

The Jersey Chamber of Commerce and Industry Incorporated

Chamber House, 25 Pier Road, St. Helier,
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Senator Sarah Ferguson
Chairman-Corporate – Corporate Services (Migration & Population) Sub Panel
Scrutiny Office
States Greffe
Morier House
St Helier
Jersey JE1 1DD

15th April 2009

Dear Sarah,

Corporate Services (Migration and Population) Sub Panel

Thank you for your letter of 27th March requesting the views of the Chamber of Commerce on developing policy as follows:

Long Term Population Policy as reflected in the developing Strategic Plan currently in course.
Migration Legislation with particular regard to the raising of the 5 year rule.

Background

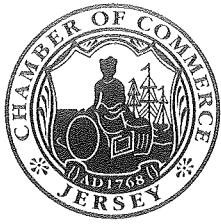
The population and migration proposals have of course been on the stocks for quite some time and it is only with the advent of a new administration that fairly long standing proposals have been dusted down for re-consideration, in particular as part of the States Strategic Plan consultation process.

Chamber did have the benefit of a presentation from the Chief Minister and Chief Officer something over a year ago. The clear message coming out of that presentation was that the Island faced a structural demographics problem over the next 20 years, approximately, and the challenge was to balance maintaining an active working population against the needs of an ageing population, but at the same time control the developed environment.

At that time we were reasonably satisfied that research had been carried out to the extent that taking a middle path on migration at up to 200 “units” per annum would not unduly pressurize the developed environment and provide a long term solution to the demographics issues. This view has of course been reduced to 150 “units” per annum recently by The Chief Minister.

I should state at this stage that unlike some of the views of our political detractors I do not sense any support at Chamber for uncontrolled migration and the sense of maintaining a balanced environment is strong. I would also add that our Tourism members in particular are very clear on taking care of the developed environment in terms of sustaining the Island as an attractive destination. You will therefore find that the views we impart through this paper are very much ones of balance and indeed some selective employment policies in terms of the tactical needs of local business in the currently strained internal environment.

I have encountered a view from certain quarters of the Council of Ministers that we favour unbridled migration out of a totalitarian approach to profit which I take this opportunity to confirm is quite incorrect. Equally, however, we also recognize that a nil migration message simply conveys the view that the Island is closed for business which is an equally ineffective policy at the other extreme. Our message



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therefore throughout is one of seeking balance to what long term is a difficult scenario but capable of being managed.

Beyond our meeting of a year ago we have recently met with the Chief Minister to discuss the Strategic Plan and given these issues are core to the plan we have revisited some of our views in a tactical sense as set out below. We received an assurance however that the long term issue is linked to the baby boomer generation, so ultimately the demographics problem should smooth out in around 20 years, so we were reminded that the plan has a life after which the population mix should return to a self sustaining state.

Population Policy-Current View

Notwithstanding our view that the middle course, currently adjusted to 150 units, made sense at the time of the presentation a year or so ago and in many ways still does from a strategic long term point of view, we have to recognize the economic environment has greatly altered since this work was done.

I believe we have entered a period of uncertainty where trying to overlay long term strategic plans based on historic assumptions may not be the wisest thing to do until we have a clearer view on the future. I have the following particular concerns in mind:

- We do not know how the world economy, especially the finance industry will pan out in the face of significant calls for reform.
- Jersey may be a significant winner on jurisdictional arbitrage or a big loser to onshore politics, this scenario has yet to play out.
- We may be faced with a totally different set of dynamics in terms of maintaining an effective size of workforce and employment.
- We do not know if there will be a change in the type, mix or volume of skills we need as whatever the Island's future is, post global recession unfolds.

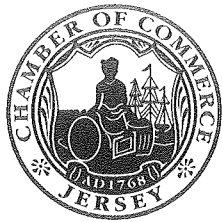
The message for me presently is that imposing long term annual ceilings on migration based on historic experience, that may or may not be valid going forward, would be unsafe.

