Will the proposed mechanism for regulating migration enable the numbers of inward migrants to be controlled effectively?

1. The President, Economic Development, told the Panel that current controls were in fact strictly applied by his Committee -

> *What we do is we grant licences that grant jobs for locally qualified and non-locally qualified, non-locally qualified being people who have not been in Jersey for more than five years. That is what we do. So, you know, we can control the total number of jobs that are granted….. We are very strict about the numbers of non-locally qualified staff. People really have to work very hard if they want an increase in their number, and that isn't going to change. I certainly don't see that changing.*

2. The Panel noted that the Committee's policy statement, dated March 2003, makes it clear that there is a balance to be struck between business growth and other States policies, particularly population growth. In relation to the further development of the financial services industry in particular, it is stated that the Committee will '*pursue a policy of encouraging business growth in a selective, pragmatic and sympathetic way*'.

3. The Director of Regulatory Services explained that the Committee also had to recognise the realities of the local employment situation. Despite a large number of unemployed in the Island there remained certain employment sectors where few locally qualified residents would work -

> *If [the Committee] 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.. 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.*

Comment
The pressures on migration exist at the lower level of skills required in sectors such as hospitality as well as the higher levels required by the financial services industry

5. **Panel's research into RUDL applications**

Whilst many witnesses have assured the Panel that the Economic Development Committee can and do currently maintain strict control over employment numbers through the application of Regulation of Undertakings Licences, examination of current practice would suggest otherwise. Analysis of the cases which come to the Committee, being outside the delegated powers of the officer, often where an increase in the number of non-locally qualified (nlq) employees is requested, or where there is a variation of the local to non-local employees ratio which is the norm for the sector, reveals that on average 75% of the applications are accepted.

Whilst it is true that these cases are only a small proportion of the total licences granted, they do show significant growth in non-locally qualified consents, and variations from the norm. **Over the 5-year period up to 2004, a total of 760 additional non-locally qualified employees were granted consents, an average of 150 per year**.

The ratios for each employment sector, which are presented in the regular 6-monthly reports to the States, are as follows:

- Half of the total approved in Hotels/Guest Houses (50%)
- Two fifths of that in Restaurants/Catering (40%)
- One in five in retail (20%)
- One in six in Building/Construction (16.7%)
- One in seven in Banking/Finance (14%)
- One in eight in Marine (12.5%)
- One in nine in Transport/Haulage (11%)

Just to illustrate how these ratios are treated, one has only to examine a selection of decisions taken by the Committee to requests for additional nlq employees in the Finance sector:

One large Bank with 1,200 staff	217 nlq employees	18%
Accounting company with120 staff	30 nlq employees	25%
International Bank with 140 staff	40 nlq employees	28.5%
Large Bank with 620 staff	186 nlq employees	30%

The evidence is that if businesses make the case for increased numbers of nlq employees and take it to Committee, in most cases the numbers will be granted. Not only are numbers of employees increased, but the guideline proportions can be and are exceeded. The examples above cover a not insignificant 2,000 of the 11,000 jobs in the finance sector.

In the final case, the Bank had requested a further increase in the ratio from 30% to 35%, this was not granted, but the response of EDC, in 2003 was as follows:

"Should the company experience difficulties in finding local staff, it could approach the Committee at any time during the 3-year period in order to discuss staffing issues."

The Panel is convinced that should the case for such an increase be made in the future, it will eventually be granted.

Most worrying to the Panel is the fact that for much of this period economic activity rates were fairly static or declining. If such growth in numbers has taken place with low economic growth the question of what will happen as we deliberately attempt to grow the economy by 6% or 7% must be asked.

Similar cases are to be found in all sectors, for example in the hotel sector where a 50/50 split is said to be the "norm", a 30/70 split is regularly employed.

In one case however, a hotel with 2 J-category employees as manager and chef and 18 non-local staff had their licence revised to take up to 27 staff, of whom 20 could be non-locally qualified. The probability is that 100% of the non-management staff will not be local.

Theoretical or Actual figures

These differing sector ratios are, in the opinion of the Panel, merely theoretical and used to disguise the actual proportion of non-locally qualified employees involved in the individual businesses. The Panel found evidence that the Committee was aware of this fact, and has chosen to ignore it. On 13th June 2001, concern was expressed by officers that

"firms were applying to increase their existing staffing establishment, despite carrying forward a number of vacancies, in order to increase the number of locally qualified staff they could employ"

This view was endorsed by one member of the Panel, who suggested that, in future, the Committee should have regard to the **actual** percentage of non-locally qualified staff rather than the **theoretical** percentage. This view appears to be ignored by the Committee, who on 31st October of the same year, revised the licence of a finance-related company thus:

	Total staff	local	Non-local	%
Original licence (theoretical)	69	49	20	29
Actual establishment	39	23	16	41
New licence	85	60	25	29

While the figure that will appear in any reports of overall ratios in this sector will be based on 29% the reality is that the company were actually operating at 41% non-locally qualified staff. The percentage figure remains constant but hides an effective increase of 9 non-locals.

