

# STATES OF JERSEY

## MIGRATION POLICY REVIEW

BLAMPIED ROOM, STATES BUILDING

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Committee: Deputy G. Southern (Chairman)  
Senator P. Le Claire  
Deputy J. Martin  
Deputy J. Bernstein

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### EVIDENCE FROM

MR WAYNE GALLICHAN (Department of Regulation of Undertakings)

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on

Friday, 6th May 2005

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DEPUTY SOUTHERN: I would like to welcome Mr Gallichan, Director, is it?

MR GALLICHAN: Director of Regulatory Services.

DEPUTY SOUTHERN: Director of Regulatory Services. We have met him before, but basically we have invited him back because we feel we do not have at this stage a real and proper understanding of how RUDL works. First, I have to do the formal bit. It is important that you fully understand the conditions under which you are appearing at this hearing. You will find a printed copy of this 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.

I suppose the starting point is a very open one. If you could tell us something about how the current system works and then go on to talk about how you see the future system working and the transition involved.

MR GALLICHAN: Okay. The Regulation of Undertakings is, I think, well known to most people. We have still got one or two businesses who from time to time claim they have never heard of it, which is quite amazing.

DEPUTY SOUTHERN: Still?

MR GALLICHAN: Still, I am afraid, yes, indeed. It has been around since 1973, which, again, seems to be a fact unaware to many people. They think it was introduced five years ago in 1997, which is of course when the law was tightened up the last time. It has been switched on and off throughout the years since 1973, depending on economic circumstances, but the last major time was when the Strategic Policy came out in 1997/98, asking that, because of population reasons, the law be tightened up, which mainly was in respect of what we class as non-locally qualified

people gaining employment in Jersey. I don't know if you want me to explain what non-locally qualified is? Do you understand that?

DEPUTY SOUTHERN: I understand that. For Reg of Unds' purposes, it is on the Island less than five years.

MR GALLICHAN: Correct, correct. So in 1997 the law was tightened up and we obviously had to implement that in accordance with States' wishes and in effect it meant that any business taking on a non-locally qualified person, whether it was a replacement person, had to make an application to us. From a practical point of view, that of course was going to be extremely difficult, causing business a lot of bureaucratic nightmare.

One of the things we implemented shortly after that tightening up, having discussed it with businesses, was the introduction of a three year joint staffing licence, whereby we allow businesses to present a business case to us based on historical information and what they plan to do for the future, and we will agree an overall total number of staff and we would break that down into locals and non-locals. We have set criteria on which we base those decisions, which are in our policy statement. That, I think, has actually worked extremely well. (1) It allows businesses the flexibility to get on with their business and not have to worry about government bureaucracy and come to us every two minutes when someone leaves; and (2) it also gives government an insight into where businesses are going, what training policies they are introducing, if any, and gives us much more information, which I think really, until 1997/1998, we were working effectively in a vacuum.

The business community seems to have accepted that and it has worked very well. You will see from the reports that we produce, we have got something in the order of 37,000 to 38,000 people or staff engaged, who are signed up to these three year plans, covering about 1,200 businesses. So that has worked very, very well. We still have to deal with individual applications and new businesses coming along, of course, and we do that in accordance with our current policy documents.

One of the big anomalies that we have at the moment is the fact that we have the five year rule, which you are all well versed in, and of course Housing currently has a 15 year rule.

That causes a lot of problems as to who is locally qualified and residentially qualified. There are too many different terminologies in effect. One of the points we are seeking to deal with in the Migration Policy is to bring that together, hopefully for the benefit of everyone, and to make it much more clarified.

SENATOR LE CLAIRE: Can I just on that particular point ask when were you aware of when this term “*locally qualified*” was introduced into the picture, because it seems to me that the confusion that you are hoping to, or the Committee is hoping to, remove in the policy is something that was introduced by the Committee itself in 1999 when they started for the first time to talk about locally qualified people?

MR GALLICHAN: No, locally qualified has been around for much longer than that. I can’t tell you off-hand when that was, but the five year rule has been there for many, many years. I would need to research as to when it first came in, but it has been there for many, many years. It has actually been in the law. We introduced ... it is actually in one of the papers.

SENATOR LE CLAIRE: Well, could I just ask then, if it is possible, could you get back to us on when the five year law ----

MR GALLICHAN: The five year rule. It is not a law.

DEPUTY SOUTHERN: The five year rule, yeah.

SENATOR LE CLAIRE: The five year rule, which is described as “*locally qualified*”, what the history of that is?

MR GALLICHAN: Yes, indeed.

SENATOR LE CLAIRE: Thanks. Then we can leave that one.

MR GALLICHAN: Off the top of my head, it was basically introduced to cover the welfare problem, because people could claim welfare and, of course, there was no incentive to go out to work, so that is very generally, but I can certainly get you something on that.

SENATOR LE CLAIRE: Thank you very much.

MR GALLICHAN: Do you want that to come to Senator Le Claire?

SENATOR LE CLAIRE: No, it is to the Clerk.

MR GALLICHAN: To the Clerk.

DEPUTY SOUTHERN: And can I take you on to the new system and the transition to the new system?

MR GALLICHAN: Sure. The new system I think, in dealing with businesses, which I do obviously on a daily basis, there are issues for businesses. They come along to see us for their Reg of Unds application and they sit there and go through their business plan and we look at it and we say “This is good, that’s bad, where’s the training” and these sorts of things, “where is the local job requirement within that” and we either agree it or refuse it. They then have to trot off to the Housing Department if they want a J application for whatever reason, if it is a skilled person, and have to go through the same process again, exactly the same process. This may also happen with regard to planning or any other permissions that need to be ascertained.

One of the things that I have been seeking to introduce or to request is a one-stop-shop for business. If we are going to be customer friendly and make things easier for business to do business in Jersey, then we should be able to do this in a one-stop-shop. I think the merging of the Housing staff who deal with the J categories and our Department is a very good step towards that. It is going to save on the bureaucracy and it is going to mean decisions are reached quicker, with information being provided to one place as to two, three or four different people. So I think that is a real benefit to the Island.

DEPUTY SOUTHERN: So it is very much a streamlining of the process?

MR GALLICHAN: Absolutely, yes.

DEPUTY SOUTHERN: One of the significant changes, it seems to me is that ... I mean, can you talk to us first about that breakdown between permanence ... no, it is a three year licence, isn’t it? One of the issues I have is when you grant a three year licence to somebody now in the new system it will be the employer who says who takes that licence, that licensed post.

MR GALLICHAN: Yes, indeed.

DEPUTY SOUTHERN: And it seems to me there is no regulation. Whilst there is motivation for government to make sure the population doesn’t creep by not rolling on three year licences to the same person, there is no motivation for the employer to do that. If they have got the right person in the right place doing the right job, they are likely to say: “Right, Joe, you carry on. This three

year licence is yours” and eventually they are going to come to their ten years.

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: How do you see that working?

MR GALLICHAN: I can understand why the J category was brought in years ago, with people coming in for three years or five years and then asking them to leave. I think that was the feeling and the understanding of government at the time and I can fully understand that. I think, if you look at it, for example, from the example of nurses and teachers, of which not only are Jersey short of good qualified nurses and teachers but so is the whole of Europe in fact, if you look at it from the point of we bring people in and train them up for three to five year periods, particularly three year, anyone who has got a three year licence, by the time they have done their first year, they are looking for their next move and where they are going to go in 18 months time. I can't actually see the logic of that. When there is a shortage of these skills and we need it for the benefit of the Island, to educate our youngsters, for example, I think we need to give the people we are bringing in a little bit more satisfaction or comfort that they are going to be around. For example, if someone has been here five years, they may have a four year old Jersey born child who is attending school and then we say: “Right, thank you very much, we will start the training all over again and bring someone else in.” There are costs involved with that, etc.

So I think, from the point of view of the Js, we are giving more freedom, if you like, to the business community to decide who fits best those J applications. This doesn't mean, in my view, that there is going to be Js issued willy-nilly. I think I should make that clear. I have heard talk of “Everyone's going to get Js, etc.” That is certainly not my view. Of course, that would be down to whichever Committee ends up with the Migration Policy, and that is yet to be ascertained, as far as I understand it.

So, potentially, I mean, I heard an example of a hotel, for example, a very good hotel, a top class hotel in Jersey, who said that their best employee, their most important person in their workforce was in fact their kitchen porter. If he didn't do his job, the rest couldn't function. He was their most important person. But that person lived in a room at the back of a hotel and had been with them for, I don't know, five or six years, or whatever it was, but was always going to

end up working in that job and living in those conditions. Potentially what this offers is the opportunity for a most valued member of staff to actually be given that J, which gives the consistency and means the continuity and all those sort of things which a business needs to carry on. So I think there are benefits from that.

DEPUTY SOUTHERN: Do you want to come in there, Judy?

DEPUTY MARTIN: Yes.

DEPUTY SOUTHERN: I caught a quick flash from you there.