We really need to keep our options open in terms of the messages we send to the outside world and by this I do not mean sending the message "the floodgates are open", because that would be equally dangerous.

Any policy should, as far as possible, ensure that imported population is as economically productive as possible with consequential tax base enhancement. It follows by definition that the import of civil servants should be minimized as they take rather than contribute to the earning power of an economy. There will always be specialist skills such as doctors etc but where possible private sector import of labour/tax base has to be preferable.

We may wish to consider the import of 11k "lite" people who could effectively reinforce the middle band of tax payers as assets of £1M -£5M plus accommodation and ability to pay private healthcare could provide a useful middle tier of tax receipts.

In conclusion therefore whilst I favour the middle course depicted as a balanced course the current economic situation merits more tactical behavior than strategic until we know whether the experience of the past will carry forward into the future. I would not rush to any prescriptive policy at this time until we know better how firm our assumptions will carry through.



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Migration Policy

Again this policy has been conceived in a time of growth with various historic assumptions. However the Strategic value of this piece of proposed legislation, unlike the above, is far less clear:

Aligning the residential qualification period and the unfettered labour period appears at face value to look to make matters neater and better matched but it is much harder to see the actual economic value of the proposal.

Clearly increasing the labour qualification period from 5 to 10 years makes our labour force less flexible; sending a negative message to would be employees in Jersey and is less flexible for employers.

One could just as easily argue the residential qualification period might be reduced to 5 years to align it with the current work qualification period, for whilst this also looks neat, I am sure detractors would argue a social downside, equally proposers should see the unattractive economic impact from a business perspective. So overall "neat" lacks conviction frankly.

Although we are told there will be greater flexibility in using the business planning process to provide forward planning for unqualified labour, we do not find the argument convincing as clearly the competition for qualified employees will increase and, plus or minus what planning process is demanded already, this looks like more initial red tape for business.

We have been reassured there would be a relatively easy transition process for employees in the five to ten year band, which is good to hear, but the need in the first place for such a policy is still less than convincing.

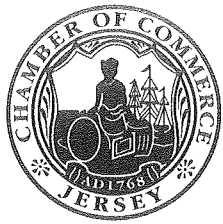
I can only deduce although there has been a genuine attempt to rationalize additional red tape, the fundamental case for such legislation is not really made.

One can only deduce that the real driver for introducing less flexibility of labour qualification is out of a wish to further control the composition and numbers in the work force. Regrettably therefore this appears to be a backward step in terms of the flexibility of labour available and seems to be a policy of additional population control at the expense of additional red tape and less flexibility especially at the smaller business end.

To summarise on this point therefore, notwithstanding the fundamental reasoning behind it, this piece of legislation appears to be born out of political rather than economic motivation. One has to ask whether any of this is necessary or desirable in the current economic situation where we need maximum flexibility to combat the current downturn. I suspect the motivation for this legislation was born out of a time when social concerns were heightened over the rate of growth in the economy a couple of years ago. The facts are that this situation is now quite reversed, so the need for such legislation even on a social basis has substantially remitted and quite frankly, when combined with the extra red tape and greater inflexibility for business, no longer makes sense even if it did in the first place.

Add to the above the same reservations as for Population Policy where it makes little sense to introduce additional control in the light of recession, at a minimum any legislation should be deferred until such time as the economic outlook is more certain, which currently looks well into next year at least, probably not before 2011.

To conclude; both pieces of legislation are predicated on a sustained period of growth, which is no longer the case, so the basis of advancing any legislation at all has changed to such a degree that the assumption attached to this legislative programme that it is "business as usual" looks misplaced.



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The Case For Additional Business Legislation Overall.

It is worth reminding ourselves of the greater tactical point just now of how much additional red tape, cost and disruption business should or should not incur in this climate. We had the impression that the concept that business would remain as undisturbed as possible during current economic conditions, so they could focus on staying in business, was generally accepted by government.

