

**WRITTEN QUESTION TO THE MINISTER FOR HOUSING BY
DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 19th JANUARY 2010**

Question

Could the Minister indicate the number of applications made for permission to enter the qualified housing market in Jersey, for persons not otherwise qualified, in each of the last three years?

How many of these were granted and on what grounds?

Answer

The discretionary provisions of the Housing (General Provisions) (Jersey) Regulations 1970 are restricted to paragraphs (1)(1)(g), 1(1)(j) and 1(1)(k), statistics for each of which are outlined below.

In addition, other provisions of the Housing Regulations compel the Minister to grant consent subject to certain residence conditions being met. In this regard, statistics for non Jersey born persons approved as qualifying under paragraph 1(1)(f) are provided.

1. Granting consent under paragraph, 1(1)(g), hardship grounds

G applications 2007 – 2009	2009	2008	2007	2006	2005*
Total Approvals	44	46	39	41	12
Refusals	35	43	2	50	9

**statistics for 2005 relate only to cases considered by Committee. Decisions taken under delegated powers are recorded against individual files and system entries only in 2005, and are not readily extracted and compiled. The figures for 2006 – 2009 reflect all 1(1)(g) decisions whether taken by Minister or by Officers.*

In order to grant 1(1)(g) consent the Minister should be satisfied that the hardship, other than financial, which would be caused to the purchaser, transferee, or lessee or to persons ordinarily resident in Jersey if not consent were not to be granted outweighs the fact that a person does not qualify under any other provision of the Law.

Of the 72 applications considered to end of October, 2009, they can be roughly broken down into the following categories:-

	APPROVED	REFUSED
Relationship breakdown	10	11
Residence/ break in residence	19	11
Medical with residence	7	10
Death of qualified spouse/partner	4	0

As a generality, to be approved a consent following a relationship breakdown the relationship would normally have lasted some considerable time or some other relevant circumstances should exist, e.g. needs of any children, domestic violence, medical grounds, etc; approval following a break in residence is granted with reference to length of previous residence, length of break and reason for the break; medical grounds depends on the severity of the condition and often the circumstances and needs of any children; granting consent following death of a partner is subject to length of relationship and circumstances. Clearly, a very wide range of circumstances can exist however, and each case is considered on its merits and with reference to precedent.

The above figures do not include:-

- Individuals who make telephone or e-mail enquiries where their circumstances are such that an application for early residential qualifications would have a remote chance of success and are not pursued, e.g. very low residence, no medical, no children;
- Individuals who fulfil the criteria (a)-(c) of the established Marriage Breakdown Policy, as in these instances, consent under Regulation 1(1) (g) of the Housing Regulations is automatically granted.

A present few are granted consent automatically under the published marriage and relationship breakdown policy and most hardship consents are wholly discretionary. The marriage and relationship breakdown policy is as follows:

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

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

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

(c) the unqualified spouse or partner has care and control of the child(ren) either by means of a legal separation or a Court Order. Any consent granted to occupy accommodation will be conditional upon the unqualified spouse in question continuing to have care and control of the minor child(ren). In the case of a common-law relationship breakdown, no Court Order will be granted but care and control of any child of the relationship must still be with the applicant on a full time basis.

2. Granting consent under paragraph, 1(1)(j), essential employment

J applications 2005 – 2009	2009	2008	2007	2006	2005
Total Approvals	348	533	497	485	382

A 1(1)(j) housing consent will only be granted where it can be demonstrated that a person is essentially employed and housing consent can be justified in the **“best interest of the community”** given the duty of the Housing Minister to **“prevent further aggravation of the housing shortage”**. In particular, the following criteria will be relevant:

- The pressure to be placed on the Island’s resources, in particular, its housing stock;
- The need to maintain a balanced and prosperous economy;
- The need to maintain a range of job and training opportunities for locally qualified persons and school leavers, including apprentices, those over normal working age, and people in supported and special employment schemes;
- The importance of the service rendered to locally qualified persons;
- The track record of the undertaking in terms of profitability, and its contribution to tax revenues.

In addition, the Minister may also take into account any other general benefits which the Island may obtain, for example, in relation to past cultural, sporting, or charitable activities, or the potential effects for Jersey’s reputation and interests, including the nature of any actual or potential media coverage.

In making decisions, business plans and financial details may be requested, as may evidence of investing in training locally qualified persons, and having made appropriate efforts to identify suitable local candidates. Applications will be processed more quickly if this information is submitted. Reference will also be had to previous relevant decisions, in particular, those taken in relation to similar businesses. This will be done to ensure decisions are fair and consistent, and that businesses operate, as a general principle, on a **level playing field** with their competitors. In doing this, the Minister will

nevertheless be mindful that each case presents its own unique range of facts and matters to consider.

The above is extracted from the published policy statement, and illustrate the grounds on which consent may be granted.

3. Granting consent under paragraph, 1(1)(k), social or economic grounds

K applications 2007 – 2009	2009	2008	2007	2006	2005
Total Approvals	8	12	12	9	9
Refusals	2	1	1	0	3

The following factors will be taken into account when applications are considered for a (k) consent

- The individual’s contribution to tax revenues in accordance with Article 135A of the Income Tax Law
- The business/social background of the applicant and the associated benefit that could arise for Jersey as a result of the taking up of residence in the Island;
- Any other general benefits which the Island may obtain if the applicant takes up residence in the Island

Applicants will normally be required to demonstrate that they are able to generate sufficient income so that, at the present rate of tax, their annual contribution is at least £100,000. In some circumstances a lower contribution of tax might be acceptable if other particularly compelling economic benefits for the Island would be likely to result from the applicant taking up residence, but this is rare and no such consents have been issued in the last 4 years. As such, all consents in the period 2006 – 2009 have met the minimum tax criteria.

It should be noted the ability to generate the above minimum tax requirement will not necessarily on its own be sufficient to justify consent.

Other than tax contributions, aspects of an application that the Minister may take into account include:

- (i) voluntary work or business contribution to local community
- (ii) any training or sporting initiatives particularly aimed at youth or educational organisations,
- (iii) the nature of any actual or potential media coverage of any activities either by, or involving the applicant, both in his business or social life. This to include negative images relating to past business practice, and positive images such as sporting or educational achievements,
- (iv) any cultural interests or skills that have benefited the local community which would be likely to of similar benefit to the Island
- (v) general lifestyle and family circumstances, including past charitable work and contributions
- (vi) any clear undesirable factors in an applicants background, such as a criminal record.

As a result of the above considerations, it follows that the Minister will take into account any likely local impact that an applicant will have on taking up residence in Jersey.

In addition to the above, an applicant’s intention to carry out further business activities in the Island will be taken into account, with particular regard to future local employment, training, diversification and any potential resultant increased tax revenues.

An applicant that falls short of the expected tax take but has other potential benefits to offer such as those outlined above will be considered. Equally, where the pure economic test is met, other factors which might have a positive or negative bearing will be balanced in determining the application.

4. Granting consent under paragraph, 1(1)(f), non Jersey born following a period of 11 years continuous residence in Jersey

Year	Non Jersey Born Numbers Qualified
2006	474
2007	790
2008	572
2009	902
Total	1,836