DEPUTY MARTIN: Just quickly, turning around what Geoff said about the employer not having the incentive where government would maybe with the population, do you not see a danger of some not so good employers using this licence system? Take exactly the kitchen porter. He has bettered himself. He is doing the same job, doing a lovely job and he is living in lovely accommodation. Who has got him then? I mean, you know, three years down the line he is in that job, he is in that accommodation because of, you know, the benefit that he has got a licence. The job is now licensed, so he has got lovely accommodation. Don't you see that this could be abused by a lot of employers: "Tough, you don't get a rise, you do these hours." I can see this being open to a lot of abuse by unscrupulous employers.

MR GALLICHAN: I can see what you are saying and certainly unscrupulous employers may do that.

DEPUTY MARTIN: Yes.

MR GALLICHAN: There again, the member of staff concerned may say: "I actually prefer to have that as my incentive and where I wish to live because I have shown some loyalty to my employer and the employer has shown loyalty back to me." I can see where you are coming from, but I think that remains to be seen.

DEPUTY MARTIN: I think it is a big worry really. I think they are, you know, tying a lot of low paid jobs to giving them better accommodation. People are allowed better accommodation and then they go on and maybe in the next two years they have got a family and I think it is a very big worry that nothing in the Immigration and Employment Law seems to be covering at the moment. But, I mean, you know, that is your opinion and that is my opinion.

DEPUTY SOUTHERN: Paul?

SENATOR LE CLAIRE: Yeah. In relation to answers and questions in the States, the purpose of the annual review of the three year licences was to identify whether or not firms were sticking to the States' policy of November 1997 in identifying local recruits, training up local youngsters and encouraging part-time workers, etc. Do you envisage the annual review being part of the future process?

MR GALLICHAN: Oh yes, definitely. That won't change at all, in my view. We have an annual review, where we send out a form to the businesses asking what their current situation is, with a breakdown of the locals and non-locals, how many vacancies they have and we ask various questions within the questionnaire that we send out about difficulties they are having, if any, in recruiting and what their training procedures are. We make it clear that if a business doesn't do anything to help train the local workforce, be they unemployed people or be they students, they are given short change from us, shall I say?

SENATOR LE CLAIRE: So you are actively consulting with employers to make sure that their quota of the workforce is identified as local recruits, training local youngsters and encouraging part-time workers and so on?

MR GALLICHAN: Absolutely, most definitely.

SENATOR LE CLAIRE: I just wonder how that fits in with States' departments who are large employers themselves. You made an assertion earlier that nurses and teachers were people that were in short supply elsewhere. I know for a fact, having been on the Health Committee, that when I asked about the issue of the changeover to licences, whether or not the Chief Executive Officer wanted more licences, he actually said that it would be detrimental to him and he wanted to have the flexibility of these people on these licences. In the recent changes to the health structure on the nurses, can you explain what the changes were in relation to the nurses and, if you have consulted with the new Chief Executive Officer of Health to see whether or not he wants all of his staff to be locally qualified?

MR GALLICHAN: The simple answer to that is no I don't, because I have no control over the public sector whatsoever. The public sector are exempt from the Regulation of Undertakings



Law. It is nothing to do with me.

SENATOR LE CLAIRE: So there is no ongoing consultation with them?

MR GALLICHAN: There is no reason for me to get involved.

SENATOR LE CLAIRE: The only thing I was driving at was that ----

DEPUTY SOUTHERN: Paul, can I ----

SENATOR LE CLAIRE: Can I just finish? The only reason I was driving at was because there was a change in relation to the licences from Health recently, about two or three years ago.

MR GALLICHAN: I am not aware of that. That is nothing to do with me.

SENATOR LE CLAIRE: It didn't come through you?

MR GALLICHAN: It doesn't have to, they are exempt.

DEPUTY SOUTHERN: That is the answer. It is not his area, okay? Can I take you through to the actual functioning of these qualified and non-qualified posts? In your report on the Regulation of Undertakings, that is RC8, that was presented on 8th February 2005, you talk about apportionments on page 7 in various sectors of industry between non-qualified and qualified workers, yes, contained in the licence, which range from half of the total approved for hotels and guesthouses, two-fifths in restaurants and catering, one in five in retail, down to one in seven in banking and finance and down to one in nine in transport or haulage. Those are figures on the licences that are granted.

MR GALLICHAN: Sorry, is that the Jersey Labour Market Report?

DEPUTY SOUTHERN: No, that is the Reg of Unds, RC8 to 2005 presented on 8th February.

MR GALLICHAN: I think I have got the right one.

DEPUTY SOUTHERN: Have you got that with you?

MR GALLICHAN: Reg of Unds as at 31st December 2004?

DEPUTY SOUTHERN: That is the one.

MR GALLICHAN: Sorry, you referred to page 7. Page 7 in my report is completely different to yours.

DEPUTY SOUTHERN: It may well be the email versus ----

MR GALLICHAN: It is just the way I have printed it off, I guess. **(Pause)** Is **that** the one you

are referring to? **That** is it, I think.

DEPUTY SOUTHERN: Yes, that is the one. You give varying proportions.

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: Now, those are the figures that appear on the licence. What guarantee have you got that those figures are actually met in a particular case or undertaking and what scope have you got to vary from those proportions?

MR GALLICHAN: Okay. I mean, this table 3, which is where the figures are coming from, particularly relates to three year joint staffing licences.

DEPUTY SOUTHERN: Yes.

MR GALLICHAN: So it doesn't include any other individual licences we may have granted. It is just those three. These figures are taken from the licences that we grant. They are seen in the manpower returns as well. These figures are actually taken from the total figures broken down into locals and non-locals, and J for our purposes counts as local.

DEPUTY SOUTHERN: That counts as local, yes.

MR GALLICHAN: So they are not separated at the moment in these figures. We are sort of historically aware that hotels, catering, restaurants etc have a greater need for non-locally qualified. I have had dealings with Deputy Bernstein over the years and I am well aware of that. If I had applied the letter of the law in 1997 to 1998, basically we would have closed every hotel and restaurant overnight, and of course we had to accept from a pragmatic point of view that couldn't happen. You find very few local people, even with 400 unemployed, who want to be a kitchen porter. They just don't do it. I am sure Deputy Bernstein would agree with that. You know, there are jobs. If you walk down to the Job Centre, there are jobs on the wall for 30 chefs. There are others in hospitality and catering and yet there is allegedly this 400 presently unemployed. Why don't they go and get those jobs? I don't know the answer to that.

So, going back to what you are saying, we allow different percentages, if you like, of staff per different sector, so we are much more lenient towards the hospitality and tourism sector, because we want a thriving tourism industry in Jersey.

DEPUTY SOUTHERN: Because the system won't work without it.

MR GALLICHAN: Absolutely.

DEPUTY MARTIN: Can you see this changing at all under the new Migration Policy?

MR GALLICHAN: Bearing in mind everything I say here, that is on the assumption that I am still involved with it and we will all go in whatever this Migration Office is, I would see it staying the same.

DEPUTY MARTIN: Right.

MR GALLICHAN: It works well. Businesses are happy with it. It does encourage businesses to take on locals wherever possible and, being a Jersey man myself, I see the benefits of that.

DEPUTY MARTIN: Right.

DEPUTY SOUTHERN: Can I focus though within the sector, for example the one in seven in banking and finance? What variation is there within the sector? Does that one in seven strictly apply to every banking or finance house, or is there scope for variation around that?

MR GALLICHAN: That one in seven is obviously across the board. That is an average they have come to there. If you had asked me what the sort of figures were off the top of my head without looking at these, I would have said it is something like 80% are locally qualified, 80% to 85% are locally qualified in banking and finance. These figures show a slightly different figure, in fact a better figure of locally qualified. The training in banks over the years has been, in some banks, extremely good and in some, I have to say, it has been very poor. With some of the business plans I have seen over the years, it has been quite interesting to see how they have survived, shall we say?

DEPUTY SOUTHERN: Paul?

SENATOR LE CLAIRE: Two things, one being, under the new system, how do you envisage the jobs you have just described as not being taken up by locals being taken up and by which sector would they be filled, for example, the 30 chefs and the kitchen porters? Who would be filling those jobs and where would they be coming from?

MR GALLICHAN: They may still be vacant. It really depends on the policies that are introduced by whichever Committee has responsibility for the Migration Policy.

SENATOR LE CLAIRE: If, and there is obviously a question in your mind about whether or

not you would be involved in the process in the future, but if your Department was involved in the future process, where would you think those positions would be getting filled from? Which kind of people would be filling them and where would they be coming from?

MR GALLICHAN: I would hope that, as you are aware, there is a greater emphasis being put on training locally, with Highlands College etc. Highlands, I understand, are looking at the catering side and the chefs and there are many more courses being put towards that. It would be nice to see local students coming out of Highlands and going into these jobs. If what you are saying to me is would 30 licences be granted for non-locally qualified people to come in, I would probably say no, otherwise I would do that now.

SENATOR LE CLAIRE: But in the future those licences will be granted to the hotel and the hotel can distribute the licences accordingly. If they want to distribute them to 30 porters, they can.

MR GALLICHAN: But that is based on a business plan and we would agree. The numbers game still stays the same from the point of view of how many staff that they have in total, how many would be under the new system entitled, licensed or registered and, you know, they still have to provide the business plan. Nothing is going to change. As far as I can see, nothing would change from what we do now. The Government would still have a control over the number of staff employed.

