whole States Assembly before we debate this issue?

SENATOR WALKER: That is, of course, a matter for the States to decide at the time, given the advice of our legal adviser.

DEPUTY SOUTHERN: That is a matter for us to take forward, Paul. If you don't mind, can I just move on to ----

DEPUTY BERNSTEIN: We actually don't know, of course, if the legal advice will be conflicting.

DEPUTY SOUTHERN: No, not yet. We have yet to hear ----

SENATOR WALKER: No, I said it may be conflicting, but I am making the point that, in the event of it being conflicting, then I think you are perhaps putting yourselves -- I don't know, it is a matter for you -- but you could conceivably be putting yourselves in quite a difficult position.

DEPUTY BERNSTEIN: Yes.

SENATOR WALKER: But that is a matter for you.

DEPUTY BERNSTEIN: Okay, I know we are winding down, but I am sure I am going to need to come back to you with a certain number of questions about the monitoring of the regulations.

SENATOR WALKER: Okay.

DEPUTY BERNSTEIN: But, I mean, I need to get round this and that to your answers again vis-à-vis our questions before going forward.

SENATOR WALKER: Of course that's fine.

SENATOR LE CLAIRE: I don't think we are getting ... can I just say I don't think we are getting into a position with my understanding of the legal position. I think we are being informed and making a well educated analysis, but we are not making a decision upon a legal

piece of advice.

SENATOR WALKER: I think that was my point.

DEPUTY SOUTHERN: Yes. I mean, what we have done, I think, is inform ourselves so that we can have a half way decent conversation with the Attorney General so that we can actually prep the ground so that we know what we are talking about.

SENATOR WALKER: Well, that is a matter for you.

DEPUTY SOUTHERN: That is all we have done so far.

SENATOR WALKER: That is a matter for you and the Attorney General.

DEPUTY SOUTHERN: That is all we have done so far.

SENATOR WALKER: I repeat what I have said, that my Committee was advised that these proposals are both legal and Human Rights compliant and we accepted that advice.

DEPUTY SOUTHERN: Okay, but the whole thing about Human Rights compliance is that it is proportionality: is the measure that you are taking proportional to what you want to achieve and, in particular, can only be tested on an individual as to a feeling for where the generality actually stops, and that is the issue which I am suggesting will become an issue as we get Human Rights law into action.

SENATOR WALKER: Well, we don't believe it will, but that, of course, is a matter of opinion. I repeat that certainly the legal advice we have had is that the proposal ... and we do accept, and I said this earlier, that as the proposals are worked through, as the detail comes through, then that will need to be checked at every stage.

DEPUTY SOUTHERN: Absolutely.

SENATOR WALKER: Clearly there s a lot of detail yet to come through and we have got to be absolutely certain as we bring it forward that it remains Human Rights compliant. Otherwise, of course it will fail, it will fall.

DEPUTY SOUTHERN: Thank you.

SENATOR WALKER: No question at all.

DEPUTY SOUTHERN: It remains for me, it falls to me, to have the last word, for once in a conversation with you, Frank. (General inaudible discussion and laughter) Thank you for the

two hours of your time today and also the preparation work that has been put into trying to get this inquiry off the ground, up and running and hopefully done and dusted in two months if we can.

SENATOR WALKER: Thank you very much, and thank you for the way we have been received.

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