The Panel is interested to note that a decision on the application of 13th June was deferred *"pending a review of the benefits that would accrue to the Island if these requests were granted".* The Panel has asked for the final decision but has been refused access to that information on the grounds of commercial confidentiality.

Time-limited consent

One way the Economic Development Committee attempts to control the steady and significant growth of the numbers of non-locally qualified staff is to issue time limited consents. A view of their effectiveness can be gained from examination of one particular finance-related licence over a period.

	Total	Local	Non-local	secondment
3-year joint staffing licence August 1998	53	49	4	4
Revised joint licence June 2000	65	59	6 reducing to 4 by Feb 2003	3
Revised joint licence February 2001	75	65	10 reducing to 8 by Feb 2003	5
Staffing establishment 31st March 2002	61	51	10	5
Licence application August 2002	75	63	12 reducing to 10 by February 2005	7

The Panel notes that each and every target for reduction has failed to be met and the history is one of significant growth in the number of non-locally qualified employees. Despite this, the Committee once again set a target for reduction to 10 non-locally qualified by February 2005.

This is compounded in this case by the use of short-term contract employees, in this case, staff on secondments of up to 2 years. Seconded staff do not appear on the establishment. In this case, the actual number of non-locally qualified employed by the company, and housed on the Island, is 19; 25% of the workforce when fully staffed, or 31% if the company fail to recruit further locally qualified staff. The figure that will appear in the published statistics is 16%

The worst examples of this approach are to be found in the restaurant/catering sector. For example, at the start of a restaurant undertaking in 2001, the original licence was for the engagement of 50 staff, initially to be 30% locally qualified, increasing to 75% over 3 years. When the licence was reviewed at the end of the 3-year period in October 2004, the staffing establishment was found to be 34, only 4 of whom (12%) were locally qualified. The company was given a period of time to meet the original 30% target.

Examination of a further case in 2003, reveals that a manager with a company had been engaged on a contract basis since February 1999 for a total of 4 years 8 months. Following his resignation, and despite the fact that no locally qualified person had been trained up as a replacement in all this time and the company had not undergone a recruitment exercise, a licence for a non-locally qualified person was granted "in the best interests of the Island.

The fulfilment industry

The fulfilment industry was cited as the shining example of how to grow and diversify the economy without increasing immigrant labour. The Chairman, Migration Policy Steering Group stated in his evidence said

> *I cite the example of the fulfilment industry. They haven't got any non-qualified people on their licences, and that is a good example of how the mechanism works and why, frankly, we need it, because, if we wouldn't have Regulation of Undertakings and Development, fulfilment would have probably sucked in huge amounts of immigrant labour.*

On closer examination, however, it was found that the fulfilment industry do employ non-locally qualified labour. The Director of Regulatory Services confirmed that there are approximately 600 people engaged in this industry of which 94% are locally qualified. That is approximately 36 non-locally qualified workers in this sector. In September 2004, temporary non-locally qualified permits were also granted to one company for the period October to December to cope with the Christmas demand.

In 2003, the Economic Development Committee granted a fulfilment company a licence for the employment of three full-time non-locally qualified members of the management staff and agreed to extend the capacity to take on non-locally qualified management staff to other fulfilment companies. The Minutes state -

> *The Committee granted delegated authority to the Director to grant consent for non-locally qualified staff in future applications from fulfilment undertakings where the staff to be engaged were in management/technical positions, as opposed to pickers and packers. In addition, the Director was authorised to contact those fulfilment industries*

which had had refusals issued to them in order to advise them of the Committee's new policy.

The decisions itemised above are justified in terms of '*being in the best interests of the economy of the Island*' or '*because of the economic benefit derived from the company/industry'.* The consents follow examination of the company's profits and hence the tax contribution to the island.

Comments

The above examination leads the Panel to question whether strict control is exerted by the Committee over business applications for additional non-locally qualified staff.

- The averages are often breached in practice
- The reported numbers on non-locally qualified are theoretical numbers because businesses run under their official quota for locally qualified staff
- Conditions applied to time-limited consents often fail to be met
- This situation exists across all sectors of employment, not just the financial services industry
- There is clear evidence that there is a great demand from business for non-locally qualified staff as the locally qualified population is unable or unwilling to fill the requirements.
- The Economic Development Committees appear to put economic priorities above population concerns.