SENATOR LE CLAIRE: And what is your fear about your Department? I get the sense that you feel that you are not going to be involved in the future. Do you not think it would be beneficial for your Department to be involved in the future?

DEPUTY SOUTHERN: Do you want to discuss how you see that coming together into the new Population Office or whatever it is called?

MR GALLICHAN: I think it would be beneficial because I might still have a job. So that is the good news. I would hope that, with the experience I personally have got and my team have got, we would be a major part in whatever is taken forward, but, if you look at the proposition, it doesn't actually say which Committee is responsible. So when I say who knows what it is going to be, I think I would have to be honest there. It doesn't say it is going to be Economic

Development.

DEPUTY SOUTHERN: Yes.

MR GALLICHAN: That is for politicians to decide.

DEPUTY SOUTHERN: Yes.

MR GALLICHAN: So that is where I am coming from in that respect. Yes, I would hope that we are involved, with the experience we have got and with the business relationship that we have with businesses. There is a perception out there that everyone hates the Regulation of Undertakings. I can assure you that that is not true. If you actually speak to most people, we have a very good working relationship. We work very, very hard at that and when I see things in the media which ... there was something in last week, a report which I am afraid was totally untrue, about how unhelpful we have been. It was just complete rubbish. That sort of thing I find very unsatisfactory.

DEPUTY SOUTHERN: It sounds like we have got two versions of the changeover to the Migration Policy, one of which says that it is changing the cap badges, that there is very little change; and the other one says "Oh no, this is major change, this is a major social change". You seem to be talking as if you see it as very much a natural progression and a very minor change in the future, working more or less in the same way.

MR GALLICHAN: I think I would tend to agree with that. I think there are some major benefits, as I alluded to before, about Housing and Reg of Unds getting together. That has got to happen. It is just, you know, not common sense to carry on as we are. The point that is in the Migration Policy about using Social Security for the returns in stead of having manpower returns as well, again, less bureaucracy and I can see benefits in that for the business community, cutting down on the amount of paperwork, for example. So I think there are natural progressions.

We are also seeking to assist people from a Housing perspective, who can't see any future, who are having to wait 15 years, for example, and yet do a very good job in Jersey and without whom we couldn't survive as an island. So I think, again, the Migration Policy is seeking to address that issue without opening the doors. I mean, I am aware of one or two politicians who would just say "Let it rip". My personal view is, again, that is not right, but there

are some who say that. This certainly doesn't say that.

SENATOR LE CLAIRE: Can I ask just one ----

DEPUTY SOUTHERN: No, can I ask Judy?

DEPUTY MARTIN: Yeah, I just want to go back. You see, we are getting two different things. You are working on the coalface, as you say, and we are talking to the other chief officers, not just the politicians. Now, they say the new Immigration Policy will be a control on immigrants coming into the Island. I mean, the statement on page 16 says: "*The States will manage inward migration through regulating overall employment*" and then, on page 6, "*low wage immigrant workers should be kept to a minimum*". Now, what you have just said there about in 1997 when people were coming to you, we have got 400 or 500 unemployed people and, under the new system, supposedly it is going to be strong enough for them to say, or this is the example set to us was "We have got 100" -- and this is by a couple of people, it is all in the transcripts -- "We have got a firm that needs 100 people. Ten of them will be registered, so 90 entitled, five licensed and five ... **(Pause)**

MR GALLICHAN: Registered.

DEPUTY MARTIN: Five registered, yeah. Then they go away and they can't fill those 10 places. In fact, the Chief Officer, Bill Ogley said that basically under the new system it will work where we will say: "Sorry, get lost" -- his words were "*get lost*" -- "we have got 500 people unemployed out there, go and find them." Now, pragmatically, as you say, this will not work or you are going to shut these businesses down because there are going to be certain people who won't do the jobs. If it is going to be the same, it should be working now under that. All those people should not be unemployed.

MR GALLICHAN: Well, I think what you have just said is no different to what is happening now. If there are 400 unemployed now and yet there are vacancies, my question is why are they not filling them? That is exactly what you just said in the new system. Why will they not fill them? If there are 400 down the road there who are saying: "I'm unemployed and can't get a job", but then you go to the notice board and you look in the *JEP* and everywhere else, there are jobs out there.

DEPUTY MARTIN:                Yeah.

MR GALLICHAN:                Why don't they fill them? I don't know the answer to that. We grant licences, as you have seen from the report that we have done -- we have granted something like two and a half thousand posts last year -- so we are continuing to help boost the economy with new business, etc. So there are jobs being created and yet, apparently, we have these people who are unemployed.

SENATOR LE CLAIRE:            Do you think the wages have something to do with that and the conditions?

MR GALLICHAN:                It depends on the industry. It could well be, but, coming back to what I said before, there are some jobs which ... I think there are a couple of things actually. There are some jobs that a Jersey person, if you like, will never do. I mentioned the kitchen porter one before and I think that people who have been through schooling over here, a very good schooling system, generally will not do that sort of work, for whatever reason that may be.

I think the expectations of some people are still far too high. Three, four, five years ago when the law was tightened up, there was a wage inflation. That is very well documented. Perhaps when you were leaving school, for example, you were being offered £20,000 to £25,000 to go and work for a bank. Those days have gone. I think people need to be a little bit more realistic that maybe they have to start further down the line, look in a different area and work their way through and not expect to get such high wages. That is the sort of feedback that I get from the business community. I mean, I know of individual people who just haven't work for a year because they don't want to work, youngsters. They just do not want to work. What can you do about that?

DEPUTY MARTIN:                From the business side, what I am saying is that if a man comes back to you and he really needs these 10 and he can't get them, are you going to say "Get lost"?

DEPUTY SOUTHERN:            Or are you going to say "Well, actually, have you advertised them? You can't find these places. All right", reluctantly presumably, "take it to appeal, take it to the Committee and reluctantly that is an extra 10 non-qualified people so that you can function."

MR GALLICHAN:                My view would be not to say that. If we are not going to say "No", then let

us forget this now because there is no point us going ahead. We say “No” now under the current system, we issue refusals, and I think that is going to happen in the future.

DEPUTY SOUTHERN: That will happen even under a directive to grow the economy by 2%?

MR GALLICHAN: Yes, because not only does it say grow the economy, but we also have to take into account other States’ decisions about, you mentioned it before, Deputy, low level labour being brought into the Island to reduce that, so that has to be a consideration. I think, whatever happens, if the Migration Policy gets agreed, whichever Committee it comes under at the end of the day will have to go away and come up with a policy statement. Now, it may be similar to the one we currently use for EDC, where -- I don’t know if you have seen that -- it actually refers to local people being given jobs, local students being given jobs, training. To me, all those sort of things must come into whatever policy we produce in the future. I don’t see that changing.

DEPUTY SOUTHERN: Okay. Can I take you to this diagram over here, so it will sound a bit strange on the transcript, but one of the changes to the new system entitled, licensed and registered, which gives entitled and licensed full access to A to H housing, so there is the link into housing. Now, the current population, on 2001’s figures, the census figures, provide something like 79% of qualified, meaning housing qualified, 2% J cats roughly and 19% unqualified in the population as a whole. Now, taking your banking figures, for example, so your one in seven, your 15% non-qualified vacancies, you end up with 83% Regulations of Undertakings qualified, i.e., greater than five years or entitled, 2% J cats, again across the sector, and some 15% non-locally qualified in Reg of Unds’ terms, i.e., less than five year people.

MR GALLICHAN: Right.

DEPUTY SOUTHERN: Now, as we move to the new system, entitled, licensed, registered, obviously the non-locally qualified, those with less than five years, are going to become registered. They are going to be the registered stock.

MR GALLICHAN: Correct.

DEPUTY SOUTHERN: The people with housing quallies in that group there, the 83%, are going to become entitled.



MR GALLICHAN: Yes.

DEPUTY SOUTHERN: Absolutely, but there remains a group of people -- I don't know how many there are -- who will be greater than five years, Reg of Unds qualified, but not housing qualified.

MR GALLICHAN: Correct.

DEPUTY SOUTHERN: The question is where do you see those people going? They can't become entitled. I shouldn't think so. Do they become licensed or do some of them actually fall back and become merely registered? Now, at the same time we are talking about, for social equity purposes, giving people more access to the housing market. I think you have already mentioned that today. So we are actually talking about encouraging some of these people here, the non-locally qualified, from applying for licensed posts. Now, you can see the licensed people coming into three directions. It seems to me those three arrows suggest that whatever we do we are going to grow the number of licensed people in the workforce.

MR GALLICHAN: Okay. I see what you are saying. In relation to the greater than five year people currently in the workforce, whenever this is introduced, there will have to be a cut-off date that it would be introduced from. I don't think that we can disadvantage those people who are currently in the workforce who have been here five years and a day plus those years who are currently, under our law, regarded as locally qualified and have got employment on those terms. They could be here anything, under the housing rules, from five up to 15 years, because, as you said, they don't qualify.

DEPUTY SOUTHERN: Yeah.