This however does not seem to be so readily understood by a number of ministries who are simply pressing on with planned legislative agendas regardless of current economic conditions. So whilst fine words have been espoused they appear to be no more than palliative presently, and I would ask that the following be reflected upon:

- Child Labour Law reform
- Redundancy Law
- Revision of Tobacco Regulations
- Licensing Law reform
- Employment Laws re Ageism, Sexism & Racism, Maternity a Paternity conditions
- Master Planning for Town and business impact
- Zero Ten Deemed Distribution.

All the above represent considerable challenges for business and an intense social reform programme, let alone deemed distribution that the professionals are still wrestling, quite apart from business itself. Also add the wide ranging imposition of GST, price marking and ITIS which have all been absorbed over the past couple of years.

It might be useful to point you to the British Chamber of Commerce Red Tape Barometer which over a ten year period has hit the £17bn per annum mark in term of compliance, with a massive accumulated cost of some £70bn. It might therefore be realised why business is very concerned about such an intense legislative programme that very much mirrors the UK in its content, the consequential cost being plain to see. We are in fact back to the age old problem of social expectation versus what an economy can actually afford and clearly the smaller the economy the lesser the synergy of scale. Such reforms are difficult enough to cope with in the good times but you would believe the social reformers in our government have not noticed an impending recession and world economic crisis as the legislation mill intensifies rather than remits.

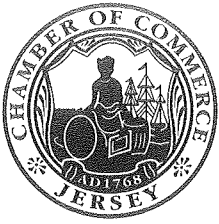
Indeed the feeling in the UK is that really now is not the time for additional business related legislation and you may be aware the IOD are leading a UK national petition in this respect just now.

Regulations & Undertakings Law

It is probably appropriate that some comment is also raised concerning the Regulations & Undertakings Law which effectively is the present law by which business employment activity is controlled.

Historically it is no secret this law is not especially popular with business but, that said, one has to be realistic in the current climate as follows:

The law does have a valid function where preservation of local jobs in recession is a priority, with particular regard to the construction industry. Indeed in order for that part of The Economic Stimulus Package to be effective with regard to property maintenance and development projects balanced application is essential.



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The get "tough" message however coming out of some ministries is not a good message either, for we will always to some degree need specialist staff or flexibility in varying economic conditions. Whatever message we send it must be one of being "open for business", because, as business will be far harder to get, any mistaken impression arising from concerns borne out of long term issues, rather than immediate needs, must be avoided at all costs; otherwise we will simply shoot ourselves in the foot. The Migration Policy is in danger of sending similar messages to the outside world which we simply do not need.

We do feel however that small business suffers quite badly at times to the extent of being allowed unqualified workers, even when some more exceptional skills or business knowledge are required. We would hope the need to recognize greater flexibility in terms of business mix and profit expectation is seen, for the presumptions that bigger business only will deliver in future may not be the case at all. It is a matter of keeping in touch with how the outlook unfolds over the next year or two.

The time has come in our opinion for government to reconsider the application of the law to very small businesses and we suggest that undertakings with a staff of less than 10 are exempted. This will make it easier for start up businesses and entrepreneurs to be imported than at present, which in current economic conditions makes sense.

In summary the Wisdom of Solomon is required in terms of applying this legislation during difficult times and certainly it needs to be exercised with the greatest of consideration and discretion. We have therefore recommended that as the application of this law is paramount in economic terms the law is administered by EDD who have responsibility for the economic performance of the Island, avoiding some of the emotive commentary we have seen in the past and continue to receive.

Key Points To Conclude

- Long Term Population Strategy needed but current timing wrong and historic assumptions unwise at this time.
- The case for the Migration Policy is not made and timing even poorer than above.
- Please do not burden business with further regulation in the climate
- The greatest of discretion and consideration in applying the Regulations & Undertakings Law is required with more flexibility for small business promotion in tough times with an exemption for the smallest businesses.

Regards

CLIVE SPEARS
PRESIDENT