MR GALLICHAN: The way I would see it happening, and of course this would need to be agreed by whichever Committee takes it on, is that those people ... there would be rolling ... the easiest way to describe it is that the five year rule would become six, seven, eight and leading up. So eventually we get this equality where the five year rule goes up and the housing, as is documented, would come down, so that they would remain, in my view, as entitled for employment, but they would not remain entitled for housing until they have achieved their 10 years, if that is what it is brought down to. That is how I would see that balance. I think really

you are not disadvantaging the current workforce and you are also giving them some light at the end of the tunnel: “I’ve done 10 years in Jersey”, if that is what it is brought down to, “therefore, I can commit to Jersey and I can keep my skills going in Jersey”, which has all the benefits for the economy.

DEPUTY SOUTHERN: But would you agree that, in fact, with this change, effectively what we are going to be doing is saying that they will be licensed?

MR GALLICHAN: No. I call them entitled. I wouldn’t call them licensed, because you are not giving them housing accommodation.

DEPUTY SOUTHERN: Although eventually those licences ----

DEPUTY MARTIN: You can’t call them entitled, because entitled under the new law ... there would have to be a difference.

MR GALLICHAN: You are absolutely right, but the way I would work it would be that you would have entitled, which is your A to H fully fledged Jersey man, marriage etc, spouse etc, but the person who had been here for six years quite legitimately and had been working and was in the workforce doing a good job, etc, would remain entitled for work purposes and could still apply for those sort of jobs. We are not going to say “You can’t have those jobs any more.”

DEPUTY SOUTHERN: Yes.

MR GALLICHAN: But, for housing purposes, they would remain non-entitled. I don’t know that we would use that wording because that would be confusing, but they would not be entitled for housing purposes until they had achieved their 10, 11 or whatever it is.

DEPUTY MARTIN: The transition, yeah.

MR GALLICHAN: I think that could work. It gives that person not only the comfort that they still have their job and they can apply for other jobs, but it also gives them some foresight to say, at the end of 10 years or whatever is agreed: “I can actually look at the housing market.” There is no guarantee that they are going to move into the housing market, but it gives them that possibility.

DEPUTY SOUTHERN: Paul?

SENATOR LE CLAIRE: From my reading of the proposals, entitled are people, as you say, that

have got their housing qualifications and the proposals for licensed people will be those people, as you say, that will be five years and above.

MR GALLICHAN: No, I didn't say that.

DEPUTY MARTIN: No.

SENATOR LE CLAIRE: No, you said that they were going to be entitled.

MR GALLICHAN: I did. You just said that I said they were licensed, and I didn't say that.

DEPUTY MARTIN: Entitled different to our entitled, do you mean?

DEPUTY SOUTHERN: It means entitled to work, but not entitled to ----

DEPUTY MARTIN: Yeah, in transition for the first four or five years.

DEPUTY SOUTHERN: It is the transitional period.

SENATOR LE CLAIRE: Yes, and I think that is important because what we are talking about in the future is three categories: entitled, licensed and registered.

MR GALLICHAN: Yes.

SENATOR LE CLAIRE: And you are actually introducing a new difference there. I am just trying to understand this part.

MR GALLICHAN: It is actually in the Migration Policy. It is in there.

DEPUTY MARTIN: Yeah, it is on page 29. That was a question that I was going to come to, but you have answered it. It is the transition over the five years, as you say, going up.

MR GALLICHAN: Yeah. I mean, again it hasn't been decided what sort of licence or permit, whatever you want to call it, is going to be given out in the future. Hopefully it won't be an ID card, but it might be that you have E for entitled and E1 for entitled for work but not accommodation. That is the sort of thing.

DEPUTY MARTIN: What this says, if you want to turn to page 29, is the last sentence. I mean, you described exactly how it will work and you are not going to disadvantage people. Explain where it says: "*Would increase from five years the requirement for entitled employment would increase from five years to ten years, which will reduce the number of employees eligible to take up any job*".

MR GALLICHAN: Yes. It is not ... well, what it means is that the people coming in, say, from

day one of the new policy wouldn't be able to get their five years at the current situation. So, therefore, they would have to wait until 10 years to become entitled, if that is what it is brought down to.

DEPUTY MARTIN: Right.

MR GALLICHAN: So, therefore, what that is trying to explain is that there will be this five year people will go up to the 10, but anyone who is currently here for one year at the moment will not get to that five year status and, therefore, they will not have the same access to those entitled jobs.

DEPUTY MARTIN: So then, unless they have been in 10 years and they can't get a licensed job, the only job that they will be able to get is a registered job. So that will shrink that end of the market. That is where you think it may shrink?

MR GALLICHAN: No. What this is saying is that it will reduce the number of people that can apply for those entitled jobs.

DEPUTY MARTIN: Yes.

MR GALLICHAN: Perhaps it is not clear.

DEPUTY MARTIN: Yeah.

DEPUTY SOUTHERN: And you are using "*entitled*" there in the housing sense?

DEPUTY MARTIN: Yeah, when it reduces and comes back down, when it is entitled.

DEPUTY SOUTHERN: Okay.

DEPUTY BERNSTEIN: And those entitled jobs would be what?

DEPUTY MARTIN: Ten years. They would be ten years. That is where I'm saying it is going to squeeze the registered jobs. People who are coming on the Island which today have been here five years or four years won't come under anything until they are 10 years, they will all be registered.

MR GALLICHAN: Correct.

DEPUTY MARTIN: And the people who come off the boat or the plane tomorrow will also only be able to take up registered.

MR GALLICHAN: Correct.

DEPUTY MARTIN: Fine.

DEPUTY SOUTHERN: They won't be able to take up a licensed job at all?

DEPUTY MARTIN: Well, they will, yes. They can apply, yes.

DEPUTY SOUTHERN: They can apply.

DEPUTY MARTIN: Yes. If they are successful ----

DEPUTY SOUTHERN: Because there is a stated aim to encourage those people who will be registered to apply for licensed jobs where appropriate, if they have the skills.

MR GALLICHAN: If they have the skills.

DEPUTY SOUTHERN: But the demand is moving from the amount of years you have been here to the skills, if you have got the skills required. Judy, do you want to just follow that up?

DEPUTY MARTIN: I just want to. If you are going to say, right, you have got 10 licences and they really can't get local people, Geoffrey is saying with the skills, can't you see the employer not abusing it, but it's a bit like wangling it a bit saying: "Well, look, I can't get these people. I'm going to have to take on five registered, 10 registered people and give them licences. They are not really up to the standard I want, but I've got the licences. I can't get the people." So you are going to let the employer give these licences to any people, which is fair enough, and if he can't get people locally or people that have been here, what's to stop him just saying: "Well, yeah, okay, like I said, you are not really the best person for the job, but there's no one else out there, I'll give you a licence"?

DEPUTY SOUTHERN: This way I can run my business, otherwise I'm folding.

MR GALLICHAN: Sure. This is where the control on the amount of licensed posts given out under the three year plans has been very strict. You have to have good business plans. You have to encourage all of the training and be under annual review. If a business, as happens now, does not carrying training and taking on local staff, that licence can be amended. I just want to make that very clear. We do do that now.

DEPUTY MARTIN: Yeah, but if you stick to all these rules -- you know, it is supposed to be a lighter touch under EDC and everything -- you will put businesses ... what you are just saying, I can see businesses going out of, you know, out of business overnight and quite regularly.

MR GALLICHAN: It is no different to what it is now in that respect, and businesses aren't

going out of business because of decisions we're taking.

DEPUTY SOUTHERN: Okay, okay.

DEPUTY MARTIN: Right.

DEPUTY SOUTHERN: Can I take an example then? This is my favourite example of the Polish worker and the Poles -- I have not got anything against the Poles, they just happen to be the example of the latest set of workers who were on permits and are now no longer because they are European area nationals. So the Pole arrives on the Island and he gets the job as a barman. He happens to be a qualified architectural technician, say. He sees the architectural technician's job, gets a licensed post and then goes for it and he gets it, bingo. What happens then to the barman's post? Who fills the barman's post?

Now, we were just discussing before and it doesn't appear to be local people who are filling barmen's posts. Is it going to be another Pole, another newly registered person in there? We talk about control, we talk about monitoring and we talk about regulation, but isn't the fact that we don't have that control? We can monitor and we can regulate -- we have a set of regulations -- and we can monitor and count, but we can't control?

MR GALLICHAN: I think the control is in how many licensed posts you issue. I am getting the impression from the meeting that perhaps we are going to be issuing thousands of licensed posts. That is not how I see it. You know, they will only be given out where the business case has been stated.

DEPUTY SOUTHERN: In order to grow the economy?

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: And in order to widen the access to proper accommodation, A to H, decent accommodation and not with the unqualified accommodation, which we have said is an express aim?

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: And that obviously must be limited at the bottom end by the amount of housing that you actually create for this movement towards greater access to housing.

MR GALLICHAN: Yes. I think it also needs to be understood and my understanding is that

some lodging houses these days, whilst not being in very good condition, they are the old ones and new rules implemented in relation to lodging houses are actually much stricter and some of the lodging houses that people are living in are actually very good. I think you mustn't all imagine that they are all just one room bed-sits. There is that still around, certainly, but the standards have improved greatly. There will be some people who will not want to move out of registered accommodation.

SENATOR LE CLAIRE: Can I move us on to the questions that I had for Mr Gallichan? They would seem to be timely right now?

DEPUTY SOUTHERN: Yes, yes.

SENATOR LE CLAIRE: We were looking at some of the minutes from the Economic Development Committee.

DEPUTY SOUTHERN: Can we get a copy of the minutes? (**Same handed to Mr Gallichan**)

SENATOR LE CLAIRE: I will give you a second to orientate yourself.

MR GALLICHAN: What page are you on?

SENATOR LE CLAIRE: On page 4 of this pack. Have you got the numbers on the bottom?

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: These are minutes from EDC meetings where appeals have been heard against changes required or asked for like licences, yes?

MR GALLICHAN: Right.

SENATOR LE CLAIRE: On the bottom of page 4, in relation to the minutes of a firm that was applying for non-qualified staff in the fulfilment industry, there has been an issue there where managerial and technical positions, as opposed to pickers and packers, have been freed up. The bottom paragraph of this page states: "*The Director of Regulatory Services*", which is you, isn't it?

MR GALLICHAN: Correct.

SENATOR LE CLAIRE: "... *having sought guidance from the Committee as to how to deal with the applications that might be received from other fulfilment operators, was delegated the authority to approve similar applications from the fulfilment industry because of the economic*

*benefit derived from this industry.”*

DEPUTY SOUTHERN: So they were talking about in that case 30 temporary workers, wasn't it?

SENATOR LE CLAIRE: Thirty non-locally qualified members of staff.

DEPUTY SOUTHERN: Non-locally qualified.

SENATOR LE CLAIRE: On a temporary contract basis.

DEPUTY SOUTHERN: On a temporary contract basis, yes.

SENATOR LE CLAIRE: So those were seen as of benefit to the economy and they were granted. Can I ask you how many others have been approved since then from other fulfilment industries, because we have been told that other fulfilment operators, you have been delegated the authority to approve those? How many others have you been ----

MR GALLICHAN: How many other non-locals? Is that what you are saying?

SENATOR LE CLAIRE: Yes.

DEPUTY SOUTHERN: Non-local contracts.

MR GALLICHAN: We have a ... the fulfilment industry is very topical at the moment. I am sure you are all aware of that.

SENATOR LE CLAIRE: Yes.

MR GALLICHAN: And, in December, I put a paper to my Committee and it was agreed that we would carry out a study into the fulfilment industry itself to understand how it was working; what the political understanding was -- I don't just mean locally, I mean in Europe and in the UK -- and what value it was to Jersey, because it's a new industry. There are some businesses locally who have done very, very well out of it. We needed to understand was it becoming another pillar of our economy, was it becoming better than tourism, agriculture or whatever and should we be looking to put staff into that area. That study has recently been completed and, again, off the top of my head, there is something like 600 people engaged in the fulfilment industry, of which 94% are locally qualified. So, if that helps you in your deliberations, that covers pickers, packers, managerial technicians, IT, the whole lot.

DEPUTY SOUTHERN: But the fact is that we have been told that the fulfilment industry in particular doesn't employ a single, non-locally qualified person. You are saying that is not the



case now?

MR GALLICHAN: No, that is not the case. I mean, there are one or two where licences have been granted and, as I have just said, I think it is something ... the report is about to be issued publicly fairly shortly. We have met with the fulfilment industry participants. They were extremely good in providing information. We got a whole load of information as to gross value added, as to the type of staff, as to the wages paid and all those sort of issues which we needed that information to make future decisions on business applications within the fulfilment industry.

DEPUTY SOUTHERN: But essentially there have been two changes in recent times. One was to suggest that, where managerial posts are involved, you now have delegated powers to grant a non-locally qualified person if they turn round and say: "We can't find anybody to do our managing", and also to grant temporary positions just to pickers and packers as the need arises.

MR GALLICHAN: The pickers and packers, what we do with the temporary ones really relates to busy periods. In this particular industry, their busy period is the lead-up to Christmas, but it is not December, it is the sort of September/October time when all the orders come in. That is when they need to ship them out. That is when temporary licences would be granted for that, not necessarily for non-locally qualified people. It could well be students. It could well be people working part-time.

DEPUTY SOUTHERN: But this particular case was for non-locally qualified members of staff on a temporary contract basis.

MR GALLICHAN: That is what **that** says **there**. I mean, I can't tell from that which case it was, but that is what it says.

DEPUTY SOUTHERN: Yes.

SENATOR LE CLAIRE: On page 10 as well it also covers a similar or the same item really but a different minute from the Economic Development Committee. The penultimate paragraph on page 10 reads: "*The Committee accordingly delegated authority to the Director of Regulations of Undertakings and Development to grant consent for non-locally qualified staff in future applications from fulfilment undertakings where the staff to be engaged were in managerial/technical positions as opposed to pickers and packers. In addition, the Director was*

*also authorised to contact those fulfilment undertakings which had had refusals issued to them in order to advise them of the Committee's new policy, which it was emphasised related solely to the fulfilment industry."* Can I ask you how many people you have now under that delegated authority contacted to inform them that the Committee's new policy is in place and how many of those have asked for people?

MR GALLICHAN: Was that also taken from 10th December, do you know?

DEPUTY SOUTHERN: Have you not got a date on it, in which case, I do apologise?

COMMITTEE CLERK: It looks like 28th May.

DEPUTY SOUTHERN: 28th May 2004?

COMMITTEE CLERK: Yes.

MR GALLICHAN: I contacted, off the top of my head, one. At that time, there were very few fulfilment industry businesses out there. There was only one that I was aware of where a refusal had been issued prior to that. I contacted them. From the delegated authority perspective, I issued several licences for managerial positions where a new business in particular has come into Jersey which has the skills to set it up. Those licences have generally been issued on a time limited basis. I can think of one or two off the top of my head where we have said: "Yes, you can come for six months or a year to set it up."

SENATOR LE CLAIRE: There is no question of your authority, you had been delegated it. What I am trying to understand is how many.

MR GALLICHAN: That is what I am just saying, 94%.

DEPUTY SOUTHERN: We have just got an answer to that, Paul, I think. That is an illustration of what you were saying before. If this is going to work, it has got to be tough, strict -- "*strict*" was your word. Whereas in fact, in that particular case, whereas previously we had no non-locally qualified people in the industry, apparently, you are actually changing the policy to be more flexible rather than stricter.

MR GALLICHAN: We deal with each case on a case by case basis, and that is the way it has to be. If we see a new business come into Jersey which is going to be beneficial to Jersey, providing local jobs as well ... an example of one I have just granted is where we allowed a

managerial position to come in on, I think it is, a one year contract. It has also created 16 jobs. **[Pause for sound of mobile phone ringing]**.

DEPUTY SOUTHERN: Sorry about that.

MR GALLICHAN: It has also created 16 jobs. **[Pause for sound of mobile phone ringing]**. It has still created 16 jobs for local people, mainly in the 18 to 24 year old age bracket, which is totally in line with States' policy. I think that is fine. You know, we have allowed someone to come in for one year and that is good news.

SENATOR LE CLAIRE: What are their training policies? Have they got any?

MR GALLICHAN: Yes.

SENATOR LE CLAIRE: Can you provide us with that paper or would you have to seek the Committee's permission?

MR GALLICHAN: I would have to seek the businesses' permission as well.

DEPUTY SOUTHERN: Yeah, okay. Can I move on to more solid ground, away from the new industry? If you turn back to page 1, the first page?

MR GALLICHAN: Of the minutes?

DEPUTY SOUTHERN: Of these copies of the minutes, yes. We are talking about the good old FSI, a bank here, which has an application for the engagement of 40 additional members of staff of whom 26 might be non-locally qualified. It goes through the terms and conditions previously from October 2003, when they had 100 staff, of which 19 and, from October 2004, they had 100 staff of which 16, trying to reduce the number of non-locally qualified, but they come back and say: "We can't make this work effectively" and, for the period to October 2006, an establishment figure of 140 staff of whom 40 may be non-locally qualified. That seems to me to be a marked liberalisation of what was intended previously and, again, rather than being strict, you have opened up actually. There are two things there. One is that the change is to more non-locally qualified staff and the proportion of 40 out of 140 is way off the one in seven that is supposed to be the guideline for financial services. How typical is that?

MR GALLICHAN: I would say it is not typical, but you are right, that was the decision that was taken by the Committee on that day.

DEPUTY SOUTHERN: It seems to me, and I invite you to comment on it, that if you can't build what your licence says, then you simply go back to the Committee and appeal it and you say the financial case for making it, you know, "We are in business, our profit is X, unless you grant us these extra non-locally qualified staff, we are not going to be able to function" and it seems to me that usually that is granted.

MR GALLICHAN: I wouldn't agree with "*usually*". There are circumstances where there are skill shortages, as we know, in the finance industry. That has been well documented in recent surveys and reports. We are looking to fill the gaps for the future tax take. Finance is talked of as being a major part of the economic growth policy, and the decision taken by the Committee on this particular application was that that would outweigh any other lesser benefits.

DEPUTY SOUTHERN: Yes, the Committee decided on the basis of the possible benefits derived to the Island, which usually amounts to increasing the tax take, doesn't it? So financial considerations seem to me to bear most of the weight.

MR GALLICHAN: It was certainly something they would consider. That is in our policy statement. There would have been a business plan with this, which would also have looked at the staffing situation and training implementation. Again, I wouldn't disclose it anyway, but, without knowing the name, I can't really go further than that.

DEPUTY SOUTHERN: But you do agree that 40 in 140 is way off one in seven?

MR GALLICHAN: And it is not the norm.

DEPUTY SOUTHERN: It is not the norm, but can I take you on to page 2 then? That is back to another bank, where we are talking about 600 staff, of which no more than 180 may be non-locally qualified and an application to expand that and to change actually their ratio. That is an interesting one. Their ratio was actually 70:30.

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: Rather than 85:15 and they are seeking to amend it to 65:35. Now, permission was granted there, approved, to put up the figure of non-qualified people in the establishment to 186 and then, from December 2004, to 192. So they granted permission to raise the number of non-locally qualified people there, but said: "We are not going to change the

overall ratio 70:30 again already markedly different from 85:15”, but, they say: “Do come back to us if you have any problems filling individual cases.” It seems to me that, again, that is saying: “We are being as flexible as we possibly can. We are raising the number of non-locally qualified people and if you have problems still in a year’s time, come back to us and we will see what we can do.” It is not strict; it is flexible.

MR GALLICHAN: That was the decision of the Committee.

DEPUTY SOUTHERN: Okay, okay. Judy, do you want to come in on page 3?

DEPUTY MARTIN: Yeah, it is a similar case again. I mean, on the graph it starts off 53 total employees and non-locally qualified four. Then reducing to six by the next year and then reducing to eight. In fact, they have ended up with 12. Again, obviously, if they can’t get the staff, it may be in the qualified sector, but it is, again, up. It is raised on the economics of the situation rather than, you know, the policy that they started out with. All these that we have seen in here all seem to be approved. You say they are not the norm.

MR GALLICHAN: Well, they are not, and the reason I say that is that 95%, perhaps more, of applications are dealt with by me under the delegated powers and there are actually very few that go to Committee. The ones that go to Committee are contentious applications, ones that are beyond my remit. These ones are going back over a period of perhaps a year, perhaps a bit longer, where I didn’t have the delegated authority to deal with the financial service applications. So they would be taken to the Committee.

SENATOR LE CLAIRE: Do you have that authority now?

MR GALLICHAN: I do, but, again, if it is anything contentious or if there is a large increase in staff, I make a judgment call and we will take those to Committee.

SENATOR LE CLAIRE: What are your parameters that they have given you the delegated authority in these circumstances now?

MR GALLICHAN: In the past, I was not allowed to deal with non-locally qualified at all and, although they have given me delegated powers, most of those I still take back. There may be the odd occasion where a business may come to us, for example, and they have had 100% locally qualified over all their working life and they have come to us now and they have proved they

have advertised, they have taken on students, but it has not worked out or they have taken a local person and, to be fair to them, we may grant them a non-local person if they have made every effort. I think that is just being pragmatic. So those sort of things are not taken to Committee.

DEPUTY SOUTHERN: I think it comes down to the paragraph below the chart. There are two things. Okay, so the trend is that your non-locally qualified places were supposed to be six reducing to four later on and 10 reducing to eight later on, but it became 10 and they have now come back for 12. The tale it tells to me is if you want to, you simply come back to the Committee and you say: "We can't function without it, give us some more non-locally qualified places" and that is what happens. The paragraph below: "*The Committee was advised that, despite advertising, had been unable to fill its existing vacancies with locally qualified staff, it was noted that the company continued to provide a good training and development programme*", but, even with the best training and development programme in the world, it is actually coming back and back and back and saying: "Can we have some more non-locally qualified people." That training is not going to change, I believe, into the new system. I can see that company coming back in two years time and saying 15 and then 16 and then 20. That is the inevitable rise that we are going to pull in. Especially if we have got economic growth and economic growth being a driver, we are not going to be turning these companies down, are we?

MR GALLICHAN: That is the decision of the new policymakers.

DEPUTY SOUTHERN: But on historical grounds, if you come back to the Committee, as in, whatever it is, 10% of the cases, it seems the word soon gets around "Just keep on knocking on their door and eventually you are going to get your new licences."

MR GALLICHAN: Was this a financial service application, do you know?

DEPUTY SOUTHERN: This is FSI, yes.

MR GALLICHAN: Okay. I mean, it is difficult to ... I can understand exactly what you are saying. There have been mergers, of course, and where two businesses merge they get the benefit of both three year joint staffing licences going in together, so that may adjust the figures. I don't know if this is one of them, but the increase in numbers may have been. But I can understand what you are saying and the Committee took the decision based on the business plan

that was provided.

DEPUTY SOUTHERN: And the important thing is that, with the new Migration Plan, you expect to see a similar system in place?

MR GALLICHAN: A three year joint staffing licence system.

DEPUTY SOUTHERN: No major changes? Changes elsewhere to get greater access, to get greater social equity, but actually a freeing up of the system for businesses to be able to properly manage their businesses.

MR GALLICHAN: What I would suggest is, whoever is responsible for this under the new policy - and as an officer I would stick to that - if the Committee take different decisions, that is for them to make.

DEPUTY SOUTHERN: I think in future it will be a Minister in fact, won't it?

MR GALLICHAN: Yes, that is true.

DEPUTY SOUTHERN: Or whatever system you have got in place for reporting upwards. Somewhere in there will be somebody saying: "My motivation is to grow the economy, that's my driver."

MR GALLICHAN: Yeah.

DEPUTY SOUTHERN: "This is producing a return to the tax, therefore I can't really stop this business from expanding. It has got its business plan. This is what it wants to do. This is what will happen." There is no change between what has happened historically with this growth in numbers of non-locally qualified posts carrying on.

MR GALLICHAN: I think I would stress again what I said just now, which is that about 5% of applications, maybe less, go to Committee where they are not the norm. These sort of things under delegated powers would not be granted by me. Therefore, they go to Committee because they are outside my remit.

DEPUTY SOUTHERN: Yes, yes.

SENATOR LE CLAIRE: Can I ask, are all new undertakings put before the Committee and how are foreign owned and locally owned applications treated differently, if they are?

MR GALLICHAN: The answer to your first question is no, not all new applications are put to

Committee. As I said, it is really less than 5% that go to Committee.

SENATOR LE CLAIRE: So a new undertaking can actually start up in Jersey without having had any political oversight?

MR GALLICHAN: Correct. I have delegated authority.

SENATOR LE CLAIRE: And how do you treat foreign owned start up companies as opposed to locally owned start up companies?

MR GALLICHAN: It is in our policy statement. Up to, I think it was, March two years ago there was a presumption against under the beneficial ownership clause, that we wouldn't allow or the Committee and previous Committees wouldn't allow businesses to set up in Jersey unless there was some great benefit to the Island. With the Competition Law about to come in and the EDC in particular and the old Industries Committee being competition orientated, more consumer choice and all those sort of issues, they decided the beneficial ownership clause was actually restrictive and was stopping inward investment into the Island. So what they do now is they will allow applications from anywhere in the world -- you know, why not invest in Jersey if they are going to do up shops or whatever the case maybe -- and generally only allow staffing where they are taking on locally qualified people, i.e., they are limited to if there is a manager coming in for a short term, but all the remaining staff are locally qualified.

SENATOR LE CLAIRE: And the same applies for locally, local persons, anyone from Jersey can start up a company under the same conditions?

MR GALLICHAN: Yes. I have never refused a licence for a locally qualified person.

DEPUTY SOUTHERN: Well, under 0-10, the new tax law is coming in and there will be a difference in the benefit to the Island between a foreign owned company and a locally owned company because we can get access to the company profits of one and not the other. How do you see that operating, because obviously most of those are going to land on your desk?

MR GALLICHAN: Yes, indeed. This is a point that I raised well over a year ago with my Committee when I first heard of the 0-10 and I did a paper which explained my understanding of how it could implicate on businesses and, in particular, on the tax take for the future. 0-10 has come, of course, from the Finance and Economics Committee and you are right, potentially there



is a loss of tax for future years. What our Committee has to consider is what is the competition aspect, the consumer choice aspect and, importantly, the job opportunities for local people.

DEPUTY SOUTHERN: So the benefit to the Island argument that goes into the balance of “Do we grant this or not” will be significantly shifted by the fact that one of the benefits is that the profit from that company cannot be in the taxman’s coffers?

MR GALLICHAN: That is true.

DEPUTY SOUTHERN: So, if that is the case, then there is a risk, I would have thought, and perhaps this is the question you are asking your own Committee, that, should you turn down one or two of these on the balance of benefit to the Island, they are going to say: “Oh hang on, restriction in trading” and take you to Court under some sort of human rights charge.

MR GALLICHAN: Well, I can’t answer that about the human rights, but if your question ... sorry, can you just repeat the question?

DEPUTY SOUTHERN: So that would be seen and could be challenged in the Courts as a limitation on their right to do business.

MR GALLICHAN: On a refusal to allow someone to set up in Jersey?

DEPUTY SOUTHERN: Yeah, when you might well the next month allow a local to set up because the balance of benefits would be different.

MR GALLICHAN: That has happened in the past and the ruling we have had, I think, from the AG is that we are an island so big and we have our own rules. The economy is not the same as in other jurisdictions. Therefore, my understanding under human rights is that we can carry on if we so desire.

DEPUTY SOUTHERN: But, nonetheless, it is an issue still to be discussed.

MR GALLICHAN: If you are going back to the tax perspective, then, yes, I think it is. I think that was put through, my paper was put through, I think, to the Fiscal Strategy and that is for them to decide on what is going to happen.

SENATOR LE CLAIRE: When a company starts up in the future, the tax will come to the Treasury depending on local shareholders and non-local shareholders will pay their tax in their own jurisdictions. As your authority extends to starting up businesses now, and in the future you

continue to do this so it will in the future, what sight do you have of the makeup of a company in relation to its shareholder faction?

MR GALLICHAN: The application states who the principals are.

SENATOR LE CLAIRE: Who the principals are?

MR GALLICHAN: A principal being anyone with more than a 10% shareholding.

SENATOR LE CLAIRE: Right, thank you.

DEPUTY SOUTHERN: Can I take us on through, because I think you will make a different point here, on through these minutes from the Economic Development Committee. Julian?

SENATOR LE CLAIRE: Sorry, sorry, but can I just ask something because I think it is important? On the application it shows you who the principals are with more than 10%. Does it show where they reside?

MR GALLICHAN: Yes.

SENATOR LE CLAIRE: Okay, thank you.

DEPUTY SOUTHERN: Do you want to take us on to page 5?

DEPUTY BERNSTEIN: Yes, page 5. I did want to clarify one point. You said that a number of people have gone back to the Committee to ask for permission, possibly over your head.

MR GALLICHAN: No, I didn't say that, no. No, what I said was that less than 5% of applications go to Committee and that I take things that are contentious or beyond my delegated powers.

DEPUTY SOUTHERN: Yes.

DEPUTY BERNSTEIN: Yes, and do they on the whole get passed by the Committee?

MR GALLICHAN: I can't answer that. It depends on each case.

DEPUTY SOUTHERN: It is hard to pick a figure out, but I think we might do the number crunching. My impression, just superficially, just going through the last four years worth of appeals, is that probably the figure is around 78% that get granted.

MR GALLICHAN: There are actually very few appeals as such.

DEPUTY SOUTHERN: Yes, I accept that.

MR GALLICHAN: As opposed to applications.

DEPUTY SOUTHERN: Applications, yes, that go to the Committee.

DEPUTY BERNSTEIN: I just wanted to clarify that in my mind. I want to go back to the hospitality situation.

DEPUTY SOUTHERN: It is catering, isn't it?

DEPUTY BERNSTEIN: Well, yes, catering, but particularly restaurants and hotels needing to employ staff. How is the situation to start with now? Where are we at?

MR GALLICHAN: In relation to staffing?

DEPUTY BERNSTEIN: Yes.

MR GALLICHAN: Again, perhaps contrary to perception, I have very few, if any, problems with the hospitality and catering industry. There is an OXERA report which was recently done - I am not sure if there are bits in the public domain yet - on the tourism industry. Within that, it actually says that, again, contrary to perception, the way that the applications from the tourism industry related businesses have been dealt with is perfectly acceptable to the industry.

DEPUTY BERNSTEIN: But, percentage wise, how many? Most of the staff clearly are from outside the Island.

MR GALLICHAN: No. If you look in the papers that are here which you have on the licences granted and also from the manpower figures, to say that they are mostly outside of the Island is not true.

DEPUTY SOUTHERN: It is 50/50.

MR GALLICHAN: Yeah.

DEPUTY SOUTHERN: Okay. Can we refer to this particular case then?

MR GALLICHAN: On page 5?

DEPUTY SOUTHERN: It is page 5, where the original licence granted, the one that goes to make up the figures, yeah, of 50/50, suggested that they could employ 24 full-time, 25 part-time, initially with a minimum of 30% locally qualified, but to increase that to 75% locally qualified. So it is a minority of locally qualified.

MR GALLICHAN: Yeah.

DEPUTY SOUTHERN: In the event and some time later after the granting of this licence, they

came back and told you that they only had four locally qualified people out of 34.

MR GALLICHAN: Yeah.

DEPUTY SOUTHERN: So how does that happen and what does that say about the figures that you are producing in your report to say: “The licence says this. Now here is a case where the licence might have said that, but the reality was far, far different”?

MR GALLICHAN: This, I think you need to understand, dates back to 2002. In fact, it actually dates back to November 2001, so we are talking about previous Committees as well, previous Committees.

DEPUTY SOUTHERN: Yeah, okay.

MR GALLICHAN: It was to do with the Waterfront and the States’ decision to build up the Waterfront.

DEPUTY SOUTHERN: Yes.

MR GALLICHAN: Decisions were taken back in November 2001 in relation to the Waterfront development to allow them, as it says there, 30% locally qualified increasing over a period of time. That was obviously more advantageous than existing businesses.

DEPUTY SOUTHERN: Right.

MR GALLICHAN: That was a decision of the Committee. When we looked at it again there wasn’t a three year plan in place in those days for the particular business. Then they came back to us and told us various bits and pieces and, as you can see, we queried it because there were only four non-locals. They were advised that this was not in line with what was agreed, what had they done about it, what training had they done, etc, etc. They came back with more paperwork and you can see we put in a number of options to the Committee as to what they should do about that.

DEPUTY SOUTHERN: But the end result was that the Committee decided to requested that this company be required to adhere to the terms of its licence, but agreed that they be given sufficient time to achieve this.

MR GALLICHAN: Yes.

DEPUTY SOUTHERN: Now, this is 14th October 2004, so the question must be how much time

were they given and are you aware that they are now getting anywhere near what they are supposed to be doing?

MR GALLICHAN: In this particular case, again it is difficult for me to comment, but we have monitored it. They have come back to us and I suspect that, in this particular case, we have issued a new licence which is in line with the 50/50 split. I can't guarantee that because obviously I don't know.

DEPUTY SOUTHERN: And are they adhering to it? Do you know?

MR GALLICHAN: I don't go knocking on their door every day. I don't do that with any business.

DEPUTY SOUTHERN: Okay.

MR GALLICHAN: The next manpower return will obviously show the figures.

DEPUTY SOUTHERN: Right, the next manpower return being in a year's time, a year from October?

MR GALLICHAN: We will look at it. Depending on when we agreed that new licence, it could have been the December one, otherwise it will be June.

DEPUTY SOUTHERN: Right.

SENATOR LE CLAIRE: Because we do a yearly review at the moment, although that doesn't extend to States' Committees, has that extended to the Waterfront Enterprise Board, because I know that we have actually granted in principle 400 jobs to them, 200 for the hotel and 200 for the undertakings involving the leisure complex. I just wondered what splits those are in relation to those 400 jobs and are they under an annual review.

MR GALLICHAN: When the decision was taken on the Waterfront, which, again, is going back to 2001, businesses that were setting up on the Waterfront were given a 30%/70% ratio and the businesses themselves were tasked to come and meet the officers to get their individual licences. Obviously, since that time, there have been a number of businesses set up down there and, very similar to this one, where they started off on 30/70, we have carried out a review in much the same way as this to ascertain if they have fallen in line and to review those figures.

SENATOR LE CLAIRE: So you do undertake an annual review of the WEB jobs?

MR GALLICHAN: Yes, but there wasn't a three year joint staffing licence when these were dealt with. It has moved on since then. I think my understanding now is that we do have three year joint staffing licences for those businesses. They were one-off licences that were issued by previous Committees.

DEPUTY BERNSTEIN: I just want to get my head around this non-qualified and locally qualified. So you are now saying that approximately 50% of the workers in the hospitality industry are locally qualified?

MR GALLICHAN: Correct. The manpower figures show that.

DEPUTY BERNSTEIN: But we see an awful lot of Polish people working. They are actually not only working in hospitality industry now. They are locally qualified?

MR GALLICHAN: No, only if they are married. It is under A to H.

DEPUTY SOUTHERN: Or if they have been here for more than five years.

MR GALLICHAN: Correct.

DEPUTY BERNSTEIN: Most of them haven't been.

DEPUTY SOUTHERN: Most of them haven't, right.

DEPUTY BERNSTEIN: So they are the non-qualified?

MR GALLICHAN: Not necessarily. I think you should get away from just referring to Polish people.

DEPUTY SOUTHERN: Yes, yes.

MR GALLICHAN: I do not refer to just one race or just one country. It is non-locally qualified. It is anyone who doesn't come into the definition of locally qualified. In fact, there is a definition in our regulations. It is very clear.

DEPUTY SOUTHERN: It is specified, yes.

MR GALLICHAN: Yeah, yeah.

DEPUTY SOUTHERN: Okay, I am aware of the time. We are due for the next session at 11 or is it 11.30?

COMMITTEE CLERK: 11.30.

DEPUTY SOUTHERN: Okay, so we are not very pushed for time.

MR GALLICHAN: Except that I was told eleven o'clock and I do have ----

DEPUTY SOUTHERN: Eleven o'clock we will be finishing, yes, but I was just thinking of trying to finish at ten to eleven rather than eleven. Okay, no problem there, I hope. One of the other issues that we are talking about is the links of the Migration Policy to the Economic Growth Plan and where that growth might take place. In particular, we are talking about diversification within the financial services industry.

Now, the one case we have been given as an example of growth in FSI is the one of hedge funds. Now, there we have been told that, in order to grow this area, we would be looking at between 60 and 90 J cats coming into the Island and initially, in the set up years, presumably in the first three year licence granted to the companies, it would be that the normal proportions, be it one in seven or whatever it is, one in four, wouldn't exist. They would be deviated from and we might see the majority of these companies being formed consisting almost entirely of J cats. How would you treat this particular diversification or expansion of a particular industry?

MR GALLICHAN: I am aware of only two hedge funds, new hedge funds. One is an existing one, which is extremely successful. In fact, there was a piece in the paper about it a night or two ago, saying it was one of the top funds in Europe, in the world, so, again, fantastic. I met recently with that business. The management team at the top are all locally qualified people. So it is a really good example. Now, to continue that, they need to have more expertise brought in and they are bringing more wealth and funds to Jersey. That is the sort of thing I think we should be encouraging.

The other one that has come across my desk is for one J category and the rest are locally qualified staff. Now, I understand where you are coming from. I think it was John Harris who was here at the last meeting that I attended, talking about the financial services business plan, that I had no input on, I would add. It is nothing to do with me. It says there 60 to 90 Js, but my understanding is that it is over a period of five years.

Now, from the point of view of how I would deal with these applications, we would look very, very closely at the business plan that comes in. We would get advice from people like John as the International Finance Officer. By then, hopefully, we will be joined up with the

Housing Department and we would be working together and, again, they would be treated on a case by case basis.

DEPUTY SOUTHERN: Paul?

SENATOR LE CLAIRE: Did you before tell us that locally qualified people included J categories?

MR GALLICHAN: For the purposes of the Regulation of Undertakings currently, which is one of the problems.

SENATOR LE CLAIRE: So when you say that all of the principals for this new hedge funds business are all locally qualified, do you mean that they are J cats?

MR GALLICHAN: No.

DEPUTY SOUTHERN: They just happen to be genuinely entitled people.

MR GALLICHAN: Correct.

DEPUTY SOUTHERN: In this particular case. Okay, so you are saying that you would look at it, at the business plan, but effectively you are likely to grant those licences?

MR GALLICHAN: No, no, not necessarily. There is no presumption to grant that. It would be treated each on its merits.

DEPUTY SOUTHERN: Okay, which was leading me to another question that we haven't covered, but it has just gone from my brain for the moment. Does anybody have a question?

SENATOR LE CLAIRE: I have got one.

DEPUTY SOUTHERN: Go on.

SENATOR LE CLAIRE: Some discussion earlier today reflected on the 400 people out of work and some mystery as to why they are not taking up the available jobs within the newspaper and at the Job Centre. The first question is do you know how many jobs there are and, as this moves on to a one-stop-shop, have you any cognisance of how many people in Social Security and in Housing exercise the functions that are being duplicated or in some way done again that you are doing? Have you got an understanding of what kind of people will be coming into this one-stop-shop from Social Security and Housing, the Regulation of Undertakings etc, and ----

MR GALLICHAN: That is three questions so far.



SENATOR LE CLAIRE: I am trying ----

MR GALLICHAN: The answer to your second part is no, I don't know. Actually I don't know the answer to that one.

DEPUTY SOUTHERN: I think we are returning to the what will the Population Office look like, and the answer is that, at this stage, we don't know.

MR GALLICHAN: No. I can give you what my vision of it might be.

SENATOR LE CLAIRE: No, my drive was have you got an understanding of how many actual jobs there are?

MR GALLICHAN: That was your first question. Do you want me to deal with that one?

SENATOR LE CLAIRE: Yes.

MR GALLICHAN: The answer is that we do report on the number of licences that we issue each year, new licences, new posts, additional posts. That gives us a lot of information. Then we have, within the manpower return, in 2001 we changed the manpower return quite significantly and one of the points that we raised within that was a new question of how many vacancies were businesses actively seeking to fill. So that gives us a guide. It is not scientific obviously, but we have to trust what businesses return. It is a legal obligation and they tell us how many vacancies they are seeking to fill.

SENATOR LE CLAIRE: In evidence before, this Scrutiny Committee has heard that, although the process is there, there is no actual real understanding as to how many jobs there are vis-à-vis licences that have been granted. What I am trying to understand is, if you have cognisance of how many actual jobs there are currently within the job market, for example you mentioned at the Job Centre, which is in Social Security, and within the newspaper, because we do have these 400 people without work, I am just wondering if you have an understanding as to how many jobs there are available.

MR GALLICHAN: I can only go back to the information I have from the manpower return, which have just come out, as you are aware, which tells how many vacancies there were as at December.

SENATOR LE CLAIRE: Yes.

MR GALLICHAN: At the moment we don't have the information on a daily basis. No, we don't have that.

SENATOR LE CLAIRE: And you said in evidence before that you don't get involved in other Committees because you don't deal with States' Committees, you only deal with the private sector, so how much understanding do you have of the work that is done in Social Security and at Housing in these areas?

MR GALLICHAN: In which areas?

SENATOR LE CLAIRE: In relation to the job markets.

MR GALLICHAN: Housing I have no involvement with whatsoever. They deal with J applications completely aside from us.

SENATOR LE CLAIRE: You don't know how many people they have working on it?

MR GALLICHAN: My understanding is that there are six to seven in that area, but how many work on J cats I have no idea.

SENATOR LE CLAIRE: And in Social Security?

MR GALLICHAN: Well, again, I think it is ... I don't know how many people deal with jobs down there, no. You would need to ask them that question.

DEPUTY SOUTHERN: Returning to the mismatch between you have got 400 people, or whatever it is, out there without the skills presumably to fill the demand for jobs, particularly in the financial services industry where we are up-skilling the FSI, how do you see the growth of J cats and non-locally qualified licences within that particular sector in the future? I think the trend is already there, saying "We need skilled people. We can't just take certainly 16 year olds, but we can't find the skills out there we are going to pull in, we need skilled people?"

MR GALLICHAN: Hmm.

DEPUTY SOUTHERN: That also links to, again, the Economic Growth Plan. If we are growing in FSI and we need skills, you are going to be under pressure to issue some more licences for non-locally qualified people.

MR GALLICHAN: Yeah.

DEPUTY SOUTHERN: We have already seen a growth in the J cats by something like 20% over

the last three years at a time of economic stagnation. We have not been very healthy. Do you not think that, as we grow, you are going to see a demand for more licences for non-locally qualified in that particular sector?

MR GALLICHAN: We may do. I'm not sure about the non-locally qualified. We may do in the licensed sector. I think this is an important example as to why we should be working with the Housing Committee. Because we don't at the moment, I don't know what licences Housing have granted in relation to Js or for what reason. I may have a business come to me and say: "I want to do this and we are going off to the Housing Committee", but, at the moment, I have no input into that and I think that is a big mistake. For the future we have a number of balls to juggle here, one being the black holes in the tax revenue for the future. It has been well documented that we don't have the skills and it may be that, short term, we have to increase staff in those areas where they are specialised.

DEPUTY SOUTHERN: Okay. Anybody like to ask anything? I think I will go back to that list of questions and see if there is anything we have missed: Reg of Unds; foreign owned; increasing licences or not; harmonisation of criteria, we talked about that; proportions, we have done that. I think, as far as I am concerned, we have done with you. Thank you very much.

SENATOR LE CLAIRE: Just one last quick one?

DEPUTY SOUTHERN: Yes, Paul?

SENATOR LE CLAIRE: As you said before, a lot of people may not be happy with the Regulation of Undertakings Law, but they are not unhappy with your Department because they do offer a good service and they are well knowledgeable people and you want to see that retained. How many people are in your Department?

MR GALLICHAN: I did have six. Under the FSR that has been reduced to four, which has caused some administrative problems, shall we say, trying to get licences out, etc. We have one person who comes in twice a year to deal with the half yearly manpower returns and that is it.

SENATOR LE CLAIRE: Do you see that reduction impacting on your ability to meet the targets set in the Economic Growth Policy?

MR GALLICHAN: In what respect?

SENATOR LE CLAIRE:            You getting licences out, approving licences and doing your job if you have been cut from six to four?

MR GALLICHAN:            It is bound to affect the timing of how quickly we get things dealt with. We still deal with them, but, if you cut a workforce by 33% in one area, it is going to slow down any department.

DEPUTY BERNSTEIN:        I presume the only people that are not happy with you are the ones who you refuse licences to?

MR GALLICHAN:            Yes, certainly in 1997 I didn't go out very often. I would make the point that we work very hard as a department at dealing with businesses. We are much more user-friendly than we were perhaps in days gone by. We have made a big effort. Businesses come to see us and we discuss things through, and I think it helps for them to understand States' policies, which a lot of them have no idea. It is just "My business, me, me, me" and you have to explain to them the wider picture.

DEPUTY SOUTHERN:        Okay, good. Thank you for your time and efforts.

DEPUTY BERNSTEIN:        That has made it a lot clearer.

SENATOR LE CLAIRE:        Thank you very much.

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